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Chapters 595 to 916

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EXPLANATORY NOTE AND DISCLAIMER

This unofficial, early-release version of the 2027 Iowa Code provides early access to legislative and editorial additions and changes to Code section text, history, and footnotes with an effective date of January 1, 2027, or earlier. Final data checks, updates, and related corrections have not all been made, but will be included in the official text PDF version of the Iowa Code, which is published annually on this website and biennially in printed hardbound volumes.

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CODE EDITOR'S NOTES

Reference

Simple Harmonization Note

The multiple amendments do not conflict, so they were harmonized to give effect to each as required by Code sections 2B.13 and 4.11. In some cases where this note is referenced, the amendments are identical. Under Code section 2B.13, a strike or repeal prevails over an amendment to the same material and does not create a conflict.

811.1

2026 Acts, ch 1159, §4, amends subsection 2, unnumbered paragraph 1, by establishing an exception to that provision in a new subsection 3, as enacted in 2026 Acts, ch 1159, §5. 2026 Acts, ch 1156, §33, separately amends subsection 2, unnumbered paragraph 1, by also establishing an exception to that provision in a new subsection 3, as enacted in 2026 Acts, ch 1156, §34. Each Act establishes an independent alternate exception. Therefore, the new subsection 3, enacted in 2026 Acts, ch 1156, §34, was codified as subsection 4, and subsection 2, unnumbered paragraph 1, was editorially modified to give effect to both amendments by adding "or 4" to the resulting exception clause being added by both 2026 Acts, ch 1159, §4, and 2026 Acts, ch 1156, §33.

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TITLE XV

JUDICIAL BRANCH AND JUDICIAL PROCEDURES

Referred to in §29A.105

SUBTITLE 1

DOMESTIC RELATIONS

CHAPTER 595

MARRIAGE

Referred to in §216.18, 331.611

Gender designation editorial changes required by 82 Acts, ch 1217, §2, not applicable to this chapter

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595.1 Definitions.

As used in this chapter, unless the context otherwise requires, *"book"*, *"list"*, *"record"*, or *"schedule"* kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in section 445.1.

2000 Acts, ch 1148, §1

595.1A Contract.

Marriage is a civil contract, requiring the consent of the parties capable of entering into other contracts, except as herein otherwise declared.

[C51, §1463; R60, §2515; C73, §2185; C97, §3139; C24, 27, 31, 35, 39, §**10427;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §595.1]

C2001, §595.1A

595.2 Gender — age.

1. Only a marriage between a male and a female is valid.

2. Additionally, a marriage between a male and a female is valid only if each is eighteen years of age or older. However, if either or both of the parties have not attained that age, the marriage may be valid under the circumstances prescribed in this section.

3. If either party to a marriage falsely represents the party's self to be eighteen years of age or older at or before the time the marriage is solemnized, the marriage is valid unless the person who falsely represented their age chooses to void the marriage by making their true age known and verified by a birth certificate or other legal evidence of age in an annulment

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proceeding initiated at any time before the person reaches their eighteenth birthday. A child born of a marriage voided under this subsection is legitimate.

4. A marriage license may be issued to a male and a female either or both of whom are sixteen or seventeen years of age if both of the following apply:

a. The parents of the underage party or parties certify in writing that they consent to the marriage. If one of the parents of any underage party to a proposed marriage is dead or incompetent the certificate may be executed by the other parent, if both parents are dead or incompetent the guardian of the underage party may execute the certificate, and if the parents are divorced the parent having legal custody may execute the certificate; and

b. The certificate of consent of the parents, parent, or guardian is approved by a judge of the district court or, if both parents of any underage party to a proposed marriage are dead, incompetent, or cannot be located and the party has no guardian, the proposed marriage is approved by a judge of the district court. A judge shall grant approval under this subsection only if the judge finds the underage party or parties capable of assuming the responsibilities of marriage and that the marriage will serve the best interest of the underage party or parties. Pregnancy alone does not establish that the proposed marriage is in the best interest of the underage party or parties, however, if pregnancy is involved the court records which pertain to the fact that the female is pregnant shall be sealed and available only to the parties to the marriage or proposed marriage or to any interested party securing an order of the court.

5. If a parent or guardian withholds consent, the judge upon application of a party to a proposed marriage shall determine if the consent has been unreasonably withheld. If the judge so finds, the judge shall proceed to review the application under subsection 4, paragraph *"b"*.

[C51, §1464, 1469; R60, §2516, 2521; C73, §2186, 2191; C97, §3140, 3143; C24, 27, 31, 35, 39, §**10428, 10434;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §595.2, 595.8; C77, 79, 81, §595.2]

85 Acts, ch 67, §53; 98 Acts, ch 1099, §1; 99 Acts, ch 114, §44

Referred to in §595.3, 595.20

595.3 License.

Previous to the solemnization of any marriage, a license for that purpose must be obtained from the county registrar. The license must not be granted in any case:

1. Where either party is under the age necessary to render the marriage valid.

2. Where either party is under eighteen years of age, unless the marriage is approved by a judge of the district court as provided by section 595.2.

3. Where either party is disqualified from making any civil contract.

4. Where the parties are within the degrees of consanguinity or affinity in which marriages are prohibited by law.

5. Where either party is a protected person under a guardianship and the court has made a finding that the protected person lacks the capacity to contract a valid marriage.

[C51, §1465 – 1467; R60, §2517, 2518; C73, §2187 – 2189; C97, §3141, 3142; S13, §3141; C24, 27, 31, 35, 39, §**10429, 10431;** C46, 50, 54, 58, §595.3, 595.5; C62, 66, 71, 73, 75, 77, 79, 81, §595.3]

91 Acts, ch 93, §2; 95 Acts, ch 124, §13, 26; 98 Acts, ch 1099, §2; 2024 Acts, ch 1009, §52

Referred to in §595.18

595.3A Application form and license — abuse prevention language.

In addition to any other information contained in an application form for a marriage license and a marriage license, the application form and license shall contain the following statement in bold print:

> The laws of this state affirm your right to enter into this marriage and at the same time to live within the marriage under the full protection of the laws of this state with regard to violence and abuse. Neither of you is the property of the other. Assault, sexual abuse, and willful injury of a spouse or other family member are violations of the laws of this state and are punishable by the state.

97 Acts, ch 175, §233

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595.4 Age and qualification — verified application — waiting period — exception.

1. Previous to the issuance of any license to marry, the parties desiring the license shall sign and file a verified application with the county registrar which application either may be mailed to the parties at their request or may be signed by them at the office of the county registrar in the county in which the license is to be issued. The application shall include the social security number of each applicant and shall set forth at least one affidavit of some competent and disinterested person stating the facts as to age and qualification of the parties. Upon the filing of the application for a license to marry, the county registrar shall file the application in a record kept for that purpose and shall take all necessary steps to ensure the confidentiality of the social security number of each applicant. All information included on an application may be provided as mutually agreed upon by the state registrar of vital statistics and child support services, including by automated exchange.

2. Upon receipt of a verified application, the county registrar may issue the license which shall not become valid until the expiration of three days after the date of issuance of the license. If the license has not been issued within six months from the date of the application, the application is void.

3. A license to marry may be validated prior to the expiration of three days from the date of issuance of the license in cases of emergency or extraordinary circumstances. An order authorizing the validation of a license may be granted by a judge of the district court under conditions of emergency or extraordinary circumstances upon application of the parties filed with the county registrar. No order may be granted unless the parties have filed an application for a marriage license in a county within the judicial district. An application for an order shall be made on forms furnished by the county registrar at the same time the application for the license to marry is made. After examining the application for the marriage license and issuing the license, the county registrar shall refer the parties to a judge of the district court for action on the application for an order authorizing the validation of a marriage license prior to expiration of three days from the date of issuance of the license. The judge shall, if satisfied as to the existence of an emergency or extraordinary circumstances, grant an order authorizing the validation of a license to marry prior to the expiration of three days from the date of issuance of the license to marry. The county registrar shall validate a license to marry upon presentation by the parties of the order authorizing a license to be validated. A fee of five dollars shall be paid to the county registrar at the time the application for the order is made, which fee is in addition to the fee prescribed by law for the issuance of a marriage license.

[C51, §1468; R60, §2520; C73, §2190; C97, §3142; C24, 27, 31, 35, 39, §**10430;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §595.4]

85 Acts, ch 67, §54; 91 Acts, ch 116, §5; 95 Acts, ch 124, §14, 26; 97 Acts, ch 175, §234; 98 Acts, ch 1020, §3; 2018 Acts, ch 1041, §127; 2023 Acts, ch 19, §1231

595.5 Name change adopted.

1. A party may indicate on the application for a marriage license the adoption of a name change. The names used on the marriage license shall become the legal names of the parties to the marriage. The marriage license shall contain a statement that when a name change is requested and affixed to the marriage license, the new name is the legal name of the requesting party.

2. An individual shall have only one legal name at any one time.

[C79, 81, §595.5]

88 Acts, ch 1142, §1; 95 Acts, ch 124, §15, 26; 99 Acts, ch 150, §1; 2001 Acts, ch 143, §7

595.6 Filing and record required.

The affidavit or certificate, in each case, shall be filed by the county registrar and constitute a part of the records of the registrar's office. A memorandum of the affidavit or certificate shall also be entered in the license book.

[C51, §1468; R60, §2520; C73, §2190; C97, §3142; C24, 27, 31, 35, 39, §**10432;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §595.6]

85 Acts, ch 67, §55; 95 Acts, ch 124, §16, 26

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595.7 Delivery of blank with license.

When a license is issued the county registrar shall deliver to the applicant a blank return for the marriage, and give instructions relative to the blank return as will insure a complete and accurate return.

[C24, 27, 31, 35, 39, §**10433;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §595.7]

95 Acts, ch 124, §17, 26

595.8 Reserved.

595.9 Violations.

If a marriage is solemnized without procuring a license, the parties married, and all persons aiding them, are guilty of a simple misdemeanor.

[C51, §1470; R60, §2522; C73, §2192; C97, §3144; C24, 27, 31, 35, 39, §**10435;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §595.9]

595.10 Who may solemnize.

Marriages may be solemnized by:

1. A judge of the supreme court, court of appeals, or district court, including a district associate judge, associate juvenile judge, or a judicial magistrate, and including a senior judge as defined in section 602.9202, subsection 3.

2. A person ordained or designated as a leader of the person's religious faith.

[C51, §1472; R60, §2524; C73, §2193; C97, §3145; C24, 27, 31, 35, 39, §**10436;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §595.10; 81 Acts, ch 188, §1]

83 Acts, ch 159, §1; 87 Acts, ch 115, §69; 95 Acts, ch 92, §3

Referred to in §595.12

595.11 Nonstatutory solemnization — forfeiture.

Marriages solemnized, with the consent of parties, in any manner other than that prescribed in this chapter, are valid; but the parties, and all persons aiding or abetting them, shall pay to the treasurer of state for deposit in the general fund of the state the sum of fifty dollars each; but this shall not apply to the person conducting the marriage ceremony, if within fifteen days after the ceremony is conducted, the person makes the required return to the county registrar.

[C51, §1474, 1475; R60, §2526, 2527; C73, §2195, 2196; C97, §3147; S13, §3147; C24, 27, 31, 35, 39, §**10437;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §595.11]

83 Acts, ch 185, §54, 62; 95 Acts, ch 124, §18, 26

595.12 Fee and expenses.

1. A judge or magistrate authorized to solemnize a marriage under section 595.10, subsection 1, may charge a reasonable fee for officiating and making return for each marriage solemnized at a time other than regular judicial working hours. In addition the judge or magistrate may charge the parties to the marriage for expenses incurred in solemnizing the marriage. No judge or magistrate shall make any charge for solemnizing a marriage during regular judicial working hours. The supreme court shall adopt rules prescribing the maximum fee and expenses that the judge or magistrate may charge.

2. A minister authorized to solemnize a marriage under section 595.10, subsection 2, may charge a reasonable fee for each marriage solemnization and making return in an amount agreed to by the parties.

[C51, §2551; R60, §4159; C73, §3828; C97, §3152; C24, 27, 31, 35, 39, §**10438;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §595.12]

83 Acts, ch 151, §1

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595.13 Certificate — return.

After the marriage has been solemnized, the officiating minister or magistrate shall attest to the marriage on the blank provided for that purpose and return the certificate of marriage within fifteen days to the county registrar who issued the marriage license.

[C51, §1473, 1476; R60, §2525, 2528; C73, §2194, 2197; C97, §3146; S13, §3146; C24, 27, 31, 35, 39, §**10439;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §595.13]

95 Acts, ch 124, §19, 26; 2000 Acts, ch 1140, §44; 2002 Acts, ch 1119, §189

See also §144.36 for certificate

595.14 Reserved.

595.15 Inadequate return.

If the return of a marriage is not complete in every particular as required by the forms specified in section 144.12, the county registrar shall require the person making the same to supply the omitted information.

[C24, 27, 31, 35, 39, §**10441;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §595.15]

95 Acts, ch 124, §20, 26

595.16 Spouse responsible for return.

When a marriage is consummated without the services of a cleric or magistrate, the required return of the marriage may be made to the county registrar by either spouse.

[C51, §1478; R60, §2530; C73, §2199; C97, §3149; C24, 27, 31, 35, 39, §**10442;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §595.16]

95 Acts, ch 124, §21, 26

595.16A Issuance of certified copy of certificate of marriage.

Following receipt of the original certificate of marriage pursuant to section 144.36, the county registrar shall issue a certified copy of the original certificate of marriage to the parties to the marriage.

2000 Acts, ch 1140, §45, 49

595.17 Exceptions.

The provisions of this chapter, as they relate to procuring licenses and to the solemnizing of marriages are not applicable to members of a denomination having an unusual mode of entering the marriage relation.

[C51, §1477; R60, §2529; C73, §2198; C97, §3148; C24, 27, 31, 35, 39, §**10443;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §595.17; 82 Acts, ch 1152, §2]

595.18 Issue legitimatized.

Children born outside of a marriage become legitimate by the subsequent marriage of their parents. Children born of a marriage contracted in violation of section 595.3 or 595.19 are legitimate.

[C51, §1479; R60, §2531; C73, §2200; C97, §3150; C24, 27, 31, 35, 39, §**10444;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §595.18]

94 Acts, ch 1046, §30

595.19 Void marriages.

1. Marriages between the following persons who are related by blood are void:

a. Between a man and his father's sister, mother's sister, daughter, sister, son's daughter, daughter's daughter, brother's daughter, or sister's daughter.

b. Between a woman and her father's brother, mother's brother, son, brother, son's son, daughter's son, brother's son, or sister's son.

c. Between first cousins.

2. Marriages between persons either of whom has a husband or wife living are void, but,

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if the parties live and cohabit together after the death or divorce of the former husband or wife, such marriage shall be valid.

[R60, §4367, 4368; C73, §4030; C97, §3151, 4936; S13, §4936; C24, 27, 31, 35, 39, §**10445;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §595.19]

85 Acts, ch 99, §8; 94 Acts, ch 1023, §117

Referred to in §595.18
Incest, see §726.2

595.20 Foreign marriages — validity.

A marriage which is solemnized in any other state, territory, country, or any foreign jurisdiction which is valid in that state, territory, country, or other foreign jurisdiction, is valid in this state if the parties meet the requirements for validity pursuant to section 595.2, subsection 1, and if the marriage would not otherwise be declared void.

98 Acts, ch 1099, §3

CHAPTER 596

PREMARITAL AGREEMENTS

Chapter applies to premarital agreements executed on or after January 1, 1992; agreements entered into prior to that date not affected; §596.12

596.1	Definitions.	596.7	Revocation.
596.2	Construction and application.	596.8	Enforcement.
596.3	Short title.	596.9	Unconscionability.
596.4	Formalities.	596.10	Enforcement — void marriage.
596.5	Content.	596.11	Limitation of actions.
596.6	Effective date of agreement.	596.12	Effective date.

596.1 Definitions.

As used in this chapter:

1. *"Premarital agreement"* means an agreement between prospective spouses made in contemplation of marriage and to be effective upon marriage.

2. *"Property"* means an interest, present or future, legal or equitable, vested or contingent, in real or personal property.

91 Acts, ch 77, §1

596.2 Construction and application.

This chapter shall be construed and applied to effectuate its general purpose to make uniform the law with respect to premarital agreements.

91 Acts, ch 77, §2

596.3 Short title.

This chapter may be cited as the *"Iowa Uniform Premarital Agreement Act"*.

91 Acts, ch 77, §3

596.4 Formalities.

A premarital agreement must be in writing and signed by both prospective spouses. It is enforceable without consideration other than the marriage. Both parties to the agreement shall execute all documents necessary to enforce the agreement.

91 Acts, ch 77, §4

596.5 Content.

1. Parties to a premarital agreement may contract with respect to the following:

a. The rights and obligations of each of the parties in any of the property of either or both of them whenever and wherever acquired or located.

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b. The right to buy, sell, use, transfer, exchange, abandon, lease, consume, expend, assign, create a security interest in, mortgage, encumber, dispose of, or otherwise manage and control property.

c. The disposition of property upon separation, dissolution of the marriage, death, or the occurrence or nonoccurrence of any other event.

d. The making of a will, trust, or other arrangement to carry out the provisions of the agreement.

e. The ownership rights in and disposition of the death benefit from a life insurance policy.

f. The choice of law governing the construction of the agreement.

g. Any other matter, including the personal rights and obligations of the parties, not in violation of public policy or a statute imposing a criminal penalty.

2. The right of a spouse or child to support shall not be adversely affected by a premarital agreement.

91 Acts, ch 77, §5

596.6 Effective date of agreement.

A premarital agreement becomes effective upon the marriage of the parties.

91 Acts, ch 77, §6

596.7 Revocation.

After marriage, a premarital agreement may be revoked only as follows:

1. By a written agreement signed by both spouses. The revocation is enforceable without consideration.

2. To revoke a premarital agreement without the consent of the other spouse, the person seeking revocation must prove one or more of the following:

a. The person did not execute the agreement voluntarily.

b. The agreement was unconscionable when it was executed.

c. Before the execution of the agreement the person was not provided a fair and reasonable disclosure of the property or financial obligations of the other spouse; and the person did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other spouse.

91 Acts, ch 77, §7

596.8 Enforcement.

1. A premarital agreement is not enforceable if the person against whom enforcement is sought proves any of the following:

a. The person did not execute the agreement voluntarily.

b. The agreement was unconscionable when it was executed.

c. Before the execution of the agreement the person was not provided a fair and reasonable disclosure of the property or financial obligations of the other spouse; and the person did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other spouse.

2. If a provision of the agreement or the application of the provision to a party is found by the court to be unenforceable, the provision shall be severed from the remainder of the agreement and shall not affect the provisions, or application, of the agreement which can be given effect without the unenforceable provision.

91 Acts, ch 77, §8; 2013 Acts, ch 30, §261

596.9 Unconscionability.

In any action under this chapter to revoke or enforce a premarital agreement the issue of unconscionability of a premarital agreement shall be decided by the court as a matter of law.

91 Acts, ch 77, §9

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596.10 Enforcement — void marriage.

If a marriage is determined to be void, an agreement that would otherwise have been a premarital agreement is enforceable only to the extent necessary to avoid an inequitable result.

91 Acts, ch 77, §10

596.11 Limitation of actions.

Any statute of limitations applicable to an action asserting a claim for relief under a premarital agreement is tolled during the marriage of the parties to the agreement. However, equitable defenses limiting the time for enforcement, including laches and estoppel, are available to either party.

91 Acts, ch 77, §11

596.12 Effective date.

This chapter takes effect on January 1, 1992, and applies to any premarital agreement executed on or after that date. This chapter does not affect the validity under Iowa law of any premarital agreement entered into prior to January 1, 1992.

91 Acts, ch 77, §12

CHAPTER 597

HUSBAND AND WIFE

Referred to in §633B.204

597.1 Property rights of married women.
597.2 Interest of spouse in other's property.
597.3 Remedy by one against the other.
597.4 Conveyances to each other.
597.5 Attorney in fact.
597.6 Mental illness — conveyance of property.
597.7 Proceedings.
597.8 Decree.
597.9 Conveyances — revocation.
597.10 Abandonment of either — proceedings.
597.11 Contracts and sales binding.
597.12 Nonabatement of action.
597.13 Annulment of decree.
597.14 Family expenses.
597.15 Custody of children.
597.16 Wages of married person — actions by.
597.17 Liability for separate debts.
597.18 Contracts of married person.
597.19 Spouse not liable for torts of other spouse.

597.1 Property rights of married women.

A married woman may own in her own right, real and personal property, acquired by descent, gift, or purchase, and manage, sell, and convey the same, and dispose thereof by will, to the same extent and in the same manner the husband can property belonging to him.

[C73, §2202; C97, §3153; C24, 27, 31, 35, 39, §**10446;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §597.1]

597.2 Interest of spouse in other's property.

When property is owned by the husband or wife, the other has no interest therein which can be the subject of contract between them, nor such interest as will make the same liable for the contracts or liabilities of the one not the owner of the property, except as provided in this chapter.

[C73, §2203; C97, §3154; C24, 27, 31, 35, 39, §**10447;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §597.2]

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597.3 Remedy by one against the other.

Should the husband or wife obtain possession or control of property belonging to the other before or after marriage, the owner of the property may maintain an action therefor, or for any right growing out of the same, in the same manner and extent as if they were unmarried.

[C73, §2204; C97, §3155; C24, 27, 31, 35, 39, §**10448;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §597.3]

597.4 Conveyances to each other.

A conveyance, transfer, or lien, executed by either husband or wife to or in favor of the other, shall be valid to the same extent as between other persons.

[C73, §2206; C97, §3157; C24, 27, 31, 35, 39, §**10449;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §597.4]

597.5 Attorney in fact.

A husband or wife may constitute the other spouse as the husband's or wife's attorney in fact, to control and dispose of the husband's or wife's property, including the relinquishment of homestead rights and surviving spouse's statutory share in the homestead, as provided in section 561.13, for their mutual benefit, and may revoke the appointment, the same as other persons.

[C73, §2210; C97, §3161; C24, 27, 31, 35, 39, §**10450;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §597.5]

91 Acts, ch 106, §2
Referred to in §561.13

597.6 Mental illness — conveyance of property.

Where either the husband or wife is mentally ill and incapable of executing a deed or mortgage relinquishing, conveying, or encumbering the husband's or wife's right to the real property of the other, including the homestead, the other may petition the district court of the county of that spouse's residence or the county where the real estate to be conveyed or encumbered is situated, setting forth the facts and praying for an order authorizing the applicant or some other person to execute a deed or mortgage and relinquish or encumber the interest of the person with mental illness in said real estate.

[R60, §1500; C73, §2216; C97, §3167; S13, §3167; C24, 27, 31, 35, 39, §**10451;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §597.6]

96 Acts, ch 1129, §113
Referred to in §229.27
See also probate code §633.642

597.7 Proceedings.

The petition shall be verified by the petitioner, and filed in the office of the clerk of the district court of the proper county, notice of which shall be given as in other cases. Upon completed service, the court shall appoint some responsible attorney thereof guardian for the person alleged to be mentally ill, who shall ascertain the propriety, good faith, and necessity of the prayer of the petitioner, and may resist the application by making any legal or equitable defense thereto, and the guardian shall be allowed by the court a reasonable compensation to be paid as the other costs.

[R60, §1501; C73, §2217; C97, §3168; C24, 27, 31, 35, 39, §**10452;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §597.7]

597.8 Decree.

Upon the hearing of the petition the court, if satisfied that it is made in good faith by the petitioner, and the petitioner is a proper person to exercise the power and make the conveyance or mortgage, and it is necessary and proper, shall enter a decree authorizing the execution of the conveyance or mortgage for and in the name of such husband or wife by such person as the court may appoint.

[R60, §1502; C73, §2218; C97, §3169; S13, §3169; C24, 27, 31, 35, 39, §**10453;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §597.8]

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597.9 Conveyances — revocation.

All deeds executed as provided in this chapter shall convey the interest of such person with mental illness in the real estate described, but such power shall cease and be revoked as soon as that person shall again be in good mental health and apply to the court therefor, but such revocation shall not affect conveyances previously made.

[R60, §1503; C73, §2219; C97, §3170; C24, 27, 31, 35, 39, §**10454;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §597.9]

96 Acts, ch 1129, §113

597.10 Abandonment of either — proceedings.

In case the husband or wife abandons the other for one year, or leaves the state and is absent therefrom for such term, without providing for the maintenance and support of the family, or is confined in jail or the penitentiary for such period, the district court of the county where the abandoned party resides may, on application by petition setting forth the facts, authorize the applicant to manage, control, sell, and encumber the property of the guilty party for the support and maintenance of the family and for the purpose of paying debts. Notice of such proceedings shall be given as in ordinary actions, and anything done under or by virtue of the order or decree of the court shall be valid to the same extent as if the same was done by the party owning the property.

[C51, §1456 – 1459, 1461; R60, §2508 – 2511, 2513; C73, §2207; C97, §3158; C24, 27, 31, 35, 39, §**10455;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §597.10]

Referred to in §597.11, 597.13, 600.4

Service of notice, R.C.P. 1.302 – 1.315

597.11 Contracts and sales binding.

All contracts, sales, or encumbrances made by either husband or wife under the provisions of section 597.10 shall be binding on both, and during such absence or confinement the person acting under such power may sue and be sued thereon, and for all acts done the property of both shall be liable, and execution may be levied or attachment issued accordingly.

[C73, §2208; C97, §3159; C24, 27, 31, 35, 39, §**10456;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §597.11]

Referred to in §597.13

597.12 Nonabatement of action.

No action or proceedings shall abate or be affected by the return or release of the person absent or confined, but the person may be permitted to prosecute or defend jointly with the other.

[C73, §2208; C97, §3159; C24, 27, 31, 35, 39, §**10457;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §597.12]

Referred to in §597.13

597.13 Annulment of decree.

The husband or wife affected by the proceedings contemplated in sections 597.10 through 597.12 may obtain an annulment thereof, upon filing a petition and serving a notice on the person in whose favor the decree or order was granted, as in ordinary actions; but the setting aside of such decree or order shall not affect any act done thereunder.

[C51, 1460; R60, §2512; C73, §2209; C97, §3160; C24, 27, 31, 35, 39, §**10458;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §597.13]

2020 Acts, ch 1063, §320

597.14 Family expenses.

The reasonable and necessary expenses of the family and the education of the children are chargeable upon the property of both husband and wife, or either of them, and in relation thereto they may be sued jointly or separately.

[C51, §1455; R60, §2507; C73, §2214; C97, §3165; S13, §3165; C24, 27, 31, 35, 39, §**10459;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §597.14]

Referred to in §537.7103

Spousal support debt for medical assistance to institutionalized spouse; chapter 249B

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597.15 Custody of children.

If one spouse abandons the other spouse, the abandoned spouse is entitled to the custody of the minor children, unless the district court, upon application for that purpose, otherwise directs, or unless a custody decree is entered in accordance with chapter 598B. In this section "*abandon*" does not include:

1. The departure of a spouse due to physical or emotional abuse.
2. The departure of a spouse accompanied by the minor children.

[C51, §1462; R60, §2514; C73, §2215; C97, §3166; C24, 27, 31, 35, 39, §**10460;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §597.15]

85 Acts, ch 18, §1; 99 Acts, ch 103, §43

597.16 Wages of married person — actions by.

A married person may receive the wages for the person's personal labor, and maintain an action therefor in the person's own name, and hold the same in the person's own right, and may prosecute and defend all actions for the preservation and protection of the person's rights and property, as if unmarried.

[C73, §2211; C97, §3162; C24, 27, 31, 35, 39, §**10461;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §597.16]

597.17 Liability for separate debts.

Neither husband nor wife is liable for the debts or liabilities of the other incurred before marriage, and, except as otherwise declared in this chapter, they are not liable for the debts of each other contracted after marriage; nor are the wages, earnings, or property of either, nor is the rent or income of the property of either, liable for the separate debts of the other.

[C51, §1453; R60, §2505; C73, §2212; C97, §3163; C24, 27, 31, 35, 39, §**10465;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §597.17]

2020 Acts, ch 1063, §321

597.18 Contracts of married person.

Contracts may be made by a married person and liabilities incurred, and the same enforced by or against the person, to the same extent and in the same manner as if the person were unmarried.

[C51, §1454; R60, §2506; C73, §2213; C97, §3164; C24, 27, 31, 35, 39, §**10466;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §597.18]

597.19 Spouse not liable for torts of other spouse.

For civil injuries committed by a married person, damages may be recovered from the person alone, and the partner shall not be liable therefor, except in cases where the partner would be jointly liable if the marriage did not exist.

[C73, §2205; C97, §3156; C24, 27, 31, 35, 39, §**10467;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §597.19]

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CHAPTER 598

DISSOLUTION OF MARRIAGE AND DOMESTIC RELATIONS

Referred to in §135.108, 232.3, 236.11, 236.19, 252A.3A, 252B.3, 252B.4, 252B.5, 252B.6A, 252B.14, 252B.20, 252B.26, 252C.1, 252C.3, 252D.1, 252D.16, 252D.16A, 252E.1, 252E.1A, 252E.16, 252F.4, 252H.2, 252H.4, 252H.21, 252I.2, 252J.1, 425.2, 425A.4, 455B.172, 558A.1, 562A.27A, 562B.25A, 598A.2, 598A.13, 598A.15, 598A.16, 598A.19, 598A.22, 600.11, 600B.40A, 602.6111, 602.8102(47), 602.8102(84), 602.8105, 664A.1, 664A.2, 664A.5, 664A.7, 815.11

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598.1 Definitions.

As used in this chapter:

1. *"Best interest of the child"* includes but is not limited to the opportunity for maximum continuous physical and emotional contact possible with both parents, unless direct physical or significant emotional harm to the child may result from this contact. Refusal by one parent

to provide this opportunity without just cause shall be considered harmful to the best interest of the child.

2. *"Dissolution of marriage"* means a termination of the marriage relationship and shall be synonymous with the term *"divorce"*.

3. *"Joint custody"* or *"joint legal custody"* means an award of legal custody of a minor child to both parents jointly under which both parents have legal custodial rights and responsibilities toward the child and under which neither parent has legal custodial rights superior to those of the other parent. Rights and responsibilities of joint legal custody include but are not limited to equal participation in decisions affecting the child's legal status, medical care, education, extracurricular activities, and religious instruction.

4. *"Joint physical care"* means an award of physical care of a minor child to both joint legal custodial parents under which both parents have rights and responsibilities toward the child including but not limited to shared parenting time with the child, maintaining homes for the child, providing routine care for the child and under which neither parent has physical care rights superior to those of the other parent.

5. *"Legal custody"* or *"custody"* means an award of the rights of legal custody of a minor child to a parent under which a parent has legal custodial rights and responsibilities toward the child. Rights and responsibilities of legal custody include but are not limited to decision making affecting the child's legal status, medical care, education, extracurricular activities, and religious instruction.

6. *"Minor child"* means any person under legal age.

7. *"Physical care"* means the right and responsibility to maintain a home for the minor child and provide for the routine care of the child.

8. *"Postsecondary education subsidy"* means an amount for educational expenses of a child who is between the ages of eighteen and twenty-two years if the child is regularly attending a course of career and technical training either as a part of a regular school program or under special arrangements adapted to the individual person's needs; or is, in good faith, a full-time student in a college, university, or community college; or has been accepted for admission to a college, university, or community college and the next regular term has not yet begun.

9. *"Support"* or *"support payments"* means an amount which the court may require either of the parties to pay under a temporary order or a final judgment or decree, and may include alimony, child support, maintenance, and any other term used to describe these obligations. For orders entered on or after July 1, 1990, unless the court specifically orders otherwise, medical support is not included in the monetary amount of child support. The obligations shall include support for a child who is between the ages of eighteen and nineteen years who is engaged full-time in completing high school graduation or equivalency requirements in a manner which is reasonably expected to result in completion of the requirements prior to the person reaching nineteen years of age; and may include support for a child of any age who is dependent on the parties to the dissolution proceedings because of physical or mental disability.

[C71, 73, 75, 77, 79, 81, §598.1; 82 Acts, ch 1250, §1]

84 Acts, ch 1088, §1; 86 Acts, ch 1245, §1495; 90 Acts, ch 1224, §41; 90 Acts, ch 1253, §120; 97 Acts, ch 175, §182 – 185, 200; 2016 Acts, ch 1108, §69; 2025 Acts, ch 57, §1, 5

Referred to in §8.89, 252B.1, 252B.13A, 252B.14, 252B.24, 252D.16, 633.425, 714I.4

2025 amendment to subsection 8 applies to a support order, decree, or judgment entered or pending on or after July 1, 2025; 2025 Acts, ch 57, §5

598.2 Jurisdiction and venue.

The district court has original jurisdiction of the subject matter of this chapter. Venue shall be in the county where either party resides.

[C51, §1480; R60, §2532; C73, §2220; C97, §3171; C24, 27, 31, 35, 39, §**10468;** C46, 50, 54, 58, 62, 66, §598.1; C71, 73, 75, 77, 79, 81, §598.2]

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598.2A Choice of law.

In a proceeding to establish, modify, or enforce a child support order the forum state's law shall apply except as provided in section 252K.604.

96 Acts, ch 1141, §26; 2015 Acts, ch 110, §111

598.3 Kind of action — joinder.

An action for dissolution of marriage shall be by equitable proceedings, and no cause of action, save for alimony, shall be joined therewith. Such actions shall not be subject to counterclaim or cross petition by the respondent. After the appearance of the respondent, no dismissal of the cause of action shall be allowed unless both the petitioner and the respondent sign the dismissal.

[R60, §4184; C73, §2511; C97, §3430; C24, 27, 31, 35, 39, §**10469;** C46, 50, 54, 58, 62, 66, §598.2; C71, 73, 75, 77, 79, 81, §598.3]

598.4 Caption of petition for dissolution.

The petition for dissolution of marriage shall be captioned substantially as follows:

In the District Court of the State of Iowa
In and For ..... County
In Re the Marriage of
..... and .....

Upon the Petition of	Petition for
.....	Dissolution
(Petitioner)	of Marriage
and Concerning	Equity No. .....
.....	
(Respondent)	

[C71, 73, 75, 77, 79, 81, §598.4]

598.5 Contents of petition — verification — evidence.

1. The petition for dissolution of marriage shall:

a. State the name, birth date, address and county of residence of the petitioner and the name and address of the petitioner's attorney.

b. State the place and date of marriage of the parties.

c. State the name, birth date, address and county of residence, if known, of the respondent.

d. State the name and age of each minor child by date of birth whose welfare may be affected by the controversy.

e. State whether or not a separate action for dissolution of marriage or child support has been commenced and whether such action is pending in any court in this state or elsewhere. State whether the entry of an order would violate 28 U.S.C. §1738B. If there is an existing child support order, the party shall disclose identifying information regarding the order.

f. Allege that the petition has been filed in good faith and for the purposes set forth therein.

g. Allege that there has been a breakdown of the marriage relationship to the extent that the legitimate objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved.

h. Set forth any application for temporary support of the petitioner and any children without enumerating the amounts thereof.

i. Set forth any application for permanent alimony or support, child custody, or disposition of property, as well as attorney fees and suit money, without enumerating the amounts thereof.

j. State whether the appointment of a conciliator pursuant to section 598.16 may preserve the marriage.

k. Except where the respondent is a resident of this state and is served by personal service, state that the petitioner has been for the last year a resident of the state, specifying the county in which the petitioner has resided and the length of such residence in the state

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after deducting all absences from the state, and that the maintenance of the residence has been in good faith and not for the purpose of obtaining a dissolution of marriage only.

2. The petition shall be verified by the petitioner.

3. The allegations of the petition shall be established by competent evidence.

[C71, 73, 75, 77, 79, 81, §598.5]

85 Acts, ch 178, §4; 97 Acts, ch 175, §186; 2005 Acts, ch 69, §30

598.6 Additional contents. Repealed by 2005 Acts, ch 69, §58. See §598.5.

598.7 Mediation.

1. The district court may, on its own motion or on the motion of any party, order the parties to participate in mediation in any dissolution of marriage action or other domestic relations action. Mediation performed under this section shall comply with the provisions of chapter 679C. The provisions of this section shall not apply if the action involves a child support or medical support obligation enforced by child support services. The provisions of this section shall not apply to actions which involve elder abuse pursuant to chapter 235F or domestic abuse pursuant to chapter 236. The provisions of this section shall not affect a judicial district's or court's authority to order settlement conferences pursuant to rules of civil procedure. The court shall, on application of a party, grant a waiver from any court-ordered mediation under this section if the party demonstrates that a history of domestic abuse exists as specified in section 598.41, subsection 3, paragraph "*j*".

2. The supreme court shall establish a dispute resolution program in family law cases that includes the opportunities for mediation and settlement conferences. Any judicial district may implement such a dispute resolution program, subject to the rules prescribed by the supreme court.

3. The supreme court shall prescribe rules for the mediation program, including the circumstances under which the district court may order participation in mediation.

4. Any dispute resolution program shall comply with all of the following standards:

a. Participation in mediation shall include attendance at a mediation session with the mediator and the parties to the action, listening to the mediator's explanation of the mediation process, presentation of one party's view of the case, and listening to the response of the other party. Participation in mediation does not require that the parties reach an agreement.

b. The parties may choose the mediator, or the court shall appoint a mediator. A court-appointed mediator shall meet the qualifications established by the supreme court.

c. Parties to the mediation have the right to advice and presence of counsel at all times.

d. The parties to the mediation shall present any agreement reached through the mediation to their attorneys, if any. A mediation agreement reached by the parties shall not be enforceable until approved by the court.

e. The costs of mediation shall be borne by the parties, as agreed to by the parties, or as ordered by the court, and may be taxed as court costs. Mediation shall be provided on a sliding fee scale for parties who are determined to be indigent pursuant to section 815.9.

5. The supreme court shall prescribe qualifications for mediators under this section. The qualifications shall include but are not limited to the ethical standards to be observed by mediators. The qualifications shall not include a requirement that the mediator be licensed to practice any particular profession.

[C51, §1481; R60, §2533; C73, §2222; C97, §3173; C24, 27, 31, 35, 39, §**10471;** C46, 50, 54, 58, 62, 66, §598.4; C71, 73, 75, 77, 79, 81, §598.7]

2005 Acts, ch 69, §31; 2014 Acts, ch 1107, §17; 2016 Acts, ch 1073, §162; 2023 Acts, ch 19, §1232

598.7A Mediation. Repealed by 2005 Acts, ch 69, §58. See §598.7.

598.8 Hearings — exceptions.

1. Except as otherwise provided in subsection 2, hearings for dissolution of marriage shall be held in open court upon the oral testimony of witnesses, or upon the depositions of such witnesses taken as in other equitable actions or taken by a commissioner appointed by the

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court. The court may in its discretion close the hearing. Hearings held for the purpose of determining child custody may be limited in attendance by the court. Upon request of either party, the court shall provide security in the courtroom during the custody hearing if a history of domestic abuse relating to either party exists.

2. The court may enter a decree of dissolution without a hearing under either of the following circumstances:

a. All of the following circumstances have been met:

(1) The parties have certified in writing that there has been a breakdown of the marriage relationship to the extent that the legitimate objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved.

(2) All documents required by the court and by statute have been filed.

(3) The parties have entered into a written agreement settling all of the issues involved in the dissolution of marriage.

b. The respondent has not entered a general or special appearance or filed a motion or pleading in the case, the waiting period provided under section 598.19 has expired, and all of the following circumstances have been met:

(1) The petitioner has certified in writing that there has been a breakdown of the marriage relationship to the extent that the legitimate objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved.

(2) All documents required by the court and by statute have been filed.

[C73, §2222; C97, §3173; C24, 27, 31, 35, 39, §**10472;** C46, 50, 54, 58, 62, 66, §598.5; C71, 73, 75, 77, 79, 81, §598.8]

95 Acts, ch 165, §1; 95 Acts, ch 182, §21; 2000 Acts, ch 1034, §1, 2

598.9 Residence — failure of proof.

If the averments as to residence are not fully proved, the hearing shall proceed no further, and the action be dismissed by the court.

[C73, §2222; C97, §3173; C24, 27, 31, 35, 39, §**10473;** C46, 50, 54, 58, 62, 66, §598.6; C71, 73, 75, 77, 79, 81, §598.9]

598.10 Temporary orders.

1. *a.* The court may order either party to pay the clerk a sum of money for the separate support and maintenance of the other party and the children and to enable such party to prosecute or defend the action. The court may on its own motion and shall upon application of either party or a guardian ad litem appointed under section 598.12 or an attorney appointed under section 598.12A determine the temporary custody of any minor child whose welfare may be affected by the filing of the petition for dissolution.

b. In order to encourage compliance with a visitation order, a temporary order for custody shall provide for a minimum visitation schedule with the noncustodial parent, unless the court determines that such visitation is not in the best interest of the child.

2. The court may make such an order when a claim for temporary support is made by the petitioner in the petition, or upon application of either party, after service of the original notice and when no application is made in the petition; however, no such order shall be entered until at least five days' notice of hearing, and opportunity to be heard, is given the other party. Appearance by an attorney or the respondent for such hearing shall be deemed a special appearance for the purpose of such hearing only and not a general appearance. An order entered pursuant to this section shall contain the names, birth dates, addresses, and counties of residence of the petitioner and respondent.

2005 Acts, ch 69, §32; 2017 Acts, ch 43, §1

Referred to in §598.11, 598.22, 598A.11

598.11 How temporary order made — changes — retroactive modification.

1. In making temporary orders, the court shall take into consideration the age of the applicant, the physical and pecuniary condition of the parties, and other matters as are pertinent, which may be shown by affidavits, as the court may direct. The hearing on the application shall be limited to matters set forth in the application, the affidavits of the parties,

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and the required statements of income. The court shall not hear any other matter relating to the petition, respondent's answer, or any pleadings connected with the petition or answer.

2. Subject to 28 U.S.C. §1738B, after notice and hearing, subsequent changes in temporary orders may be made by the court on application of either party demonstrating a substantial change in the circumstances occurring subsequent to the issuance of such order. If the order is not so modified, it shall continue in force and effect until the action is dismissed or a decree is entered dissolving the marriage.

3. An order for temporary support may be retroactively modified only from three months after notice of hearing for temporary support pursuant to section 598.10 or from three months after notice of hearing for modification of a temporary order for support pursuant to this section. The three-month limitation applies to modification actions pending on or after July 1, 1997.

[C73, §2226; C97, §3177; C24, 27, 31, 35, 39, §**10478;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §598.11]

85 Acts, ch 178, §5; 2005 Acts, ch 69, §33

598.12 Guardian ad litem for minor child.

1. The court may appoint a guardian ad litem to represent the best interests of the minor child or children of the parties. The guardian ad litem shall be a practicing attorney and shall be solely responsible for representing the best interests of the minor child or children. The guardian ad litem shall be independent of the court and other parties to the proceeding and shall be unprejudiced and uncompromised in the guardian ad litem's independent actions.

a. Unless otherwise enlarged or circumscribed by a court having jurisdiction over the child or by operation of law, the duties of a guardian ad litem with respect to a child shall include all of the following:

(1) Conducting an initial in-person interview with the child, if the child's age is appropriate for the interview, and interviewing each parent, guardian, or other person having custody of the child.

(2) Maintaining regular contact with the child.

(3) Visiting the home, residence, or both home and residence of the child and any prospective home or residence of the child.

(4) Interviewing any person providing medical, mental health, social, educational, or other services to the child, prior to any court-ordered hearing.

(5) Obtaining knowledge of facts, circumstances, and parties involved in the matter in which the person is appointed guardian ad litem.

(6) Attending any depositions, hearings, or trials in the matter in which the person is appointed guardian ad litem, and filing motions or responses or making objections when necessary. The guardian ad litem may cause witnesses to appear, offer evidence, and question witnesses on behalf of the best interests of the child. The guardian ad litem may offer proposed or requested relief and arguments in the same manner allowed the parties by the court. However, the guardian ad litem shall not testify, serve as a witness, or file a written report in the matter.

b. The order appointing the guardian ad litem shall grant authorization to the guardian ad litem to interview any relevant person and inspect and copy any records relevant to the proceedings, if not prohibited by federal law. The order shall specify that the guardian ad litem may interview any person providing medical, mental health, social, educational, or other services to the child; may attend any meeting with the medical or mental health providers, service providers, organizations, or educational institutions regarding the child, if deemed necessary by the guardian ad litem; may inspect and copy any records relevant to the proceedings; and shall specifically be authorized to communicate with any individual or person appointed by the court to conduct a home-study investigation. The parent, guardian, or other person having custody of the child shall immediately execute any release necessary to allow the guardian ad litem to effect the authorization granted under this paragraph.

2. The same person shall not serve both as the child's attorney and as guardian ad litem, nor shall the same person serve both as the child and family reporter and as guardian ad litem.

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3. The court shall enter an order in favor of the guardian ad litem for fees and disbursements as submitted by the guardian ad litem, and the amount shall be charged against the party responsible for court costs unless the court determines that the party responsible for court costs is indigent, in which event the amount shall be borne by the county.

[C71, 73, 75, 77, 79, 81, §598.12; 82 Acts, ch 1250, §3]

83 Acts, ch 96, §157, 159; 2000 Acts, ch 1067, §1; 2005 Acts, ch 69, §34; 2017 Acts, ch 43, §2

Referred to in §598.10, 598C.310, 600B.40, 915.37

598.12A Attorney for minor child.

1. The court may appoint an attorney to represent the minor child or children of the parties. If appointed under this section, the child's attorney shall be solely responsible for representing the minor child or children. The child's attorney shall be independent of the court and other parties to the proceeding and shall be unprejudiced and uncompromised in the attorney's independent actions.

a. Unless otherwise enlarged or circumscribed by a court having jurisdiction over the child or by operation of law, the duties of an attorney with respect to a child shall include all of the following:

(1) Conducting an initial in-person interview with the child, if the child's age is appropriate for the interview, and interviewing each parent, guardian, or other person having custody of the child if authorized by the person's legal counsel.

(2) Maintaining regular contact with the child.

(3) Interviewing any person providing medical, mental health, social, educational, or other services to the child, as necessary to advance the child's interests.

(4) Obtaining knowledge of facts, circumstances, and the parties involved in the matter as necessary to advance the child's interests.

(5) Attending any depositions, hearings, and trials in the matter and filing motions or responses or making objections when necessary. The child's attorney may cause witnesses to appear, offer evidence on behalf of the child, and question witnesses. The child's attorney may offer proposed or requested relief and arguments in the same manner allowed the parties by the court. However, the child's attorney shall not testify, serve as a witness, or file a written report in the matter.

b. The order appointing the child's attorney shall grant authorization to the child's attorney to interview any relevant person and inspect and copy any records relevant to the proceedings, if not prohibited by federal law. The order shall specify that the child's attorney may interview any person providing medical, mental health, social, educational, or other services to the child; may attend any meeting with the medical or mental health providers, service providers, organizations, or educational institutions regarding the child, if deemed necessary by the child's attorney; and may inspect and copy any records relevant to the proceedings. The parent, guardian, or other person having custody of the child shall immediately execute any release necessary to allow the child's attorney to effect the authorization granted under this paragraph.

2. The same person shall not serve as both the child's guardian ad litem and the child's attorney, nor shall the same person serve as both the child and family reporter and as the child's attorney.

3. The court shall enter an order in favor of the child's attorney for fees and disbursements as submitted by the child's attorney, and the amount shall be charged against the party responsible for court costs unless the court determines that the party responsible for court costs is indigent, in which event the amount shall be borne by the county.

2017 Acts, ch 43, §3

Referred to in §598.10, 600B.40

598.12B Child custody investigators and child and family reporters.

1. The supreme court shall prescribe and maintain standards for child custody investigators and child and family reporters.

2. The court may require a child custody investigator or a child and family reporter to

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obtain information regarding both parties' home conditions, parenting capabilities, and other matters pertinent to the best interests of the child or children in a dispute concerning custody of the child or children. A report of the information obtained shall be submitted to the court and available to both parties. The report shall be a part of the record unless otherwise ordered by the court.

3. The court shall enter an order in favor of the child custody investigator or child and family reporter for fees and disbursements, and the amount shall be charged against the party responsible for court costs unless the court determines that the party responsible for court costs is indigent, in which event the amount shall be borne by the county.

2017 Acts, ch 43, §4
Referred to in §600B.40

598.13 Financial statements filed.

1. *a.* Both parties shall disclose their financial status. A showing of special circumstances shall not be required before the disclosure is ordered. A statement of net worth set forth by affidavit on a form prescribed by the supreme court and furnished without charge by the clerk of the district court shall be filed by each party prior to the dissolution hearing. However, the parties may waive this requirement upon application of both parties and approval by the court.

b. Failure to comply with the requirements of this subsection constitutes failure to make discovery as provided in rule of civil procedure 1.517.

2. The court may, in its discretion, order a trustee to provide, on behalf of a trust, information including, but not limited to, trust documents and financial statements relating to any beneficial interest a party to the pending action may have in the trust.

[C71, 73, 75, 77, 79, 81, §598.13]
87 Acts, ch 89, §1; 2001 Acts, ch 112, §1; 2013 Acts, ch 30, §261
Referred to in §598.26
The form of affidavit prescribed by the supreme court is published in the compilation "Iowa Court Rules", R.C.P. 1.1901 – Form 7

598.14 Attachment.

The petition may be presented to the court for the allowance of an order of attachment, which, by endorsement thereon, may direct such attachment and fix the amount for which it may issue, and the amount of the bond, if any, that shall be given. Any property taken by virtue thereof shall be held to satisfy the judgment or decree of the court, but may be discharged or released as in other cases.

[C73, §2228; C97, §3179; C24, 27, 31, 35, 39, §**10480;** C46, 50, 54, 58, 62, 66, §598.13; C71, 73, 75, 77, 79, 81, §598.14]
85 Acts, ch 99, §9; 85 Acts, ch 195, §52; 96 Acts, ch 1141, §27; 2005 Acts, ch 69, §35

598.14A and 598.14B Repealed by 2005 Acts, ch 69, §58.

598.15 Mandatory course — parties to certain proceedings.

1. The parties to any action which involves the issues of child custody or visitation shall participate in a court-approved course to educate and sensitize the parties to the needs of any child or party during and subsequent to the proceeding within forty-five days of the service of notice and petition for the action or within forty-five days of the service of notice and application for modification of an order. Participation in the course may be waived or delayed by the court for good cause including but not limited to a default by any of the parties or a showing that the parties have previously participated in a court-approved course or its equivalent. Participation in the course is not required if the proceeding involves termination of parental rights of any of the parties. A final decree shall not be granted or a final order shall not be entered until the parties have complied with this section, unless participation in the course is waived or delayed for good cause or is otherwise not required under this subsection.

2. Each party shall be responsible for arranging for participation in the course and for payment of the costs of participation in the course.

3. Each party shall submit certification of completion of the course to the court prior to

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the granting of a final decree or the entry of an order, unless participation in the course is waived or delayed for good cause or is otherwise not required under subsection 1.

4. If participation in the court-approved course is waived or delayed for good cause or is otherwise not required under this section, the court may order that the parties receive the information described in subsection 5 through an alternative format.

5. Each judicial district shall certify approved courses for parties required to participate in a course under this section. Approved courses may include those provided by a public or private entity. At a minimum and as appropriate, an approved course shall include information relating to the parents regarding divorce and its impact on the children and family relationship, parenting skills for divorcing parents, children's needs and coping techniques, and the financial responsibilities of parents following divorce.

6. In addition to the provisions of this section relating to the required participation in a court-approved course by the parties to an action as described in subsection 1, the court may require age-appropriate counseling for children who are involved in a dissolution of marriage action. The counseling may be provided by a public or private entity approved by the court. The costs of the counseling shall be taxed as court costs.

7. The supreme court may prescribe rules to implement this section.

[C73, §2227; C97, §3178; C24, 27, 31, 35, 39, §**10479;** C46, 50, 54, 58, 62, 66, §598.12; C71, 73, 75, 77, 79, 81, §598.15]

2005 Acts, ch 69, §36; 2010 Acts, ch 1159, §7

Referred to in §600B.40

598.16 Conciliation — domestic relations divisions.

1. A majority of the judges in any judicial district, with the cooperation of any county board of supervisors in the district, may establish a domestic relations division of the district court of the county where the board is located. The division shall offer counseling and related services to persons before the court.

2. The court may on its own motion or upon the motion of a party require the parties to participate in conciliation efforts for a period of sixty days or less following the issuance of an order setting forth the conciliation procedure and the conciliator. In making a determination under this section, the court shall consider all relevant factors including but not limited to whether a history of abuse or violence exists.

3. Every order for conciliation shall require the conciliator to file a written report by a date certain which shall state the conciliation procedures undertaken and such other matters as may have been required by the court. The report shall be a part of the record unless otherwise ordered by the court. Such conciliation procedure may include but is not limited to referrals to the domestic relations division of the court, if established, public or private marriage counselors, family service agencies, community health centers, physicians and clergy.

4. The costs of conciliation procedures shall be paid in full or in part by the parties and taxed as court costs; however, if the court determines that the parties will be unable to pay the costs without prejudicing their financial ability to provide themselves and any minor children with economic necessities, the costs may be paid in full or in part by the county.

5. Persons providing counseling and other services pursuant to this section are not court employees, but are subject to court supervision.

[C71, 73, 75, 77, 79, 81, §598.16]

83 Acts, ch 123, §194, 209; 83 Acts, ch 186, §10110, 10201; 93 Acts, ch 54, §11; 2007 Acts, ch 180, §1; 2014 Acts, ch 1107, §18; 2017 Acts, ch 43, §5; 2019 Acts, ch 63, §1

Referred to in §331.424, 598.5, 602.11101

598.17 Dissolution of marriage — evidence.

1. A decree dissolving the marriage may be entered when the court is satisfied from the evidence presented that there has been a breakdown of the marriage relationship to the extent that the legitimate objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved. The decree shall state that the dissolution is granted to the parties, and shall not state that it is granted to only one party.

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2. If at the time of trial petitioner fails to present satisfactory evidence that there has been a breakdown of the marriage relationship to the extent that the legitimate objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved, the respondent may then proceed to present such evidence as though the respondent had filed the original petition.

3. A dissolution of marriage granted when one of the spouses has mental illness shall not relieve the other spouse of any obligation imposed by law as a result of the marriage for the support of the spouse with mental illness. The court may make an order for the support or may waive the support obligation when satisfied from the evidence that it would create an undue hardship on the obliged spouse or that spouse's other dependents.

[C71, 73, 75, 77, 79, 81, §598.17]

89 Acts, ch 296, §77; 96 Acts, ch 1129, §101; 2016 Acts, ch 1011, §121

Referred to in §97A.1, 410.10, 411.1

598.18 Recrimination not a bar to dissolution of marriage.

If, upon the trial of an action for dissolution of marriage, both of the parties are found to have committed an act or acts which would support or justify a decree of dissolution of marriage, such dissolution may be decreed, and the acts of one party shall not negate the acts of the other, nor serve to bar the dissolution decree in any way.

[C71, 73, 75, 77, 79, 81, §598.18]

598.19 Waiting period before decree.

No decree dissolving a marriage shall be granted in any proceeding before ninety days shall have elapsed from the day the original notice is served, or from the last day of publication of notice, or from the date that waiver or acceptance of original notice is filed or until after any court-ordered conciliation is completed, whichever period shall be longer. However, the court may in its discretion, on written motion supported by affidavit setting forth grounds of emergency or necessity and facts which satisfy the court that immediate action is warranted or required to protect the substantive rights or interests of any party or person who might be affected by the decree, hold a hearing and grant a decree dissolving the marriage prior to the expiration of the applicable period, provided that requirements of notice have been complied with. In such case the grounds of emergency or necessity and the facts with respect thereto shall be recited in the decree unless otherwise ordered by the court. The court may enter an order finding the respondent in default and waiving any court-ordered conciliation when the respondent has failed to file an appearance within the time set forth in the original notice.

[C58, 62, 66, §598.25; C71, 73, 75, §598.16, 598.19; C77, 79, 81, §598.19]

2019 Acts, ch 63, §2

Referred to in §598.8

598.19A Mandatory course — parties to certain proceedings. Repealed by 2005 Acts, ch 69, §58. See §598.15.

598.20 Forfeiture of marital rights.

When a dissolution of marriage is decreed the parties shall forfeit all rights acquired by marriage which are not specifically preserved in the decree. This provision shall not obviate any of the provisions of section 598.21, 598.21A, 598.21B, 598.21C, 598.21D, 598.21E, or 598.21F.

[C51, §1486; C73, §2230; C97, §3181; C24, 27, 31, 35, 39, §**10483;** C46, 50, 54, 58, 62, 66, §598.16; C71, 73, 75, 77, 79, 81, §598.20]

2005 Acts, ch 69, §37

598.20A Beneficiary revocation — life insurance.

1. Except as preempted by federal law, if a decree of dissolution, annulment, or separate maintenance is issued after the policy owner of an insurance contract insuring the policy owner's own life has designated the policy owner's spouse or one or more relatives of the policy owner's spouse as a beneficiary under a life insurance policy in effect on the date of

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the decree, a provision in the life insurance policy making such a designation is voided by the issuance of the decree unless any of the following apply:

a. The decree designates the policy owner's former spouse or one or more relatives of the policy owner's spouse as beneficiary.

b. After issuance of the decree, the policy owner executes a designation of beneficiary form provided by the insurance company naming the policy owner's former spouse or one or more relatives of the policy owner's former spouse as beneficiary.

c. The policy owner and the policy owner's former spouse remarry.

2. If a beneficiary designation is not effective pursuant to subsection 1, the benefits or proceeds of the life insurance policy are payable to an alternate beneficiary, or if there is no alternate beneficiary, to the estate of the policy owner.

3. An insurer who pays benefits or proceeds of a life insurance policy to a beneficiary under a designation that is void pursuant to subsection 1 is not liable for payment to an alternative beneficiary as provided under subsection 2 unless both of the following apply:

a. At least ten days prior to payment of the benefits or proceeds of the life insurance policy to the designated beneficiary, the insurer receives written notice at the home office of the insurer that the designation of the beneficiary is not effective pursuant to subsection 1.

b. The insurer has failed to interplead the benefits or proceeds of the life insurance policy in a court of competent jurisdiction in accordance with the rules of civil procedure.

4. This section does not limit the right of a beneficiary to seek recovery from any person or entity that erroneously receives or collects the benefits or proceeds from a life insurance policy.

5. This section does not affect the right of a policy owner's former spouse to assert an ownership interest in a life insurance policy insuring the life of the policy owner that is not disclosed to the policy owner's spouse prior to the decree of dissolution, annulment, or separate maintenance and that is not addressed by the decree.

6. For purposes of this section, *"relative of the policy owner's spouse"* means a person who is related to the policy owner's former spouse by blood, adoption, or affinity, and who, subsequent to a decree of dissolution, annulment, or separate maintenance, ceases to be related to the policy owner by blood, adoption, or affinity.

2007 Acts, ch 134, §4, 28; 2013 Acts, ch 124, §30

598.20B Beneficiary revocation — other contracts.

1. Except as preempted by federal law, if a decree of dissolution, annulment, or separate maintenance is issued after a participant, annuitant, or account holder has designated the participant's, annuitant's, or account holder's spouse or one or more relatives of the participant's, annuitant's, or account holder's spouse as beneficiary under any individual retirement account, stock option plan, transfer on death account, payable on death account, or annuity in force at the date of the decree, a provision in the retirement account, stock option plan, transfer on death account, payable on death account, or annuity designating the participant's, annuitant's, or account holder's spouse or one or more relatives of the participant's, annuitant's, or account holder's spouse as beneficiary is voided by the issuance of the decree unless any of the following apply:

a. The decree designates the participant's, annuitant's, or account holder's spouse or one or more relatives of the participant's, annuitant's, or account holder's spouse as beneficiary.

b. After issuance of the decree, the participant, annuitant, or account holder executes a designation of beneficiary form provided by the plan or company naming the participant's, annuitant's, or account holder's former spouse or one or more relatives of the participant's, annuitant's, or account holder's former spouse as the beneficiary.

c. The participant, annuitant, or account holder and the participant's, annuitant's, or account holder's former spouse remarry.

d. Prior to the issuance of the decree, annuity payments have irrevocably commenced based on the joint life expectancies of the participant, annuitant, or account holder and the participant's, annuitant's, or account holder's former spouse.

2. If a beneficiary designation is not effective pursuant to subsection 1, the benefits or proceeds from the individual retirement account, stock option plan, transfer on death

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account, payable on death account, or annuity are payable to an alternate beneficiary, or if there is no alternate beneficiary, to the estate of the participant, annuitant, or account holder.

3. A business entity, employer, insurer, financial institution, or other person or entity obligated to pay the benefits or proceeds from an individual retirement account, stock option plan, transfer on death account, payable on death account, or annuity to a beneficiary under a designation that is void pursuant to subsection 1 is not liable for payment of the benefits or proceeds to a beneficiary as provided under subsection 2 unless both of the following apply:

a. At least ten days prior to payment of the benefits or proceeds to the designated beneficiary, the business entity, employer, insurer, financial institution, or other person or entity obligated to pay the benefits or proceeds receives written notice at the home office of the business entity, employer, insurer, financial institution, or other person or entity that the designation of the beneficiary is not effective pursuant to subsection 1.

b. The business entity, employer, insurer, financial institution, or other person or entity has failed to interplead the benefits or proceeds in a court of competent jurisdiction in accordance with the rules of civil procedure.

4. This section does not limit the right of a beneficiary to seek recovery from any person or entity that erroneously receives or collects the benefits or proceeds of an individual retirement account, stock option plan, transfer on death account, payable on death account, or annuity.

5. This section does not affect the right of the participant's, annuitant's, or account holder's former spouse to assert an ownership interest in an individual retirement account, stock option plan, transfer or payable on death account, or annuity that is not disclosed to the participant's, annuitant's, or account holder's spouse prior to the issuance of the decree of dissolution, annulment, or separate maintenance and that is not addressed by the decree.

6. For purposes of this section, *"relative of the participant's, annuitant's, or account holder's spouse"* means a person who is related to the participant's, annuitant's, or account holder's former spouse by blood, adoption, or affinity, and who, subsequent to a decree of dissolution, annulment, or separate maintenance ceases to be related to the participant, annuitant, or account holder by blood, adoption, or affinity.

2007 Acts, ch 134, §5, 28

598.21 Orders for disposition of property.

1. *General principles.* Upon every judgment of annulment, dissolution, or separate maintenance, the court shall divide the property of the parties and transfer the title of the property accordingly, including ordering the parties to execute a quitclaim deed or ordering a change of title for tax purposes and delivery of the deed or change of title to the county recorder of the county in which each parcel of real estate is located.

2. *Duties of county recorder.* The county recorder shall record each quitclaim deed or change of title and shall collect the fee specified in section 331.507, subsection 2, paragraph *"a"*, and the fees specified in section 331.604.

3. *Duties of clerk of court.* If the court orders a transfer of title to real property, the clerk of court shall issue a certificate under chapter 558 relative to each parcel of real estate affected by the order and immediately deliver the certificate for recording to the county recorder of the county in which the real estate is located. Any fees assessed shall be included as part of the court costs. The county recorder shall deliver the certificates to the county auditor as provided in section 558.58, subsection 1.

4. *Property for children.* The court may protect and promote the best interests of children of the parties by setting aside a portion of the property of the parties in a separate fund or conservatorship for the support, maintenance, education, and general welfare of the minor children.

5. *Division of property.* The court shall divide all property, except inherited property or gifts received or expected by one party, equitably between the parties after considering all of the following:

a. The length of the marriage.

b. The property brought to the marriage by each party.

c. The contribution of each party to the marriage, giving appropriate economic value to each party's contribution in homemaking and child care services.

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d. The age and physical and emotional health of the parties.

e. The contribution by one party to the education, training, or increased earning power of the other.

f. The earning capacity of each party, including educational background, training, employment skills, work experience, length of absence from the job market, custodial responsibilities for children, and the time and expense necessary to acquire sufficient education or training to enable the party to become self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage.

g. The desirability of awarding the family home or the right to live in the family home for a reasonable period to the party having custody of the children, or if the parties have joint legal custody, to the party having physical care of the children.

h. The amount and duration of an order granting support payments to either party pursuant to section 598.21A and whether the property division should be in lieu of such payments.

i. Other economic circumstances of each party, including pension benefits, vested or unvested. Future interests may be considered, but expectancies or interests arising from inherited or gifted property created under a will or other instrument under which the trustee, trustor, trust protector, or owner has the power to remove the party in question as a beneficiary, shall not be considered.

j. The tax consequences to each party.

k. Any written agreement made by the parties concerning property distribution.

l. The provisions of an antenuptial agreement.

m. Other factors the court may determine to be relevant in an individual case.

6. *Inherited and gifted property.* Property inherited by either party or gifts received by either party prior to or during the course of the marriage is the property of that party and is not subject to a property division under this section except upon a finding that refusal to divide the property is inequitable to the other party or to the children of the marriage.

7. *Not subject to modification.* Property divisions made under this chapter are not subject to modification.

8. *Necessary content of order.* Orders made pursuant to this section need mention only those factors relevant to the particular case for which the orders are made but shall contain the names, birth dates, addresses, and counties of residence of the petitioner and respondent.

[C51, §1485; R60, §2537; C73, §2229; C97, §3180; C24, 27, 31, 35, 39, §**10481;** C46, 50, 54, 58, 62, 66, §598.14; C71, 73, 75, 77, 79, §598.17, §598.21; C81, §598.21; 82 Acts, ch 1054, §1, ch 1250, §4 – 9]

83 Acts, ch 101, §118; 85 Acts, ch 159, §10; 85 Acts, ch 178, §6, 7; 86 Acts, ch 1079, §5; 88 Acts, ch 1141, §2; 89 Acts, ch 102, §6; 89 Acts, ch 166, §6; 90 Acts, ch 1224, §42 – 45; 92 Acts, ch 1195, §405, 406, 508, 509; 93 Acts, ch 78, §44 – 46; 93 Acts, ch 79, §48, 49; 94 Acts, ch 1171, §40 – 42; 95 Acts, ch 52, §8; 95 Acts, ch 115, §11, 12; 96 Acts, ch 1106, §17; 96 Acts, ch 1141, §7, 28, 29; 97 Acts, ch 41, §32; 97 Acts, ch 175, §188 – 193, 200; 99 Acts, ch 103, §44, 45; 2001 Acts, ch 143, §8; 2002 Acts, ch 1018, §16, 17, 21; 2003 Acts, ch 151, §28; 2004 Acts, ch 1157, §1; 2005 Acts, ch 69, §38; 2007 Acts, ch 163, §1 – 3; 2009 Acts, ch 27, §36; 2009 Acts, ch 159, §14; 2009 Acts, ch 179, §44

Referred to in §321A.17, 557.15, 598.20, 598.21A

598.21A Orders for spousal support.

1. *Criteria for determining support.* Upon every judgment of annulment, dissolution, or separate maintenance, the court may grant an order requiring support payments to either party for a limited or indefinite length of time after considering all of the following:

a. The length of the marriage.

b. The age and physical and emotional health of the parties.

c. The distribution of property made pursuant to section 598.21.

d. The educational level of each party at the time of marriage and at the time the action is commenced.

e. The earning capacity of the party seeking maintenance, including educational background, training, employment skills, work experience, length of absence from the job

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market, responsibilities for children under either an award of custody or physical care, and the time and expense necessary to acquire sufficient education or training to enable the party to find appropriate employment.

f. The feasibility of the party seeking maintenance becoming self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage, and the length of time necessary to achieve this goal.

g. The tax consequences to each party.

h. Any mutual agreement made by the parties concerning financial or service contributions by one party with the expectation of future reciprocation or compensation by the other party.

i. The provisions of an antenuptial agreement.

j. Other factors the court may determine to be relevant in an individual case.

2. *Necessary content of order.* Orders made pursuant to this section need mention only those factors relevant to the particular case for which the orders are made but shall contain the names, birth dates, addresses, and counties of residence of the petitioner and respondent.

96 Acts, ch 1106, §18; 2005 Acts, ch 69, §39
Referred to in §252A.3, 252A.6, 598.20, 598.21, 598.22

598.21B Orders for child support and medical support.

1. *Child support guidelines.*

a. The supreme court shall maintain uniform child support guidelines and criteria and review the guidelines and criteria at least once every four years, pursuant to the federal Family Support Act of 1988, Pub. L. No. 100-485. The initial review shall be performed within four years of October 12, 1989, and subsequently within the four-year period of the most recent review.

b. The guidelines prescribed by the supreme court shall incorporate provisions for medical support as defined in chapter 252E to be effective on or before January 1, 1991.

c. It is the intent of the general assembly that, to the extent possible within the requirements of federal law, the court and child support services consider the individual facts of each judgment or case in the application of the guidelines and determine the support obligation accordingly. It is also the intent of the general assembly that in the supreme court's review of the guidelines, the supreme court shall do both of the following:

(1) Emphasize the ability of a court to apply the guidelines in a just and appropriate manner based upon the individual facts of a judgment or case.

(2) In determining monthly child support payments, consider other children for whom either parent is legally responsible for support and other child support obligations actually paid by either party pursuant to a court or administrative order.

d. The guidelines prescribed by the supreme court shall be used by the department of health and human services in determining child support payments under sections 252C.2 and 252C.4. A variation from the guidelines shall not be considered by the department without a record or written finding, based on stated reasons, that the guidelines would be unjust or inappropriate as determined under criteria prescribed by the supreme court.

2. *Child support orders.*

a. Court's authority. Unless prohibited pursuant to 28 U.S.C. §1738B, upon every judgment of annulment, dissolution, or separate maintenance, the court may order either parent or both parents to pay an amount reasonable and necessary for supporting a child.

b. Calculating amount of support.

(1) In establishing the amount of support, consideration shall be given to the responsibility of both parents to support and provide for the welfare of the minor child and of a child's need, whenever practicable, for a close relationship with both parents.

(2) For purposes of calculating a support obligation under this section, the income of the parent from whom support is sought shall be used as the noncustodial parent income for purposes of application of the guidelines, regardless of the legal custody of the child.

(3) For the purposes of including a child's dependent benefit in calculating a support obligation under this section for a child whose parent has been awarded disability benefits under the federal Social Security Act, the provisions of section 598.22C shall apply.

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c. Rebuttable presumption in favor of guidelines. There shall be a rebuttable presumption that the amount of child support which would result from the application of the guidelines prescribed by the supreme court is the correct amount of child support to be awarded.

d. Variation from guidelines. A variation from the guidelines shall not be considered by a court without a record or written finding, based on stated reasons, that the guidelines would be unjust or inappropriate as determined under the criteria prescribed by the supreme court.

e. Special circumstances justifying variation from guidelines. Unless the special circumstances of the case justify a deviation, the court or child support services shall establish a monthly child support payment in accordance with the guidelines for a parent who is nineteen years of age or younger, who has not received a high school or high school equivalency diploma, and to whom each of the following apply:

(1) The parent is attending a school or program described as follows or has been identified as one of the following:

(a) The parent is in full-time attendance at an accredited school and is pursuing a course of study leading to a high school diploma.

(b) The parent is attending an instructional program leading to a high school equivalency diploma.

(c) The parent is attending a career and technical education program approved pursuant to chapter 256, subchapter VII, part 2.

(d) The parent has been identified by the director of special education of the area education agency as a child requiring special education as defined in section 256B.2.

(2) The parent provides proof of compliance with the requirements of subparagraph (1) to child support services, if child support services is providing services under chapter 252B, or if child support services is not providing services pursuant to chapter 252B, to the court as the court may direct. Failure to provide proof of compliance under this subparagraph or proof of compliance under section 598.21G is grounds for modification of the support order using the uniform child support guidelines and imputing an income to the parent equal to a forty-hour workweek at the state minimum wage, unless the parent's education, experience, or actual earnings justify a higher income.

3. *Medical support.* The court shall order child medical support as provided in section 252E.1A. The premium cost of a health benefit plan may be considered by the court as a reason for varying from the child support guidelines.

4. *Necessary content of order.* Orders made pursuant to this section need mention only those factors relevant to the particular case for which the orders are made but shall contain the names, birth dates, addresses, and counties of residence of the petitioner and respondent.

2005 Acts, ch 69, §40; 2007 Acts, ch 218, §184, 187; 2008 Acts, ch 1019, §18, 20; 2010 Acts, ch 1142, §9; 2016 Acts, ch 1108, §70; 2023 Acts, ch 19, §1233, 1234, 2533

Referred to in §234.39, 252A.3, 252A.6, 252A.6A, 252B.5, 252B.6, 252B.9, 252C.2, 252C.3, 252C.4, 252E.1, 252E.1A, 252E.2A, 252F.3, 252F.4, 252F.5, 252H.2, 252H.6, 252H.8, 252H.9, 252H.14A, 252H.15, 252H.19, 252H.21, 598.20, 598.21C, 598.21E, 598.22, 598.22C, 600B.25, 600B.41A, 714I.4

598.21C Modification of child, spousal, or medical support orders.

1. *Criteria for modification.* Subject to 28 U.S.C. §1738B, the court may subsequently modify child, spousal, or medical support orders when there is a substantial change in circumstances. In determining whether there is a substantial change in circumstances, the court shall consider the following:

a. Changes in the employment, earning capacity, income, or resources of a party.

b. Receipt by a party of an inheritance, pension, or other gift.

c. Changes in the medical expenses of a party.

d. Changes in the number or needs of dependents of a party.

e. Changes in the physical, mental, or emotional health of a party.

f. Changes in the residence of a party.

g. Remarriage of a party.

h. Possible support of a party by another person.

i. Changes in the physical, emotional, or educational needs of a child whose support is governed by the order.

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j. Contempt by a party of existing orders of court.

k. Entry of a dispositional or permanency order in juvenile court pursuant to chapter 232 placing custody or physical care of a child with a party who is obligated to pay support for a child. Any filing fees or court costs for a modification filed or ordered pursuant to this paragraph are waived.

l. Other factors the court determines to be relevant in an individual case.

2. *Additional criteria for modification of child support orders.*

a. Subject to 28 U.S.C. §1738B, but notwithstanding subsection 1, a substantial change of circumstances exists when the court order for child support varies by ten percent or more from the amount which would be due pursuant to the most current child support guidelines established pursuant to section 598.21B or a parent has a health benefit plan available as provided in section 252E.1A and the current order for support does not contain provisions for medical support.

b. This basis for modification is applicable to petitions filed on or after July 1, 1992, notwithstanding whether the guidelines prescribed by section 598.21B were used in establishing the current amount of support. Upon application for a modification of an order for child support for which services are being received pursuant to chapter 252B, the court shall set the amount of child support based upon the most current child support guidelines established pursuant to section 598.21B, including provisions for medical support pursuant to chapter 252E. Child support services shall, in submitting an application for modification, adjustment, or alteration of an order for support, employ additional criteria and procedures as provided in chapter 252H and as established by rule.

3. *Applicable law.* Unless otherwise provided pursuant to 28 U.S.C. §1738B, a modification of a support order entered under chapter 234, 252A, 252C, 600B, this chapter, or any other support chapter or proceeding between parties to the order is void unless the modification is approved by the court, after proper notice and opportunity to be heard is given to all parties to the order, and entered as an order of the court. If support payments have been assigned to the department of health and human services pursuant to section 234.39, 239B.6, or 252E.11, or if services are being provided pursuant to chapter 252B, the department is a party to the support order. Modifications of orders pertaining to child custody shall be made pursuant to chapter 598B. If the petition for a modification of an order pertaining to child custody asks either for joint custody or that joint custody be modified to an award of sole custody, the modification, if any, shall be made pursuant to section 598.41.

4. *Temporary modification of child support orders.* While an application for modification of a child support or child custody order is pending, the court may, on its own motion or upon application by either party, enter a temporary order modifying an order of child support. The court may enter such temporary order only after service of the original notice, and an order shall not be entered until at least five days' notice of hearing and opportunity to be heard, is provided to all parties. In entering temporary orders under this subsection, the court shall consider all pertinent matters, which may be demonstrated by affidavits, as the court may direct. The hearing on application shall be limited to matters set forth in the application, the affidavits of the parties, and any required statements of income. The court shall not hear any other matter relating to the application for modification, respondent's answer, or any pleadings connected with the application for modification or the answer. This subsection shall also apply to an order, decree, or judgment entered or pending on or before July 1, 2007, and shall apply to an order entered under this chapter, chapter 252A, 252C, 252F, 252H, 252K, or 600B, or any other applicable chapter of the Code.

5. *Retroactivity of modification.* Judgments for child support or child support awards entered pursuant to this chapter, chapter 234, 252A, 252C, 252F, 600B, or any other chapter of the Code which are subject to a modification proceeding may be retroactively modified only from three months after the date the notice of the pending petition for modification is served on the opposing party. The three-month limitation applies to a modification action pending on or after July 1, 1997. The prohibition of retroactive modification does not bar child support services from obtaining orders for accrued support for previous time periods. Any retroactive modification which increases the amount of child support or any order for accrued support under this subsection shall include a periodic payment plan. A retroactive

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modification shall not be regarded as a delinquency unless there are subsequent failures to make payments in accordance with the periodic payment plan.

6. *Modification of periodic due date.* The periodic due date established under a prior order for payment of child support shall not be changed in any modified order under this section, unless the court determines that good cause exists to change the periodic due date. If the court determines that good cause exists, the court shall include the rationale for the change in the modified order and shall address the issue of reconciliation of any payments due or made under a prior order which would result in payment of the child support obligation under both the prior and the modified orders.

7. *Modification by child support services.* Notwithstanding any other provision of law to the contrary, when an application for modification or adjustment of support is submitted by child support services, the sole issues which may be considered by the court in that action are the application of the guidelines in establishing the amount of support pursuant to section 598.21B, and provision for medical support under chapter 252E. When an application for a cost-of-living alteration of support is submitted by child support services pursuant to section 252H.24, the sole issue which may be considered by the court in the action is the application of the cost-of-living alteration in establishing the amount of child support. Issues related to custody, visitation, or other provisions unrelated to support shall be considered only under a separate application for modification.

8. *Necessary content of order.* Orders made pursuant to this section need mention only those factors relevant to the particular case for which the orders are made but shall contain the names, birth dates, addresses, and counties of residence of the petitioner and respondent.

9. *Duty of clerk of court.* If the court modifies an order, and the original decree was entered in another county in Iowa, the clerk of court shall send a copy of the modification by regular mail, electronic transmission, or facsimile to the clerk of court for the county where the original decree was entered.

2005 Acts, ch 69, §41; 2006 Acts, ch 1030, §71; 2006 Acts, ch 1119, §7, 10; 2007 Acts, ch 106, §1; 2007 Acts, ch 218, §185, 187; 2008 Acts, ch 1019, §18, 20; 2023 Acts, ch 19, §1235, 1236
Referred to in §234.39, 252B.5, 252H.10, 252H.18A, 598.20, 598.22, 598.22C

598.21D Relocation of parent as grounds to modify order of child custody.

If a parent awarded joint legal custody and physical care or sole legal custody is relocating the residence of the minor child to a location which is one hundred fifty miles or more from the residence of the minor child at the time that custody was awarded, the court may consider the relocation a substantial change in circumstances. If the court determines that the relocation is a substantial change in circumstances, the court shall modify the custody order to, at a minimum, preserve, as nearly as possible, the existing relationship between the minor child and the nonrelocating parent. If modified, the order may include a provision for extended visitation during summer vacations and school breaks and scheduled telephone contact between the nonrelocating parent and the minor child. The modification may include a provision assigning the responsibility for transportation of the minor child for visitation purposes to either or both parents. If the court makes a finding of past interference by the parent awarded joint legal custody and physical care or sole legal custody with the minor child's access to the other parent, the court may order the posting of a cash bond to assure future compliance with the visitation provisions of the decree. The supreme court shall prescribe guidelines for the forfeiting of the bond and restoration of the bond following forfeiting of the bond.

2005 Acts, ch 69, §42
Referred to in §598.20

598.21E Contesting paternity to challenge child support order.

1. If, during an action initiated under this chapter or any other chapter in which a child or medical support obligation may be established based upon a prior determination of paternity, a party wishes to contest the paternity of the child or children involved, all of the following apply:

a. (1) If paternity has been legally established by one of the methods enumerated in

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section 252A.3, subsection 10, or by operation of law due to the established father's marriage to the mother at the time of conception, birth, or at any time during the period between conception and birth of the child, the provisions of section 600B.41A apply.

(2) If following the proceedings under section 600B.41A the court determines that the prior determination of paternity should not be overcome, and that the established father has a duty to provide support, the court shall enter an order establishing the monthly child support payment and the amount of the support debt accrued and accruing pursuant to section 598.21B, or the medical support obligation pursuant to chapter 252E, or both.

b. Notwithstanding paragraph "*a*", subparagraph (1), if a determination of paternity is based on an administrative or court order or other means pursuant to the laws of another state or foreign country as defined in chapter 252K, any action to overcome the prior determination of paternity shall be filed in that jurisdiction. Unless a stay of the action initiated in this state to establish child or medical support is requested and granted by the court, pending a resolution of the contested paternity issue by the other state or foreign country as defined in chapter 252K, the action shall proceed.

c. Notwithstanding paragraph "*a*", in a pending dissolution action under this chapter, a prior determination of paternity by operation of law through the marriage of the established father and mother of the child may be overcome under this chapter if the established father and mother of the child file a written statement with the court that both parties agree that the established father is not the biological father of the child.

2. If the court overcomes a prior determination of paternity, the previously established father shall be relieved of support obligations as specified in section 600B.41A, subsection 5. In any action to overcome paternity other than through a pending dissolution action, the provisions of section 600B.41A apply. Overcoming paternity under subsection 1, paragraph "*c*", does not bar subsequent actions to establish paternity. A subsequent action to establish paternity against the previously established father is not barred if it is subsequently determined that the written statement attesting that the established father is not the biological father of the child may have been submitted erroneously, and that the person previously determined not to be the child's father during the dissolution action may actually be the child's biological father.

3. If an action to overcome paternity is brought pursuant to subsection 1, paragraph "*c*", the court shall appoint a guardian ad litem for the child for the pendency of the proceedings.

2005 Acts, ch 69, §43; 2006 Acts, ch 1030, §72; 2015 Acts, ch 110, §112; 2023 Acts, ch 123, §8, 9

Referred to in §598.20, 598.22

598.21F Postsecondary education subsidy.

The court shall not order either of the parties to pay a postsecondary education subsidy under a temporary order or final judgment or decree.

2005 Acts, ch 69, §44; 2006 Acts, ch 1030, §73; 2025 Acts, ch 57, §2, 5

Referred to in §598.20

2025 amendment applies to a support order, decree, or judgment entered or pending on or after July 1, 2025; 2025 Acts, ch 57, §5

598.21G Minor parent — parenting classes.

In any order or judgment entered under this chapter or chapter 234, 252A, 252C, 252F, or 600B, or under any other chapter which provides for temporary or permanent support payments, if the parent ordered to pay support is less than eighteen years of age, one of the following shall apply:

1. If child support services is providing services pursuant to chapter 252B, the court or the department of health and human services shall order the parent ordered to pay support to attend parenting classes which are approved by the department of health and human services.

2. If child support services is not providing services pursuant to chapter 252B, the court may order the parent ordered to pay support to attend parenting classes which are approved by the court.

2005 Acts, ch 69, §45; 2006 Acts, ch 1010, §152; 2023 Acts, ch 19, §1237

Referred to in §598.21B

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598.21H Suspension of child support — child in need of assistance proceedings.

1. Subject to 28 U.S.C. §1738B, the court may enter an ex parte order suspending a child support or medical support order entered under chapter 234, 252A, 252C, 252F, 600B, or this chapter if all of the following conditions are met:

a. A dispositional or permanency order in juvenile court, pursuant to chapter 232, places the custody or physical care of a child with a person who is obligated to pay support for the child pursuant to an order entered under chapter 234, 252A, 252C, 252F, 600B, or this chapter.

b. The juvenile court files a notice of change of custody pursuant to section 232.102, subsection 11, or section 232.104, subsection 11.

c. The person obligated to pay support files an application requesting a suspension of support in the case in which child support is ordered. The application shall identify the county and docket number of the juvenile court proceeding, and the date of the dispositional or permanency order, that placed the custody or physical care of the child with the person obligated to pay support. An application filed by a person obligated to pay support shall also include the names and current addresses of the payor and payee, and shall attach a copy of the notice of change of custody filed under section 232.102, subsection 11, or section 232.104, subsection 11.

2. The order suspending support shall be effective on the date the next support payment is due, and that payment is suspended. Any party, or child support services, may file an objection to the order suspending support within twenty-one calendar days after the date the order is entered. The court shall schedule a hearing on the objection not later than fifteen calendar days after the date the objection is filed, and provide notice of the hearing to the parties. Unless otherwise ordered by the court, the ex parte order shall become final and terminate the support obligation sixty calendar days following the date the juvenile court proceeding terminates.

3. The court may enter an ex parte order terminating a suspension ordered under subsection 1 if all of the following conditions are met:

a. The juvenile court returns the custody or physical care of the child to the person who was previously entitled to receive support for the child.

b. The juvenile court files a notice of change of custody pursuant to section 232.101, subsection 11, or section 232.104, subsection 11, to acknowledge the change of a child's custody back to the person previously entitled to receive support for the child.

c. The person who was previously entitled to receive support for the child, or child support services, files an application in the case in which the support was ordered, and then suspended, to request that the suspension be terminated. The application shall identify the county and docket number of the juvenile court proceeding, and the date of the dispositional or permanency order, that returned custody or physical care of the child to the person who was previously entitled to receive support for the child. An application filed by a person who was previously entitled to receive support for a child shall also include the names and current address of the payor and payee, and shall attach a copy of the notice of change of custody filed under section 232.102, subsection 11, or section 232.104, subsection 11, acknowledging the change of a child's custody back to the person previously entitled to receive support for the child.

4. An order terminating the suspension of support shall be effective on the date the next support payment would be due pursuant to the original support order, and the suspension of that payment is terminated. Any party, or child support services, may file an objection to the order ending the suspension of support within twenty-one calendar days of the date the order is entered. The court shall schedule a hearing on the objection not later than fifteen calendar days after the date the objection is filed, and provide notice of the hearing to the parties.

5. A court shall waive any court costs or filing fee for an application to suspend support, or an application to terminate the suspension of support, filed under this section. The supreme court shall prescribe standard forms for persons to use under this section, and shall distribute the forms to the clerks of the district court.

6. Notwithstanding any provision of law to the contrary, if a juvenile court order placing custody or physical care of a child is being used as the basis for an application or an ex parte order under this section, the notice of change of custody issued by the juvenile court pursuant

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to section 232.102, subsection 11, or section 232.104, subsection 11, shall be disclosed upon request to child support services without a court order.

2026 Acts, ch 1089, §1
Referred to in §232.102, 232.104
NEW section

598.22 Support payments — clerk of court — collection services center or comparable government entity in another state — defaults — security.

1. Except as otherwise provided in section 598.22A, this section applies to all initial or modified orders for support entered under this chapter, chapter 234, 252A, 252C, 252F, 600B, or any other chapter of the Code. All orders or judgments entered under chapter 234, 252A, 252C, 252F, or 600B, or under this chapter or any other chapter which provide for temporary or permanent support payments shall direct the payment of those sums to the clerk of the district court or the collection services center in accordance with section 252B.14, or as appropriate, a comparable government entity in another state as provided in chapter 252K for the use of the person for whom the payments have been awarded. All income withholding payments shall be directed to the collection services center, or as appropriate, a comparable government entity in another state as provided in chapter 252K. Payments to persons other than the clerk of the district court, the collection services center, or as appropriate, a comparable government entity in another state as provided in chapter 252K do not satisfy the support obligations created by the orders or judgments, except as provided for trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, for tax refunds or rebates in section 602.8102, subsection 47, or for dependent benefits paid to the child support obligee as the result of disability benefits awarded to the child support obligor under the federal Social Security Act. For trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, the order for income withholding or notice of the order for income withholding shall require the payment of such sums to the alternate payee in accordance with the federal Act. For dependent benefits paid to the child support obligee as a result of disability benefits awarded to the child support obligor under the federal Social Security Act, the provisions of section 598.22C shall apply.

2. An income withholding order or notice of the order for income withholding shall be entered under the terms and conditions of chapter 252D. However, for trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, the payor shall transmit the payments to the alternate payee in accordance with the federal Act.

3. An order or judgment entered by the court for temporary or permanent support or for income withholding shall be filed with the clerk. The orders have the same force and effect as judgments when entered in the judgment docket and lien index and are records open to the public. Unless otherwise provided by federal law, if it is possible to identify the support order to which a payment is to be applied, and if sufficient information identifying the obligee is provided, the clerk or the collection services center, as appropriate, shall disburse the payments received pursuant to the orders or judgments within two working days of the receipt of the payments. All moneys received or disbursed under this section shall be entered in records kept by the clerk, or the collection services center, as appropriate, and the records kept by the clerk shall be available to the public. The clerk or the collection services center shall not enter any moneys paid in the record book if not paid directly to the clerk or the center, as appropriate, except as provided for trusts and federal social security disability payments in this section, and for tax refunds or rebates in section 602.8102, subsection 47, or as appropriate, a comparable government entity in another state as provided in chapter 252K.

4. If the sums ordered to be paid in a support payment order are not paid to the clerk or the collection services center, or a comparable government entity in another state as provided in chapter 252K, as appropriate, at the time provided in the order or judgment, the clerk or the collection services center, as appropriate, shall certify a default to the court which may, on its own motion, proceed as provided in section 598.23.

5. Prompt payment of sums required to be paid under sections 598.10, 598.21A, 598.21B, 598.21C, and 598.21E is the essence of such orders or judgments and the court may act

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pursuant to section 598.23 regardless of whether the amounts in default are paid prior to the contempt hearing.

6. Upon entry of an order for support or upon the failure of a person to make payments pursuant to an order for support, the court may require the person to provide security, a bond, or other guarantee which the court determines is satisfactory to secure the payment of the support. Upon the person's failure to pay the support under the order, the court may declare the security, bond, or other guarantee forfeited.

7. For the purpose of enforcement, medical support is additional support which, upon being reduced to a dollar amount, may be collected through the same remedies available for the collection and enforcement of child support.

8. The clerk of the district court in the county in which the order for support is filed and to whom support payments are made pursuant to the order may require the person obligated to pay support to submit payments by bank draft or money order if the obligor submits an insufficient funds support payment to the clerk of the district court.

[C71, 73, 75, 77, 79, 81, §598.22; 82 Acts, ch 1134, §1]

85 Acts, ch 100, §7; 85 Acts, ch 178, §8; 86 Acts, ch 1246, §319, 320; 88 Acts, ch 1218, §6 – 8; 90 Acts, ch 1123, §13; 90 Acts, ch 1224, §46, 47; 93 Acts, ch 79, §50; 97 Acts, ch 175, §194; 98 Acts, ch 1170, §11, 12; 2002 Acts, ch 1018, §18; 2005 Acts, ch 69, §46; 2012 Acts, ch 1033, §10; 2015 Acts, ch 110, §113; 2025 Acts, ch 57, §3, 5

Referred to in §96.3, 234.39, 252B.14, 252B.15, 252D.1, 252H.3, 252H.8, 252H.9, 252H.16, 252H.22, 252I.2, 252J.2, 421.17, 598.22A, 598.34, 642.21

2025 amendment to subsection 5 applies to a support order, decree, or judgment entered or pending on or after July 1, 2025; 2025 Acts, ch 57, §5

598.22A Satisfaction of support payments.

Notwithstanding sections 252B.14 and 598.22, support payments ordered pursuant to any support chapter for orders entered on or after July 1, 1985, which are not made pursuant to the provisions of section 252B.14 or 598.22, shall be credited only as provided in this section.

1. *a.* For payment made pursuant to an order, the clerk of the district court or collection services center shall record a satisfaction as a credit on the official support payment record if its validity is confirmed by the court upon submission of an affidavit by the person entitled to receive the payment or upon submission of documentation of the financial instrument used in the payment of the support by the person ordered to pay support, after notice is given to all parties.

b. If a satisfaction recorded on the official support payment record by the clerk of the district court or collection services center prior to July 1, 1991, was not confirmed as valid by the court, and a party to the action submits a written affidavit objecting to the satisfaction, notice of the objection shall be mailed to all parties at their last known addresses. After all parties have had sufficient opportunity to respond to the objection, the court shall either require the satisfaction to be removed from the official support payment record or confirm its validity.

2. For purposes of this section, the state is a party to which notice shall be given when public funds have been expended pursuant to chapter 234, 239B, or 249A, or similar statutes in another state. If proper notice is not given to the state when required, any order of satisfaction is void.

3. The court shall not enter an order for satisfaction of payments not made through the clerk of the district court or collection services center if those payments have been assigned as a result of public funds expended pursuant to chapter 234, 239B, or 249A, or similar statutes in other states and the support payments accrued during the months in which public funds were expended. If the support order did not direct payments to a clerk of the district court or the collection services center, and the support payments in question accrued during the months in which public funds were not expended, however, the court may enter an order for satisfaction of payments not made through the clerk of the district court or the collection services center if documentation of the financial instrument used in the payment of support is presented to the court and the parties to the order submit a written affidavit confirming that the financial instrument was used as payment for support.

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4. Payment of accrued support debt due the department of health and human services shall be credited pursuant to section 252B.3, subsection 5.

90 Acts, ch 1224, §48; 91 Acts, ch 177, §7; 93 Acts, ch 79, §51; 97 Acts, ch 41, §32; 98 Acts, ch 1170, §42; 2005 Acts, ch 112, §18; 2013 Acts, ch 30, §261; 2023 Acts, ch 19, §1238

Referred to in §252B.3, 252B.14, 598.22

598.22B Information required in order or judgment.

This section applies to all initial or modified orders for paternity or support entered under this chapter, chapter 234, 252A, 252C, 252F, 252H, 252K, or 600B, or under any other chapter, and any subsequent order to enforce such support orders.

1. All such orders or judgments shall direct each party to file with the clerk of court or child support services, as appropriate, upon entry of the order, and to update as appropriate, information on location and identity of the party, including social security number, residential and mailing addresses, electronic mail address, telephone number, driver's license number, and name, address, and telephone number of the party's employer. The order shall also include a provision that the information filed will be disclosed and used pursuant to this section. The party shall file the information with the clerk of court, or, if all support payments are to be directed to the collection services center as provided in section 252B.14, subsection 2, and section 252B.16, with child support services.

2. All such orders or judgments shall include a statement that in any subsequent child support action initiated by child support services or between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of such a party, child support services or the court shall deem due process requirements for notice and service of process to be met with respect to the party, upon delivery of written notice to the most recent residential or employer address filed with the clerk of court or child support services pursuant to subsection 1.

3. *a.* Information filed pursuant to subsection 1 shall not be a public record.

b. Information filed with the clerk of court pursuant to subsection 1 shall be available to child support services, upon request. Beginning October 1, 1998, information filed with the clerk of court pursuant to subsection 1 shall be provided by the clerk of court to child support services pursuant to section 252B.24.

c. Information filed with the clerk of court shall be available, upon request, to a party unless the party filing the information also files an affidavit alleging the party has reason to believe that release of the information may result in physical or emotional harm to the affiant or child. However, even if an affidavit has been filed, any information provided by the clerk of court to child support services shall be disclosed by child support services as provided in section 252B.9.

d. Information provided to child support services shall only be disclosed as provided in section 252B.9.

97 Acts, ch 175, §195; 98 Acts, ch 1170, §16; 2015 Acts, ch 110, §114; 2023 Acts, ch 19, §1239

Referred to in §252B.24, 252F.4

598.22C Child support — social security disability dependent benefits.

If dependent benefits are paid for a child as a result of disability benefits awarded to the child's parent under the federal Social Security Act, all of the following shall apply:

1. Unless the court otherwise provides, dependent benefits paid to the child support obligee as a result of disability benefits awarded to the child support obligor fully satisfy and substitute for the support obligations for the same period of time for which the benefits are awarded.

2. For the purposes of calculating a support obligation under section 598.21B, the dependent benefits paid for any child shall be included as income to the disabled parent.

3. *a.* Any order or judgment for support for a child for whom social security disability benefits are paid to the child support obligee as a result of disability benefits awarded to the child support obligor shall include all of the following:

(1) The dollar amount of the child support obligation as calculated by application of the

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guidelines under section 598.21B, and a statement that the social security dependent benefits are included as income to the obligor in that calculation.

(2) The dollar amount of the social security dependent benefits paid to the obligee which shall be dollar-for-dollar satisfaction of the obligor's child support obligation.

(3) The dollar amount, if any, the obligor shall pay after application of the social security dependent benefits as a credit to or dollar-for-dollar satisfaction of the child support obligation.

b. The amount of the child support obligation stated in the order, and the amount the obligor shall pay after application of the social security disability dependent benefit credit or satisfaction stated in the order, shall continue until modified, as provided in section 598.21C.

4. The amount of any child support obligation satisfied under this section based upon the receipt of dependent benefits paid to the child support obligee as a result of disability benefits awarded to the child support obligor shall not be considered delinquent.

2002 Acts, ch 1018, §19; 2005 Acts, ch 69, §47 – 49
Referred to in §252H.3, 252H.8, 252H.9, 252H.16, 252H.22, 598.21B, 598.22

598.22D Separate fund or conservatorship for support.

The court may protect and promote the best interests of a minor child by setting aside a portion of the child support which either party is ordered to pay in a separate fund or conservatorship for the support, education, and welfare of the child.

2005 Acts, ch 69, §50

598.23 Contempt proceedings — alternatives to jail sentence.

1. If a person against whom a temporary order or final decree has been entered willfully disobeys the order or decree, the person may be cited and punished by the court for contempt and be committed to the county jail for a period of time not to exceed thirty days for each offense.

2. The court may, as an alternative to punishment for contempt, make an order which, according to the subject matter of the order or decree involved, does the following:

a. Withholds income under the terms and conditions of chapter 252D.

b. Modifies visitation to compensate for lost visitation time or establishes joint custody for the child or transfers custody.

c. Directs the parties to provide contact with the child through a neutral party or neutral site or center.

d. Imposes sanctions or specific requirements or orders the parties to participate in mediation to enforce the joint custody provisions of the decree.

[C24, 27, 31, 35, 39, §**10482;** C46, 50, 54, 58, 62, 66, §598.15; C71, 73, 75, 77, 79, 81, §598.23]

84 Acts, ch 1133, §1; 85 Acts, ch 67, §56; 85 Acts, ch 178, §9; 88 Acts, ch 1218, §9; 97 Acts, ch 175, §196, 197
Referred to in §96.3, 234.39, 598.22, 598.23A, 642.21

598.23A Contempt proceedings for provisions of support payments — activity governed by a license.

1. If a person against whom an order or decree for support has been entered pursuant to this chapter or chapter 234, 252A, 252C, 252F, 600B, or any other support chapter, or a comparable chapter of another state or foreign country as defined in chapter 252K, fails to make payments or provide medical support pursuant to that order or decree, the person may be cited and punished by the court for contempt under section 598.23 or this section. Failure to comply with a seek employment order entered pursuant to section 252B.21 is evidence of willful failure to pay support.

2. If a person is cited for contempt, the court may do any of the following:

a. Require the posting of a cash bond, within seven calendar days, in an amount equivalent to the current arrearages and an additional amount which is equivalent to at least twelve months of future support obligations. If the arrearages are not paid within three months of the hearing, the bond shall be automatically forfeited to cover payment of the full portion of the arrearages and the portion of the bond representing future support obligations shall be automatically forfeited to cover future support payments as payments become due.

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b. (1) Require the performance of community service work of up to twenty hours per week for six weeks for each finding of contempt. The contemnor may, at any time during the six-week period, apply to the court to be released from the community service work requirement under any of the following conditions:

(a) The contemnor provides proof to the court that the contemnor is gainfully employed and submits to an order for income withholding pursuant to chapter 252D or to a court-ordered wage assignment.

(b) The contemnor provides proof of payment of an amount equal to at least six months' child support. The payment does not relieve the contemnor's obligation for arrearages or future payments.

(c) The contemnor provides proof to the court that, subsequent to entry of the order, the contemnor's circumstances have so changed that the contemnor is no longer able to fulfill the terms of the community service order.

(2) The contemnor shall keep a record of and provide the following information to the court at the court's request, or to child support services created in section 252B.2, at the request of child support services, when child support services is providing enforcement services pursuant to chapter 252B:

(a) The duties performed as community service during each week that the contemnor is subject to the community service requirements.

(b) The number of hours of community service performed during each week that the contemnor is subject to the community service requirements.

(c) The name, address, and telephone number of the person supervising or arranging for the performance of the community service.

(3) The performance of community service does not relieve the contemnor of any unpaid accrued or accruing support obligation.

c. Enjoin the contemnor from engaging in the exercise of any activity governed by a license.

(1) If the court determines that an extreme hardship will result from the injunction, the court order may allow the contemnor to engage in the exercise of the activity governed by the license, subject to terms established by the court, which shall include, at a minimum, that the contemnor enter into an agreement to satisfy all obligations owing over a period of time satisfactory to the court.

(2) If the court order allows for the exercise of the activity governed by a license pending satisfaction of an obligation over time, and the contemnor fails to comply with the agreement, the contemnor shall be provided an opportunity for hearing, within ten days, to demonstrate why an order enjoining the contemnor from engaging in the exercise of any activity governed by a license should not be issued.

(3) The court order under this paragraph shall be vacated only after verification is provided to the court that the contemnor has satisfied all accrued obligations owing and that the contemnor has satisfied all terms established by the court and when the person entitled to receive support payments, or child support services when child support services is providing enforcement services pursuant to chapter 252B, has been provided ten days' notice and an opportunity to object.

(4) As used in this paragraph, *"license"* means any license or renewal of a license, certification, or registration issued by an agency to a person to conduct a trade or business, including but not limited to a license to practice a profession or occupation or to operate a commercial motor vehicle.

92 Acts, ch 1195, §510; 93 Acts, ch 79, §27 – 29; 94 Acts, ch 1101, §9, 10; 2015 Acts, ch 110, §115; 2023 Acts, ch 19, §1240, 1241

Referred to in §85.59, 252B.21, 252J.2, 669.2, 815.11

598.24 Costs if party is in default or contempt.

When an action for a modification, order to show cause, or contempt of a dissolution, annulment, or separate maintenance decree is brought on the grounds that a party to the decree is in default or contempt of the decree, and the court determines that the party is in

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default or contempt of the decree, the costs of the proceeding, including reasonable attorney's fees, may be taxed against that party.

[C71, 73, 75, 77, 79, 81, §598.24]

84 Acts, ch 1133, §2

598.25 Parties and court granting marriage dissolution decree — notice.

1. Whenever a proceeding is initiated in a court for adoption involving the children of parents or guardians whose marriage has been dissolved, or for modification of a judgment of alimony, child support, or custody granted in an action for dissolution of marriage, the following requirements must be met if such proceedings are initiated in a court other than the court which granted the dissolution decree.

a. The party initiating such proceedings must present to the court the names and addresses of the parties to the dissolution decree if known, as well as the name and place of the court which granted the dissolution decree and the date of the decree.

b. The court in which the proceedings are initiated shall cause notice of such proceedings to be served upon the parties to the original action unless either or both parties are deceased.

2. Such court, or either of the parties to the dissolution decree, may request that a copy of the transcript of the proceedings of the court which granted the dissolution decree be made available for consideration in the new proceedings.

[C71, 73, 75, 77, 79, 81, §598.25]

2013 Acts, ch 30, §261

598.26 Record — impounding — violation indictable.

The record and evidence in each case of marriage dissolution shall be kept pursuant to the following provisions:

1. Until a decree of dissolution has been entered, the record and evidence shall be closed to all but the court, its officers, and child support services of the department of health and human services pursuant to section 252B.9. However, the payment records of a temporary support order maintained by the clerk of the district court are public records and may be released upon request. Payment records shall not include address or location information. No other person shall permit a copy of any of the testimony, or pleading, or the substance of any testimony or pleading, to be made available to any person other than a party to the action or a party's attorney. Nothing in this subsection shall be construed to prohibit publication of the original notice as provided by the rules of civil procedure.

2. The court shall, in the absence of objection by another party, grant a motion by a party to require the sealing of an answer to an interrogatory or of a financial statement filed pursuant to section 598.13. The court may in its discretion grant a motion by a party to require the sealing of any other information which is part of the record of the case except for court orders, decrees and any judgments. If the court grants a motion to require the sealing of information in the case, the sealed information shall not thereafter be made available to any person other than a party to the action or a party's attorney except upon order of the court for good cause shown.

3. If the action is dismissed, judgment for costs shall be entered in the judgment docket and lien index. The clerk shall maintain a separate docket for dissolution of marriage actions.

4. Violation of the provisions of this section shall be a serious misdemeanor.

[C71, 73, 75, 77, 79, 81, §598.26]

91 Acts, ch 177, §8; 98 Acts, ch 1170, §13; 2012 Acts, ch 1033, §11; 2023 Acts, ch 19, §1242

598.27 Reserved.

598.28 Separate maintenance and annulment.

A petition shall be filed in separate maintenance and annulment actions as in actions for dissolution of marriage, and all applicable provisions of this chapter in relation thereto shall apply to separate maintenance and annulment actions.

[C73, §2232; C97, §3183; C24, 27, 31, 35, 39, §**10487;** C46, 50, 54, 58, 62, 66, §598.20; C71, 73, 75, 77, 79, 81, §598.28]

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598.29 Annulling illegal marriage — causes.

Marriage may be annulled for the following causes:

1. Where the marriage between the parties is prohibited by law.
2. Where either party was impotent at the time of marriage.
3. Where either party had a husband or wife living at the time of the marriage, provided they have not, with a knowledge of such fact, lived and cohabited together after the death or marriage dissolution of the former spouse of such party.
4. Where either party was a protected person under a guardianship and was found by the court to lack the capacity to contract a valid marriage.

[C73, §2231; C97, §3182; C24, 27, 31, 35, 39, §**10486;** C46, 50, 54, 58, 62, 66, §598.19; C71, 73, 75, 77, 79, 81, §598.29]

91 Acts, ch 93, §3; 2024 Acts, ch 1009, §53

598.30 Validity determined.

When the validity of a marriage is doubted, either party may file a petition, and the court shall decree it annulled or affirmed according to the proof.

[C73, §2233; C97, §3184; C24, 27, 31, 35, 39, §**10488;** C46, 50, 54, 58, 62, 66, §598.21; C71, 73, 75, 77, 79, 81, §598.30]

598.31 Children — legitimacy.

Children born to the parties, or to the wife, in a marriage relationship which may be terminated or annulled pursuant to the provisions of this chapter shall be legitimate as to both parties, unless the court shall decree otherwise according to the proof.

[C73, §2234, 2235; C97, §3185, 3186; C24, 27, 31, 35, 39, §**10489, 10490;** C46, 50, 54, 58, 62, 66, §598.22, 598.23; C71, 73, 75, 77, 79, 81, §598.31]

598.32 Annulment — compensation.

In case either party entered into the contract of marriage in good faith, supposing the other to be capable of contracting, and the marriage is declared a nullity, such fact shall be entered in the decree, and the court may decree such innocent party compensation as in case of dissolution of marriage.

[C73, §2236; C97, §3187; C24, 27, 31, 35, 39, §**10491;** C46, 50, 54, 58, 62, 66, §598.24; C71, 73, 75, 77, 79, 81, §598.32]

598.33 Order to vacate.

Notwithstanding section 561.15, the court may order either party to vacate the homestead pending entry of a decree of dissolution upon a showing that the other party or the children are in imminent danger of physical harm if the order is not issued.

[C81, §598.33]

598.34 Recipients of public assistance — assignment of support payments.

1. If public assistance is provided by the department of health and human services to or on behalf of a dependent child or a dependent child's caretaker, there is an assignment by operation of law to the department of any and all rights in, title to, and interest in any support obligation, payment, and arrearages owed to or for the child or caretaker not to exceed the amount of public assistance paid for or on behalf of the child or caretaker as follows:
   a. For family investment program assistance, section 239B.6 shall apply.
   b. For foster care services, section 234.39 shall apply.
   c. For medical assistance, section 252E.11 shall apply.
2. The department shall immediately notify the clerk of court by mail when such a child or caretaker has been determined to be eligible for public assistance. Upon notification by the department, the clerk of court shall make a notation of the automatic assignment in the judgment docket and lien index. The notation constitutes constructive notice of the assignment. For public assistance approved and provided on or after July 1, 1997, if the applicant for public assistance is a person other than a parent of the child, the department shall send a notice by regular mail to the last known addresses of the obligee and obligor.

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The clerk of court shall forward support payments received pursuant to section 598.22, to which the department is entitled, to the department, which may secure support payments in default through other proceedings.

3. The clerk shall furnish the department with copies of all orders or decrees and temporary or domestic abuse orders addressing support when the parties are receiving public assistance or services are otherwise provided by child support services pursuant to chapter 252B. Unless otherwise specified in the order, an equal and proportionate share of any child support awarded shall be presumed to be payable on behalf of each child subject to the order or judgment for purposes of an assignment under this section.

[C71, 73, 75, 77, 79, 81, §598.34; 82 Acts, ch 1237, §4]

83 Acts, ch 96, §157, 159; 97 Acts, ch 175, §198; 2008 Acts, ch 1019, §5, 7; 2023 Acts, ch 19, §1243, 1244

598.35 Grandparent — great-grandparent — visitation rights. Repealed by 2007 Acts, ch 218, §208. See §600C.1.

598.36 Attorney fees in proceeding to modify order or decree.

In a proceeding for the modification of an order or decree under this chapter the court may award attorney fees to the prevailing party in an amount deemed reasonable by the court.

84 Acts, ch 1211, §1

598.37 Name change.

1. *a.* Either party to a marriage may request as a part of the decree of dissolution or decree of annulment a change in the person's name to either the name appearing on the person's birth certificate or to the name the person had immediately prior to the marriage.

b. If a party requests a name change other than to the name appearing on the person's birth certificate or to the name the person had immediately prior to the marriage, the request shall be made under chapter 674.

2. If a party requests a name change under subsection 1, paragraph *"a"*, the court shall issue a separate document evidencing the name change. The document shall not contain any other information relating to the decree of dissolution or decree of annulment.

88 Acts, ch 1142, §2; 2026 Acts, ch 1029, §1
Section amended

598.38 through 598.40 Reserved.

598.41 Custody of children.

1. *a.* The court may provide for joint custody of the child by the parties. The court, insofar as is reasonable and in the best interest of the child, shall order the custody award, including liberal visitation rights where appropriate, which will assure the child the opportunity for the maximum continuing physical and emotional contact with both parents after the parents have separated or dissolved the marriage, and which will encourage parents to share the rights and responsibilities of raising the child unless direct physical harm or significant emotional harm to the child, other children, or a parent is likely to result from such contact with one parent.

b. Notwithstanding paragraph *"a"*, if the court finds that a history of domestic abuse exists, a rebuttable presumption against the awarding of joint custody exists.

c. The court shall consider the denial by one parent of the child's opportunity for maximum continuing contact with the other parent, without just cause, a significant factor in determining the proper custody arrangement. Just cause may include a determination by the court pursuant to subsection 3, paragraph *"j"*, that a history of domestic abuse exists between the parents.

d. If a history of domestic abuse exists as determined by a court pursuant to subsection 3, paragraph *"j"*, and if a parent who is a victim of such domestic abuse relocates or is absent from the home based upon the fear of or actual acts or threats of domestic abuse perpetrated by the other parent, the court shall not consider the relocation or absence of that parent as a factor against that parent in the awarding of custody or visitation.

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e. Unless otherwise ordered by the court in the custody decree, both parents shall have legal access to information concerning the child, including but not limited to medical, educational and law enforcement records.

2. *a.* On the application of either parent, the court shall consider granting joint custody in cases where the parents do not agree to joint custody.

b. If the court does not grant joint custody under this subsection, the court shall cite clear and convincing evidence, pursuant to the factors in subsection 3, that joint custody is unreasonable and not in the best interest of the child to the extent that the legal custodial relationship between the child and a parent should be severed.

c. A finding by the court that a history of domestic abuse exists, as specified in subsection 3, paragraph *"j"*, which is not rebutted, shall outweigh consideration of any other factor specified in subsection 3 in the determination of the awarding of custody under this subsection.

d. Before ruling upon the joint custody petition in these cases, unless the court determines that a history of domestic abuse exists as specified in subsection 3, paragraph *"j"*, or unless the court determines that direct physical harm or significant emotional harm to the child, other children, or a parent is likely to result, the court may require the parties to participate in custody mediation to determine whether joint custody is in the best interest of the child. The court may require the child's participation in the mediation insofar as the court determines the child's participation is advisable.

e. The costs of custody mediation shall be paid in full or in part by the parties and taxed as court costs.

3. In considering what custody arrangement under subsection 2 is in the best interest of the minor child, the court shall consider the following factors:

a. Whether each parent would be a suitable custodian for the child.

b. Whether the psychological and emotional needs and development of the child will suffer due to lack of active contact with and attention from both parents.

c. Whether the parents can communicate with each other regarding the child's needs.

d. Whether both parents have actively cared for the child before and since the separation.

e. Whether each parent can support the other parent's relationship with the child.

f. Whether the custody arrangement is in accord with the child's wishes or whether the child has strong opposition, taking into consideration the child's age and maturity.

g. Whether one or both of the parents agree or are opposed to joint custody.

h. The geographic proximity of the parents.

i. Whether the safety of the child, other children, or the other parent will be jeopardized by the awarding of joint custody or by unsupervised or unrestricted visitation.

j. Whether a history of domestic abuse, as defined in section 236.2, exists. In determining whether a history of domestic abuse exists, the court's consideration shall include but is not limited to commencement of an action pursuant to section 236.3, the issuance of a protective order against the parent or the issuance of a court order or consent agreement pursuant to section 236.5, the issuance of an emergency order pursuant to section 236.6, the holding of a parent in contempt pursuant to section 664A.7, the response of a peace officer to the scene of alleged domestic abuse or the arrest of a parent following response to a report of alleged domestic abuse, or a conviction for domestic abuse assault pursuant to section 708.2A.

k. Whether a parent has allowed a person custody or control of, or unsupervised access to a child after knowing the person is required to register or is on the sex offender registry as a sex offender under chapter 692A.

4. Subsection 3 shall not apply when parents agree to joint custody.

5. *a.* If joint legal custody is awarded to both parents, the court may award joint physical care to both joint custodial parents upon the request of either parent. Prior to ruling on the request for the award of joint physical care, the court may require the parents to submit, either individually or jointly, a proposed joint physical care parenting plan. A proposed joint physical care parenting plan shall address how the parents will make decisions affecting the child, how the parents will provide a home for the child, how the child's time will be divided between the parents and how each parent will facilitate the child's time with the other parent, arrangements in addition to court-ordered child support for the child's expenses, how the

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parents will resolve major changes or disagreements affecting the child including changes that arise due to the child's age and developmental needs, and any other issues the court may require. If the court denies the request for joint physical care, the determination shall be accompanied by specific findings of fact and conclusions of law that the awarding of joint physical care is not in the best interest of the child.

b. If joint physical care is not awarded under paragraph *"a"*, and only one joint custodial parent is awarded physical care, the parent responsible for providing physical care shall support the other parent's relationship with the child. Physical care awarded to one parent does not affect the other parent's rights and responsibilities as a joint legal custodian of the child. Rights and responsibilities as joint legal custodian of the child include but are not limited to equal participation in decisions affecting the child's legal status, medical care, education, extracurricular activities, and religious instruction.

6. If the parties have more than one minor child, and the court awards each party the physical custody of one or more of the children, upon application by either party, and if it is reasonable and in the best interest of the children, the court shall include a provision in the custody order directing the parties to allow visitation between the children in each party's custody.

7. When a parent awarded legal custody or physical care of a child cannot act as custodian or caretaker because the parent has died or has been judicially adjudged incompetent, the court shall award legal custody including physical care of the child to the surviving parent unless the court finds that such an award is not in the child's best interest.

8. If an application for modification of a decree or a petition for modification of an order is filed, based upon differences between the parents regarding the custody arrangement established under the decree or order, unless the court determines that a history of domestic abuse exists as specified in subsection 3, paragraph *"j"*, or unless the court determines that direct physical harm or significant emotional harm to the child, other children, or a parent is likely to result, the court may require the parents to participate in mediation to attempt to resolve the differences between the parents.

9. All orders relating to custody of a child are subject to chapter 598B.

[82 Acts, ch 1250, §2]

84 Acts, ch 1088, §2, 3, 4, 5; 85 Acts, ch 67, §57, 58; 86 Acts, ch 1179, §5, 6; 95 Acts, ch 182, §22 – 24; 95 Acts, ch 183, §2; 97 Acts, ch 175, §199, 200; 99 Acts, ch 115, §1; 2004 Acts, ch 1169, §1; 2005 Acts, ch 69, §51 – 53; 2006 Acts, ch 1101, §4; 2012 Acts, ch 1138, §37; 2019 Acts, ch 24, §83

Referred to in §598.7, 598.21C, 598.41A, 598.41B, 600B.40, 600B.41A, 633.560A

598.41A Visitation — history of crimes against a minor.

1. Notwithstanding section 598.41, the court shall consider, in the award of visitation rights to a parent of a child, the criminal history of the parent if the parent has been convicted of a sex offense against a minor as defined in section 692A.101.

2. Notwithstanding section 598.41, an individual who is a parent of a minor child and who has been convicted of a sex offense against a minor as defined in section 692A.101, is not entitled to visitation rights while incarcerated. While on probation, parole, or any other type of conditional release including a special sentence for such offense, visitation shall be denied until the parent successfully completes a treatment program approved by the court, if required by the court. The circumstances described in this subsection shall be considered a substantial change in circumstances.

98 Acts, ch 1070, §2; 2009 Acts, ch 119, §42; 2013 Acts, ch 105, §1, 3, 4

598.41B Visitation — restrictions — murder of parent.

1. Notwithstanding section 598.41, the court shall not do either of the following:

a. Enforce an existing order awarding visitation rights to a child's parent, which was obtained prior to that parent's conviction for first degree murder in the murder of the child's other parent, unless such enforcement is in the best interest of the child.

b. Award visitation rights to a child's parent who has been convicted of murder in the first

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degree of the child's other parent, unless the court finds that such visitation is in the best interest of the child.

2. In determining whether visitation would be in the best interest of the child pursuant to subsection 1, the court shall consider all of the following:

a. The age and level of maturity of the child.

b. If the child is developmentally mature enough to provide assent and whether the child does assent.

c. The recommendation of the child's custodian or legal guardian.

d. The recommendation of a child counselor or mental health professional following evaluation of the child.

e. The recommendation of a guardian ad litem for the child if one has been appointed to represent the child in the proceeding.

f. Any other information which the court deems to be relevant.

3. Until such time as an order regarding visitation rights under subsection 1 is entered, the child of a parent who has been convicted of murder in the first degree of the child's other parent shall not visit the parent who has been convicted.

99 Acts, ch 38, §1

598.41C Modification of child custody or physical care — active duty. Repealed by 2016 Acts, ch 1084, §30. See chapter 598C.

598.41D Assignment of visitation or physical care parenting time — parent serving active duty — family member. Repealed by 2016 Acts, ch 1084, §30. See chapter 598C.

598.42 Notice of certain orders by clerk of court.

The clerk of the district court shall provide notice and copies of temporary or permanent protective orders and orders to vacate the homestead entered pursuant to this chapter to the applicable law enforcement agencies and the twenty-four hour dispatcher for the law enforcement agencies, in the manner provided for protective orders under section 235F.6 or 236.5. The clerk shall provide notice and copies of modifications or vacations of these orders in the same manner.

91 Acts, ch 218, §20; 92 Acts, ch 1163, §107; 2014 Acts, ch 1107, §19

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CHAPTER 598A

UNIFORM FAMILY LAW ARBITRATION

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598A.1 Short title.

This chapter shall be known and may be cited as the "*Uniform Family Law Arbitration Act*".

2026 Acts, ch 1046, §1
NEW section

598A.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "*Arbitration agreement*" means an agreement which subjects a family law dispute to arbitration.

2. "*Arbitration organization*" means an association, agency, board, commission, or other entity which is neutral and initiates, sponsors, or administers an arbitration or is involved in the selection of an arbitrator.

3. "*Arbitrator*" means an individual selected or appointed, alone or with others, to make an award in a family law dispute which is subject to an arbitration agreement.

4. "*Award*" means an interim award, temporary order, or final disposition of a family law dispute by an arbitrator.

5. "*Child custody dispute*" means a family law dispute regarding legal custody, physical custody, parenting plans, parenting time, or visitation of a child.

6. "*Child support dispute*" means a family law dispute regarding financial support of a child.

7. "*Court*" means a district court which has jurisdiction over a family law dispute.

8. "*Family law dispute*" means a contested issue arising under chapter 598, 600B, or 600C. "*Family law dispute*" does not include an issue under section 598A.3, subsection 2.

9. "*Party*" means an individual who signs an arbitration agreement and whose rights will be determined by an award.

10. "*Person*" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality or any other legal entity.

11. "*Protection order*" means an injunction or other order, issued under the domestic violence, family violence, or stalking laws of the issuing jurisdiction, to prevent an individual from engaging in a violent or threatening act against, harassment of, contact, or communication with or being in physical proximity to, another individual who is a party or a child under the custodial responsibility of a party.

12. "*Record*", used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

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13. *"Sign"* means, with present intent to authenticate or adopt a record, any of the following:

a. To execute or adopt a tangible symbol.

b. To attach to or logically associate with the record an electronic symbol, sound, or process.

14. *"State"* means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. *"State"* includes a federally recognized Indian tribe.

2026 Acts, ch 1046, §2
NEW section

598A.3 Scope.

1. Except as provided in subsection 2, this chapter governs arbitration of a family law dispute.

2. This chapter does not authorize an arbitrator to make an award that does any of the following:

a. Grants legal separation, divorce, dissolution of marriage, or annulment.

b. Terminates parental rights.

c. Grants an adoption or a guardianship of a child or protected person.

d. Determines the status of dependency of a child under chapter 232.

e. Determines the support of a child if support payments have been assigned to the department of health and human services pursuant to section 234.39, 239B.6, or 252E.11, or if services are being provided by child support services pursuant to chapter 252B.

2026 Acts, ch 1046, §3
Referred to in §598A.2
NEW section

598A.4 Applicable law.

1. *a.* Subject to paragraph *"b"*, the law applicable to arbitration is chapter 679A.

b. If there is a conflict between chapter 679A and this chapter, this chapter controls.

2. In determining the merits of a family law dispute, an arbitrator shall apply the law of this state, including its choice of law rules.

2026 Acts, ch 1046, §4
NEW section

598A.5 Arbitration agreements.

1. An arbitration agreement must do the following:

a. Be in a record signed by the parties.

b. Identify the arbitrator, an arbitration organization, or a method of selecting an arbitrator.

c. Identify the family law dispute the parties intend to arbitrate.

2. Except as otherwise provided in subsection 3, an agreement in a record to arbitrate a family law dispute that arises between the parties before, at the time, or after the agreement is made is valid and enforceable as any other contract and irrevocable except on a ground that exists at law or in equity for the revocation of a contract.

3. An agreement to arbitrate a child custody dispute or child support dispute that arises between the parties after the agreement is made is unenforceable unless any of the following apply:

a. The parties affirm the agreement in a record after the dispute arises.

b. The agreement was entered during a family law proceeding and the court approved or incorporated the agreement in an order issued in the proceeding.

4. If a party objects to arbitration on the grounds the arbitration agreement is unenforceable or the agreement does not include a family law dispute, the court shall decide whether the agreement is enforceable or includes the family law dispute.

2026 Acts, ch 1046, §5
Referred to in §598A.7
NEW section

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598A.6 Notice of arbitration.

A party shall initiate arbitration by giving notice to arbitrate to the other party in the manner specified in the arbitration agreement or, in the absence of a specified manner, under section 679A.15.

2026 Acts, ch 1046, §6
Referred to in §598A.19
NEW section

598A.7 Motion for judicial relief.

1. A motion for judicial relief under this chapter shall be made to the court in which a proceeding is pending involving a family law dispute subject to arbitration or, if no proceeding is pending, a court with jurisdiction over the parties and the subject matter.

2. On motion by a party, the court may compel arbitration if the parties have entered into an arbitration agreement that complies with section 598A.5 unless the court determines under section 598A.12 that the arbitration should not proceed.

3. On motion of a party, the court shall terminate arbitration if the court determines any of the following:

a. The agreement to arbitrate is unenforceable.

b. The family law dispute is not subject to arbitration.

c. Under section 598A.12, the arbitration should not proceed.

4. Unless prohibited by an arbitration agreement, on motion of a party, the court may order consolidation of separate arbitrations involving the same parties and a common issue of law or fact if necessary for the fair and expeditious resolution of the family law dispute.

2026 Acts, ch 1046, §7
Referred to in §598A.9, 598A.19
NEW section

598A.8 Qualification and selection of arbitrator.

1. Except as otherwise provided in subsection 2, unless waived in a record by the parties, an arbitrator must be all of the following:

a. An attorney at law, a former attorney at law on inactive status, or a retired judge.

b. Have successfully completed a combined five hours of instruction in an accredited continuing legal education course on domestic violence and child abuse.

2. The identification in the arbitration agreement of an arbitrator, arbitration organization, or method of selection of the arbitrator controls.

3. If an arbitrator is unable or unwilling to act or if the agreed-upon method of selecting an arbitrator fails, on motion of a party, the court shall select an arbitrator.

2026 Acts, ch 1046, §8
Referred to in §598A.9
NEW section

598A.9 Disclosure by arbitrator — disqualification.

1. Before agreeing to serve as an arbitrator, an individual, after making reasonable inquiry, shall disclose to all parties any known fact a reasonable person would believe is likely to affect any of the following:

a. The impartiality of the arbitrator, including bias, a financial or personal interest in the outcome of the arbitration, or an existing or past relationship with a party, attorney representing a party, or witness.

b. The arbitrator's ability to make a timely award.

2. *a.* An arbitrator, the parties, and the attorneys representing the parties have a continuing obligation to disclose to all parties any known fact a reasonable person would believe is likely to affect the impartiality of the arbitrator or the arbitrator's ability to make a timely award.

b. The arbitrator shall disclose, and provide in writing to the parties, the amount of initial fee, any hourly rate to be charged, the process for invoices and payment for services and information on the arbitration process, specifically including how to terminate the arbitration.

3. An objection to selection or continued service of an arbitrator and a motion for a stay of arbitration and disqualification of the arbitrator shall be made under section 598A.7.

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4. If a disclosure required by subsection 1, paragraph *"a"*, or subsection 2 is not made, the court may do any of the following:

a. On motion of a party not later than fifteen days after the failure to disclose is known, or by the exercise of reasonable care should have been known to the party, suspend the arbitration.

b. On timely motion of party, vacate an award under section 598A.19, subsection 1, paragraph *"b"*.

c. If an award has been confirmed, grant other appropriate relief under law of this state other than this chapter.

5. If the parties agree to discharge an arbitrator or the arbitrator is disqualified, the parties by agreement may select a new arbitrator or request the court to select another arbitrator as provided for in section 598A.8.

2026 Acts, ch 1046, §9
NEW section

598A.10 Party participation.

1. A party may do all of the following:

a. Be represented in an arbitration by counsel.

b. Be accompanied by an individual who will not be called as a witness or act as an advocate.

c. Participate in the arbitration to the full extent permitted under section 598A.13 and chapter 679A.

2. A party or representative of a party shall not communicate ex parte with the arbitrator except to the extent allowed in a family law proceeding for communication with a judge.

2026 Acts, ch 1046, §10
NEW section

598A.11 Temporary order or award.

1. Before an arbitrator is selected and able to act, on motion of a party, the court may enter a temporary order under section 598.10 or 600B.40A and the applicable Iowa rules of civil procedure.

2. After an arbitrator is selected, all of the following apply:

a. The arbitrator may make a temporary award under section 598.10 or 600B.40A and the applicable Iowa rules of civil procedure.

b. If the matter is urgent and the arbitrator is not able to act in a timely manner or provide an adequate remedy, on motion of a party, the court may enter a temporary order.

3. On motion of a party, before the court confirms a final award, the court, under section 598A.16, 598A.18, or 598A.19, may confirm, correct, vacate, or amend a temporary award made under subsection 2, paragraph *"a"*.

4. On motion of a party, the court may enforce a subpoena or interim award issued by an arbitrator for the fair and expeditious disposition of the arbitration.

2026 Acts, ch 1046, §11
NEW section

598A.12 Protection of party or child.

1. *a.* This subsection applies if a party is subject to a protection order or the arbitrator determines there is a reasonable basis to believe a party is the victim of domestic violence or a party's safety or ability to participate effectively in arbitration is otherwise at risk.

b. If the conditions described in paragraph *"a"* are met, the arbitrator shall stay the arbitration and refer the parties to court. The arbitration shall not proceed unless the party at risk affirms the arbitration agreement in a record and the court determines all of the following are true:

(1) The affirmation is informed and voluntary.

(2) Arbitration is not inconsistent with the protection order.

(3) Reasonable procedures are in place to protect the party from risk of harm, harassment, or intimidation.

2. If the arbitrator determines that there is a reasonable basis to believe a child who is

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the subject of a child custody dispute is abused or neglected, the arbitrator shall terminate the arbitration of the child custody dispute and report the abuse or neglect to the court, or to another appropriate authority.

3. An arbitrator may make a temporary award to protect a party or child from harm, harassment, or intimidation.

4. On motion of a party, the court may stay arbitration and review a determination or temporary award under this section.

5. This section supplements remedies available under law of this state other than this chapter for the protection of victims of domestic violence, family violence, stalking, harassment, and similar abuse.

2026 Acts, ch 1046, §12
Referred to in §598A.7
NEW section

598A.13 Powers and duties of arbitrator.

1. An arbitrator shall conduct an arbitration in a manner the arbitrator considers appropriate for a fair and expeditious disposition of the family law dispute.

2. An arbitrator shall provide each party a right to be heard, to present evidence material to the family law dispute, and to cross-examine witnesses.

3. Unless the parties otherwise agree in a record, an arbitrator may do all of the following:

a. Select the rules for conducting the arbitration.

b. Hold a conference with the parties before a hearing.

c. Determine the date, time, and place of a hearing.

d. Require a party to provide all of the following:

(1) A copy of a relevant court order.

(2) Information required to be disclosed in a family law proceeding under chapters 598 and 600B and the applicable Iowa rules of civil procedure.

(3) A proposed award which addresses each issue in arbitration.

e. Interview a child who is the subject of a child custody dispute.

f. Appoint a private expert at the expense of the parties.

g. Administer an oath or affirmation and issue a subpoena for the attendance of a witness or the production of documents and other evidence at a hearing.

h. Permit and compel discovery concerning the family law dispute and determine the date, time, and place of discovery.

i. Determine the admissibility and weight of evidence.

j. Permit deposition of a witness for use as evidence at a hearing.

k. For good cause, prohibit a party from disclosing information.

l. Appoint an attorney, guardian ad litem, or other representative for a child at the expense of the parties.

m. Impose a procedure to protect a party or child from risk of harm, harassment, or intimidation.

n. Allocate arbitration fees, attorney fees, expert witness fees, and other costs to the parties.

o. Impose a sanction on a party for bad faith or misconduct during the arbitration according to standards governing imposition of a sanction for litigant misconduct in a family law proceeding.

4. An arbitrator shall not allow ex parte communication except to the extent allowed in a family law proceeding for communication with a judge.

2026 Acts, ch 1046, §13
Referred to in §598A.10, 598A.19
NEW section

598A.14 Recording of hearing.

An arbitration hearing need not be recorded unless required by the arbitrator, provided by the arbitration agreement, or requested by a party.

2026 Acts, ch 1046, §14
NEW section

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598A.15 Award.

1. An arbitrator shall make an award in a record, dated and signed by the arbitrator. The arbitrator shall give notice of the award to each party by a method agreed on by the parties or, if the parties have not agreed on a method, under section 679A.15.

2. *a.* Except as provided in paragraph *"b"*, the arbitrator shall make written findings explaining an award.

b. Except as provided in subsection 3, the parties, by agreement, may stipulate that paragraph *"a"* does not apply.

3. Notwithstanding subsection 2, paragraph *"b"*, for an award determining a child custody dispute or a child support dispute, the arbitrator shall state the reasons on which the award is based as required by chapter 598.

4. An award is not enforceable as a judgment until confirmed under section 598A.16.

2026 Acts, ch 1046, §15
Referred to in §598A.16, 598A.17, 598A.18, 598A.19
NEW section

598A.16 Confirmation of award.

1. After an arbitrator gives notice under section 598A.15, subsection 1, or makes a correction under section 598A.17, a party may move the court for an order confirming the award or, when applicable, entry of the decree of dissolution of marriage incorporating the award.

2. Except as set forth in subsection 3, the court shall confirm an award if any of the following apply:

a. The parties agree in a record to confirmation.

b. All of the following apply:

(1) The time period under section 598A.18 has expired, and no motion is pending under section 598A.18.

(2) The time period under section 598A.19, subsection 5, has expired, and no motion is pending under section 598A.19.

3. If an award determines a child custody dispute or a child support dispute, the court shall confirm the award under subsection 2 if the court finds, after a review of the record if necessary, that the award on its face does all of the following:

a. Complies with section 598A.15 and chapter 598 or 600B.

b. Is in the best interests of the child.

4. On confirmation, an award is enforceable as a judgment.

5. Unless the parties otherwise agree, the arbitration proceedings and the arbitration award are confidential. If either party includes, in the motion under subsection 1, a request that the arbitration award be filed under seal, the court shall file the award under seal.

2026 Acts, ch 1046, §16
Referred to in §598A.11, 598A.15, 598A.18, 598A.19, 598A.20, 598A.22, 598A.23
NEW section

598A.17 Correction by arbitrator of unconfirmed award.

On motion of a party made not later than twenty days after an arbitrator gives notice under section 598A.15, subsection 1, the arbitrator may correct the award if the award has an evident mathematical miscalculation or an evident mistake in the description of a person, thing, or property or to clarify the award.

2026 Acts, ch 1046, §17
Referred to in §598A.16, 598A.18, 598A.19
NEW section

598A.18 Correction or confirmation by court of unconfirmed award.

1. On motion of a party made not later than thirty days after an arbitrator gives notice under section 598A.15, subsection 1, or makes a correction under section 598A.17, the court shall correct the award if any of the following are true:

a. The award has an evident mathematical miscalculation or an evident mistake in the description of a person, thing, or property.

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b. The arbitrator made an award on a family law dispute not submitted to the arbitrator, and the award may be corrected without affecting the merits of the issues submitted.

2. A motion under this section to correct an award may be joined with a motion to vacate or amend the award under section 598A.19.

3. Unless a motion under section 598A.19 is pending, the court may confirm a corrected award under section 598A.16.

2026 Acts, ch 1046, §18
Referred to in §598A.11, 598A.16, 598A.19
NEW section

598A.19 Vacation, amendment, or confirmation by court of unconfirmed award.

1. Subject to subsection 2, on motion of a party, the court shall vacate an unconfirmed award if the moving party establishes any of the following:

a. The award was procured by corruption, fraud, or other undue means.

b. There was any of the following:

(1) Evident partiality by the arbitrator.

(2) Corruption by the arbitrator.

(3) Misconduct by the arbitrator substantially prejudicing the rights of a party.

c. The arbitrator refused to postpone a hearing on showing of sufficient cause for postponement, refused to consider evidence material to the controversy, or otherwise conducted the hearing contrary to section 598A.13, so as to prejudice substantially the rights of a party.

d. The arbitrator exceeded the arbitrator's powers.

e. No arbitration agreement exists, unless the moving party participated in the arbitration without making a motion under section 598A.7 not later than the beginning of the first arbitration hearing.

f. The arbitration was conducted without proper notice under section 598A.6, so as to prejudice substantially the rights of a party.

2. Subject to subsection 3, on motion of a party, the court shall vacate an unconfirmed award which determines a child custody dispute or a child support dispute if the moving party establishes any of the following:

a. That the award does not comply with section 598A.15 or chapter 598 or 600B or is contrary to the best interests of the child.

b. That the statement of reasons in the award is inadequate for the court to review the award.

c. That a ground for vacating the award under subsection 1 exists.

3. If an award is subject to vacation under subsection 2, paragraph *"a"*, on motion of a party, the court may amend the award, if amending rather than vacating is in the best interests of the child.

4. The court may determine a motion under subsection 2 or 3 as follows:

a. Based on the record of the arbitration hearing, if the hearing was recorded, and facts occurring after the hearing.

b. If there is no record, de novo.

5. A motion under this section to vacate or amend an award must be filed not later than thirty days after the following:

a. Except as set forth in paragraph *"b"*, after an arbitrator gives notice under section 598A.15, subsection 1, or makes a correction under section 598A.17.

b. For a motion under subsection 1, paragraph *"a"*, the ground of corruption, fraud, or other undue means is known or, by the exercise of reasonable care, should be known to the party filing the motion.

6. If the court under this section vacates an award for a reason other than the absence of an enforceable arbitration agreement, the court may order a rehearing before an arbitrator. The rehearing shall be before another arbitrator if the reason for vacating the award is any of the following:

a. The award was procured by corruption, fraud, or other undue means.

b. There was evident partiality, corruption, or misconduct by the arbitrator.

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7. If the court under this section denies a motion to vacate or amend an award, unless a motion is pending under section 598A.18, the court may confirm the award under section 598A.16.

2026 Acts, ch 1046, §19
Referred to in §598A.9, 598A.11, 598A.16, 598A.18
NEW section

598A.20 Clarification of confirmed award.

If the meaning or effect of an award confirmed under section 598A.16 is in dispute, the parties may do any of the following:

1. Agree to arbitrate the family law dispute before the original arbitrator or another arbitrator.
2. Proceed under rule of civil procedure 1.1101.

2026 Acts, ch 1046, §20
NEW section

598A.21 Judgment on award.

1. On granting an order confirming, vacating without directing a rehearing, or amending an award under this chapter, the court shall enter judgment in conformity with the order.
2. On motion of a party, the court shall order that a document or part of the arbitration record be sealed or redacted to prevent public disclosure of all or part of the record or award.

2026 Acts, ch 1046, §21
NEW section

598A.22 Modification of confirmed award or judgment.

If a party requests under law of this state other than this chapter modification of an award confirmed under section 598A.16 or of a judgment on an award, based on a fact occurring after confirmation:

1. The parties shall proceed under the dispute resolution method specified in the award or judgment.
2. If the award or judgment does not specify a dispute resolution method, the parties may do any of the following:

a. Agree to arbitrate the modification before the original arbitrator or another arbitrator.

b. Absent agreement, proceed under chapter 598 or 600B and the applicable Iowa rules of civil procedure.

2026 Acts, ch 1046, §22
NEW section

598A.23 Enforcement of confirmed award.

1. A court shall enforce an award confirmed under section 598A.16, including a temporary award, in the manner and to the same extent as any other order or judgment of a court.
2. A court shall enforce an arbitration award in a family law dispute confirmed by a court in another state in the manner and to the same extent as any other order or judgment from another state.

2026 Acts, ch 1046, §23
NEW section

598A.24 Appeal.

1. An appeal may be taken under this chapter from all of the following:

a. An order granting or denying a motion to compel arbitration.

b. An order granting or denying a motion to stay arbitration.

c. An order confirming or denying confirmation of an award.

d. An order correcting an award.

e. An order vacating an award without directing a rehearing.

f. A final judgment.

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2. An appeal under this section may be taken as from an order or a judgment in a civil action.

2026 Acts, ch 1046, §24
NEW section

598A.25 Reserved.

598A.26 Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

2026 Acts, ch 1046, §25
NEW section

598A.27 Relation to Electronic Signatures in Global and National Commerce Act.

To the extent permitted by section 102 of the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §7002, this chapter may supersede provisions of that Act.

2026 Acts, ch 1046, §26
NEW section

598A.28 Transitional provision.

1. This chapter applies to arbitration of a family law dispute under an arbitration agreement made on or after July 1, 2026.

2. If an arbitration agreement was made before July 1, 2026, the parties may agree in a record that this chapter applies to the arbitration.

2026 Acts, ch 1046, §27
NEW section

CHAPTER 598B

UNIFORM CHILD-CUSTODY JURISDICTION AND ENFORCEMENT

Referred to in §232.3, 597.15, 598.21C, 598.41, 598C.104, 600C.1, 602.8102(85)

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ARTICLE I

GENERAL PROVISIONS

598B.101 Short title.

This chapter shall be known and may be cited as the *"Uniform Child-custody Jurisdiction and Enforcement Act"*.

99 Acts, ch 103, §1

598B.102 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Abandoned"* means left without provision for reasonable and necessary care or supervision.

2. *"Child"* means an individual who has not attained eighteen years of age.

3. *"Child-custody determination"* means a judgment, decree, or other order of a court providing for the legal custody, physical custody, or visitation with respect to a child. The term includes a permanent, temporary, initial, and modification order. The term does not include an order relating to child support or other monetary obligation of an individual.

4. *"Child-custody proceeding"* means a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue. The term includes a proceeding for dissolution of marriage, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence, in which the issue may appear. The term does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement under article III.

5. *"Commencement"* means the filing of the first pleading in a proceeding.

6. *"Court"* means an entity authorized under the law of a state to establish, enforce, or modify a child-custody determination.

7. *"Home state"* means the state in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child-custody proceeding. In the case of a child less than six months of age, the term means the state in which the child lived from birth with any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of the period.

8. *"Initial determination"* means the first child-custody determination concerning a particular child.

9. *"Issuing court"* means the court that makes a child-custody determination for which enforcement is sought under this chapter.

10. *"Issuing state"* means the state in which a child-custody determination is made.

11. *"Modification"* means a child-custody determination that changes, replaces, supersedes, or is otherwise made after a previous determination concerning the same child, whether or not it is made by the court that made the previous determination.

12. *"Person"* means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.

13. *"Person acting as a parent"* means a person, other than a parent, to whom both of the following apply:

a. The person has physical custody of the child or has had physical custody for a period

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of six consecutive months, including any temporary absence, within one year immediately before the commencement of a child-custody proceeding.

b. The person has been awarded legal custody by a court or claims a right to legal custody under the law of this state.

14. *"Physical custody"* means the physical care and supervision of a child.

15. *"State"* means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

16. *"Tribe"* means an Indian tribe or band, or Alaskan native village, which is recognized by federal law or formally acknowledged by a state.

17. *"Warrant"* means an order issued by a court authorizing law enforcement officers to take physical custody of a child.

99 Acts, ch 103, §2
Referred to in §236.4, 236.5

598B.103 Proceedings governed by other law.

This chapter does not govern an adoption proceeding or a proceeding pertaining to the authorization of emergency medical care for a child.

99 Acts, ch 103, §3

598B.104 Application to Indian tribes.

1. A child-custody proceeding that pertains to an Indian child as defined in the federal Indian Child Welfare Act, 25 U.S.C. §1901 et seq., is not subject to this chapter to the extent that it is governed by the federal Indian Child Welfare Act.

2. A court of this state shall treat a tribe as if it were a state of the United States for the purpose of applying this article and article II.

3. A child-custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this chapter must be recognized and enforced under article III.

99 Acts, ch 103, §4

598B.105 International application.

1. A court of this state shall treat a foreign country as if it were a state of the United States for the purpose of applying this article and article II.

2. Except as otherwise provided in subsection 3, a child-custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of this chapter must be recognized and enforced under article III.

3. A court of this state need not apply this chapter if the child-custody law of a foreign country violates fundamental principles of human rights.

99 Acts, ch 103, §5

598B.106 Effect of child-custody determination.

A child-custody determination made by a court of this state that had jurisdiction under this chapter binds all persons who have been served in accordance with the laws of this state, or notified in accordance with section 598B.108, or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to those persons, the determination is conclusive as to all decided issues of law and fact except to the extent the determination is modified.

99 Acts, ch 103, §6; 2004 Acts, ch 1086, §96

598B.107 Priority.

If a question of existence or exercise of jurisdiction under this chapter is raised in a child-custody proceeding, the question, upon request of a party, must be given priority on the calendar and handled expeditiously.

99 Acts, ch 103, §7

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598B.108 Notice to persons outside state.

1. Notice required for the exercise of jurisdiction when a person is outside this state may be given in a manner prescribed by the law of this state for service of process or by the law of the state in which the service is made. Notice shall be given in a manner reasonably calculated to give actual notice but may be by publication if other means are not effective.

2. Proof of service may be made in the manner prescribed by the law of this state or by the law of the state in which the service is made.

3. Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

99 Acts, ch 103, §8

Referred to in §598B.106, 598B.205, 598B.210, 598B.305, 598B.308, 598B.310

598B.109 Appearance and limited immunity.

1. A party to a child-custody proceeding, including a modification proceeding, or a petitioner or respondent in a proceeding to enforce or register a child-custody determination, is not subject to personal jurisdiction in this state for another proceeding or purpose solely by reason of having participated, or of having been physically present for the purpose of participating, in the proceeding.

2. A person who is subject to personal jurisdiction in this state on a basis other than physical presence is not immune from service of process in this state. A party present in this state who is subject to the jurisdiction of another state is not immune from service of process allowable under the laws of that state.

3. The immunity granted by subsection 1 does not extend to civil litigation based on acts unrelated to the participation in a proceeding under this chapter committed by an individual while present in this state.

99 Acts, ch 103, §9

598B.110 Communication between courts.

1. A court of this state may communicate with a court in another state concerning a proceeding arising under this chapter.

2. The court may allow the parties to participate in the communication. If the parties are not able to participate in the communication, they must be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made.

3. Communication between courts on schedules, calendars, court records, and similar matters may occur without informing the parties. A record need not be made of the communication.

4. Except as otherwise provided in subsection 3, a record must be made of a communication under this section. The parties must be informed promptly of the communication and granted access to the record.

5. For the purposes of this section, *"record"* means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

99 Acts, ch 103, §10

598B.111 Taking testimony in another state.

1. In addition to other procedures available to a party, a party to a child-custody proceeding may offer testimony of witnesses who are located in another state, including testimony of the parties and the child, by deposition or other means allowable in this state for testimony taken in another state. The court on its own motion may order that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony is taken.

2. A court of this state may permit an individual residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means before a designated court or at another location in that state. A court of this state shall cooperate with courts of other states in designating an appropriate location for the deposition or testimony.

3. Documentary evidence transmitted from another state to a court of this state by

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technological means that do not produce an original writing shall not be excluded from evidence on an objection based on the means of transmission.

99 Acts, ch 103, §11

598B.112 Cooperation between courts — preservation of records.

1. A court of this state may request the appropriate court of another state to do any or all of the following:

a. Hold an evidentiary hearing.

b. Order a person to produce or give evidence pursuant to procedures of that state.

c. Order that an evaluation be made with respect to the custody of a child involved in a pending proceeding.

d. Forward to the court of this state a certified copy of the transcript of the record of the hearing, the evidence otherwise presented, and any evaluation prepared in compliance with the request.

e. Order a party to a child-custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.

2. Upon request of a court of another state, a court of this state may hold a hearing or enter an order described in subsection 1.

3. Travel and other necessary and reasonable expenses incurred under subsections 1 and 2 may be assessed against the parties according to the law of this state.

4. A court of this state shall preserve the pleadings, orders, decrees, records of hearings, evaluations, and other pertinent records with respect to a child-custody proceeding until the child attains eighteen years of age. Upon appropriate request by a court or law enforcement official of another state, the court shall forward a certified copy of those records.

99 Acts, ch 103, §12

ARTICLE II

JURISDICTION

Referred to in §598B.104, 598B.105, 598B.304, 598B.305, 598B.306, 598B.307, 598B.308, 598B.310, 598B.313

598B.201 Initial child-custody jurisdiction.

1. Except as otherwise provided in section 598B.204, a court of this state has jurisdiction to make an initial child-custody determination only if any of the following applies:

a. This state is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within six months before the commencement of the proceeding and the child is absent from this state but a parent or person acting as a parent continues to live in this state.

b. A court of another state does not have jurisdiction under paragraph *"a"*, or a court of the home state of the child has declined to exercise jurisdiction on the ground that this state is the more appropriate forum under section 598B.207 or 598B.208 and both of the following apply:

(1) The child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with this state other than mere physical presence.

(2) Substantial evidence is available in this state concerning the child's care, protection, training, and personal relationships.

c. All courts having jurisdiction under paragraph *"a"* or *"b"* have declined to exercise jurisdiction on the ground that a court of this state is the more appropriate forum to determine the custody of the child under section 598B.207 or 598B.208.

d. No court of any other state would have jurisdiction under the criteria specified in paragraph *"a"*, *"b"*, or *"c"*.

2. Subsection 1 is the exclusive jurisdictional basis for making a child-custody determination by a court of this state.

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3. Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child-custody determination.

99 Acts, ch 103, §13
Referred to in §598B.202, 598B.203, 598B.204, 598B.208

598B.202 Exclusive, continuing jurisdiction.

1. Except as otherwise provided in section 598B.204, a court of this state which has made a child-custody determination consistent with section 598B.201 or 598B.203 has exclusive, continuing jurisdiction over the determination until any of the following occurs:

a. A court of this state determines that the child does not have, the child and one parent do not have, or the child and a person acting as a parent do not have a significant connection with this state and that substantial evidence is no longer available in this state concerning the child's care, protection, training, and personal relationships.

b. A court of this state or a court of another state determines that the child, the child's parents, and any person acting as a parent do not presently reside in this state.

2. A court of this state which has made a child-custody determination and does not have exclusive, continuing jurisdiction under this section may modify that determination only if it has jurisdiction to make an initial determination under section 598B.201.

99 Acts, ch 103, §14
Referred to in §598B.203, 598B.204, 598B.208

598B.203 Jurisdiction to modify determination.

Except as otherwise provided in section 598B.204, a court of this state shall not modify a child-custody determination made by a court of another state unless a court of this state has jurisdiction to make an initial determination under section 598B.201, subsection 1, paragraph *"a"* or *"b"*, and either of the following applies:

1. The court of the other state determines it no longer has exclusive, continuing jurisdiction under section 598B.202 or that a court of this state would be a more convenient forum under section 598B.207.

2. A court of this state or a court of the other state determines that the child, the child's parents, and any person acting as a parent do not presently reside in the other state.

99 Acts, ch 103, §15
Referred to in §598B.202, 598B.204, 598B.208

598B.204 Temporary emergency jurisdiction.

1. A court of this state has temporary emergency jurisdiction if the child is present in this state and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.

2. If there is no previous child-custody determination that is entitled to be enforced under this chapter and a child-custody proceeding has not been commenced in a court of a state having jurisdiction under sections 598B.201 through 598B.203, a child-custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under sections 598B.201 through 598B.203. If a child-custody proceeding has not been or is not commenced in a court of a state having jurisdiction under sections 598B.201 through 598B.203, a child-custody determination made under this section becomes a final determination, if it so provides and this state becomes the home state of the child.

3. If there is a previous child-custody determination that is entitled to be enforced under this chapter, or a child-custody proceeding has been commenced in a court of a state having jurisdiction under sections 598B.201 through 598B.203, any order issued by a court of this state under this section must specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under sections 598B.201 through 598B.203. The order issued in this state remains in effect until an order is obtained from the other state within the period specified or the period expires.

4. A court of this state which has been asked to make a child-custody determination under this section, upon being informed that a child-custody proceeding has been commenced in, or a child-custody determination has been made by, a court of a state having jurisdiction under

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sections 598B.201 through 598B.203, shall immediately communicate with the other court. A court of this state which is exercising jurisdiction pursuant to sections 598B.201 through 598B.203, upon being informed that a child-custody proceeding has been commenced in, or a child-custody determination has been made by, a court of another state under a statute similar to this section, shall immediately communicate with the court of that state to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

99 Acts, ch 103, §16; 2000 Acts, ch 1154, §36

Referred to in §598B.201, 598B.202, 598B.203, 598B.206, 598B.208, 598B.310, 598B.314

598B.205 Notice — opportunity to be heard — joinder.

1. Before a child-custody determination is made under this chapter, notice and an opportunity to be heard in accordance with the standards of section 598B.108 must be given to all persons entitled to notice under the law of this state as in child-custody proceedings between residents of this state, any parent whose parental rights have not been previously terminated, and any person having physical custody of the child.

2. This chapter does not govern the enforceability of a child-custody determination made without notice or an opportunity to be heard.

3. The obligation to join a party and the right to intervene as a party in a child-custody proceeding under this chapter are governed by the law of this state as in child-custody proceedings between residents of this state.

99 Acts, ch 103, §17

598B.206 Simultaneous proceedings.

1. Except as otherwise provided in section 598B.204, a court of this state shall not exercise its jurisdiction under this article if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child has been commenced in a court of another state having jurisdiction substantially in conformity with this chapter, unless the proceeding has been terminated or is stayed by the court of the other state because a court of this state is a more convenient forum under section 598B.207.

2. Except as otherwise provided in section 598B.204, a court of this state, before hearing a child-custody proceeding, shall examine the court documents and other information supplied by the parties pursuant to section 598B.209. If the court determines that a child-custody proceeding has been commenced in a court in another state having jurisdiction substantially in accordance with this chapter, the court of this state shall stay its proceeding and communicate with the court of the other state. If the court of the state having jurisdiction substantially in accordance with this chapter does not determine that the court of this state is a more appropriate forum, the court of this state shall dismiss the proceeding.

3. In a proceeding to modify a child-custody determination, a court of this state shall determine whether a proceeding to enforce the determination has been commenced in another state. If a proceeding to enforce a child-custody determination has been commenced in another state, the court may do any of the following:

a. Stay the proceeding for modification pending the entry of an order of a court of the other state enforcing, staying, denying, or dismissing the proceeding for enforcement.

b. Enjoin the parties from continuing with the proceeding for enforcement.

c. Proceed with the modification under conditions it considers appropriate.

99 Acts, ch 103, §18

598B.207 Inconvenient forum.

1. A court of this state which has jurisdiction under this chapter to make a child-custody determination may decline to exercise its jurisdiction at any time if it determines that it is an inconvenient forum under the circumstances and that a court of another state is a more appropriate forum. The issue of inconvenient forum may be raised upon motion of a party, the court's own motion, or request of another court.

2. Before determining whether it is an inconvenient forum, a court of this state shall consider whether it is appropriate for a court of another state to exercise jurisdiction. For

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this purpose, the court shall allow the parties to submit information and shall consider all relevant factors, including all of the following:

a. Whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child.

b. The length of time the child has resided outside this state.

c. The distance between the court in this state and the court in the state that would assume jurisdiction.

d. The relative financial circumstances of the parties.

e. Any agreement of the parties as to which state should assume jurisdiction.

f. The nature and location of the evidence required to resolve the pending litigation, including testimony of the child.

g. The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence.

h. The familiarity of the court of each state with the facts and issues in the pending litigation.

3. If a court of this state determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, it shall stay the proceedings upon condition that a child-custody proceeding be promptly commenced in another designated state and may impose any other condition the court considers just and proper.

4. A court of this state may decline to exercise its jurisdiction under this chapter if a child-custody determination is incidental to an action for dissolution of marriage or another proceeding while still retaining jurisdiction over the dissolution of marriage or other proceeding.

99 Acts, ch 103, §19
Referred to in §598B.201, 598B.203, 598B.206, 598B.208

598B.208 Jurisdiction declined by reason of conduct.

1. Except as otherwise provided in section 598B.204 or by any other law of this state, if a court of this state has jurisdiction under this chapter because a person seeking to invoke its jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless any of the following applies:

a. The parents and all persons acting as parents have acquiesced in the exercise of jurisdiction.

b. A court of the state otherwise having jurisdiction under sections 598B.201 through 598B.203 determines that this state is a more appropriate forum under section 598B.207.

c. No court of any other state would have jurisdiction under the criteria specified in sections 598B.201 through 598B.203.

2. If a court of this state declines to exercise its jurisdiction pursuant to subsection 1, it may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the unjustifiable conduct, including staying the proceeding until a child-custody proceeding is commenced in a court having jurisdiction under sections 598B.201 through 598B.203.

3. If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction pursuant to subsection 1, it shall assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses including costs, communication expenses, attorney fees, investigative fees, expenses for witnesses, travel expenses, and child care expenses during the course of the proceedings, unless the party from whom fees are sought establishes that the assessment would be clearly inappropriate. The court shall not assess fees, costs, or expenses against this state unless authorized by law other than this chapter.

99 Acts, ch 103, §20; 2000 Acts, ch 1058, §50
Referred to in §598B.201

598B.209 Information to be submitted to court.

1. In a child-custody proceeding, each party, in its first pleading or in an attached affidavit, shall give information, if reasonably ascertainable, under oath as to the child's present address or whereabouts, the places where the child has lived during the last five years, and the names and present addresses of the persons with whom the child has lived

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during that period. The pleading or affidavit must state whether the party has or knows all of the following:

a. Has participated, as a party or a witness or in any other capacity, in any other proceeding concerning the custody of or visitation with the child and, if so, identify the court, the case number, and the date of the child-custody determination, if any.

b. Knows of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding.

c. Knows the names and addresses of any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of, or visitation with, the child and, if so, the names and addresses of those persons.

2. If the information required by subsection 1 is not furnished, the court, upon motion of a party or its own motion, may stay the proceeding until the information is furnished.

3. If the declaration as to any of the items described in subsection 1, paragraphs *"a"* through *"c"*, is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and other matters pertinent to the court's jurisdiction and the disposition of the case.

4. Each party has a continuing duty to inform the court of any proceeding in this or any other state that could affect the current proceeding.

5. Upon a finding, which may be made ex parte, that the health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information, or if an existing order so provides, the court shall order that the address of the party or child or other identifying information not be disclosed in a pleading or other document filed in a proceeding under this chapter.

99 Acts, ch 103, §21

Referred to in §232D.301, 236.4, 236.5, 598B.206, 598B.305, 600C.1

598B.210 Appearance of parties and child.

1. In a child-custody proceeding in this state, the court may order a party to the proceeding who is in this state to appear before the court in person with or without the child. The court may order any person who is in this state and who has physical custody or control of the child to appear in person with the child.

2. If a party to a child-custody proceeding whose presence is desired by the court is outside this state, the court may order that a notice given pursuant to section 598B.108 include a statement directing the party to appear in person with or without the child and informing the party that failure to appear may result in a decision adverse to the party.

3. The court may enter any orders necessary to ensure the safety of the child and of any person ordered to appear under this section.

4. If a party to a child-custody proceeding who is outside this state is directed to appear under subsection 2 or desires to appear personally before the court with or without the child, the court may require another party to pay reasonable and necessary travel and other expenses of the party so appearing and of the child.

99 Acts, ch 103, §22

ARTICLE III

ENFORCEMENT

Referred to in §598B.102, 598B.104, 598B.105

598B.301 Definitions.

As used in this article, unless the context otherwise requires:

1. *"Petitioner"* means a person who seeks enforcement of an order for return of a child under the Hague convention on the civil aspects of international child abduction or enforcement of a child-custody determination.

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2. *"Respondent"* means a person against whom a proceeding has been commenced for enforcement of an order for return of a child under the Hague convention on the civil aspects of international child abduction or enforcement of a child-custody determination.

99 Acts, ch 103, §23

598B.302 Enforcement under Hague convention.

Under this article, a court of this state may enforce an order for the return of the child made under the Hague convention on the civil aspects of international child abduction as if it were a child-custody determination.

99 Acts, ch 103, §24

598B.303 Duty to enforce.

1. A court of this state shall recognize and enforce a child-custody determination of a court of another state if the latter court exercised jurisdiction in substantial conformity with this chapter or the determination was made under factual circumstances meeting the jurisdictional standards of this chapter and the determination has not been modified in accordance with this chapter.

2. A court of this state may utilize any remedy available under other law of this state to enforce a child-custody determination made by a court of another state. The remedies provided in this article are cumulative and do not affect the availability of other remedies to enforce a child-custody determination.

99 Acts, ch 103, §25

598B.304 Temporary visitation.

1. A court of this state which does not have jurisdiction to modify a child-custody determination may issue a temporary order enforcing any of the following:

a. A visitation schedule made by a court of another state.

b. The visitation provisions of a child-custody determination of another state that does not provide for a specific visitation schedule.

2. If a court of this state makes an order under subsection 1, paragraph *"b"*, it shall specify in the order a period that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in article II. The order remains in effect until an order is obtained from the other court or the period expires.

99 Acts, ch 103, §26

598B.305 Registration of child-custody determination.

1. A child-custody determination issued by a court of another state may be registered in this state, with or without a simultaneous request for enforcement, by sending to the district court in this state all of the following:

a. A letter or other document requesting registration.

b. Two copies, including one certified copy, of the determination sought to be registered, and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified.

c. Except as otherwise provided in section 598B.209, the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or visitation in the child-custody determination sought to be registered.

2. On receipt of the documents required by subsection 1, the registering court shall do all of the following:

a. Cause the determination to be filed as a foreign judgment, together with one copy of any accompanying documents and information, regardless of their form.

b. Serve notice upon the persons named pursuant to subsection 1, paragraph "c", and provide them with an opportunity to contest the registration in accordance with this section.

3. The notice required by subsection 2, paragraph *"b"*, must state all of the following:

a. That a registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a court of this state.

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b. That a hearing to contest the validity of the registered determination must be requested within twenty days after service of notice.

c. That failure to contest the registration will result in confirmation of the child-custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.

4. A person seeking to contest the validity of a registered order must request a hearing within twenty days after service of the notice. At that hearing, the court shall confirm the registered order unless the person contesting registration establishes any of the following:

a. That the issuing court did not have jurisdiction under article II.

b. That the child-custody determination sought to be registered has been vacated, stayed, or modified by a court having jurisdiction to do so under article II.

c. That the person contesting registration was entitled to notice, but notice was not given in accordance with the standards of section 598B.108, in the proceedings before the court that issued the order for which registration is sought.

5. If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law and the person requesting registration and all persons served must be notified of the confirmation.

6. Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

99 Acts, ch 103, §27
Referred to in §598B.308, 598B.310

598B.306 Enforcement of registered determination.

1. A court of this state may grant any relief normally available under the law of this state to enforce a registered child-custody determination made by a court of another state.

2. A court of this state shall recognize and enforce, but shall not modify, except in accordance with article II, a registered child-custody determination of a court of another state.

99 Acts, ch 103, §28

598B.307 Simultaneous proceedings.

If a proceeding for enforcement under this article is commenced in a court of this state and the court determines that a proceeding to modify the determination is pending in a court of another state having jurisdiction to modify the determination under article II, the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

99 Acts, ch 103, §29

598B.308 Expedited enforcement of child-custody determination.

1. A petition under this article must be verified. Certified copies of all orders sought to be enforced and of any order confirming registration must be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

2. A petition for enforcement of a child-custody determination must state all of the following:

a. Whether the court that issued the determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was.

b. Whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under this chapter and, if so, identify the court, the case number, and the nature of the proceeding.

c. Whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding.

d. The present physical address of the child and the respondent, if known.

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e. Whether relief in addition to the immediate physical custody of the child and attorney fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought.

f. If the child-custody determination has been registered and confirmed under section 598B.305, the date and place of registration.

3. Upon the filing of a petition, the court shall issue an order directing the respondent to appear in person with or without the child at a hearing and may enter any order necessary to ensure the safety of the parties and the child. The hearing must be held on the next judicial day after service of the order unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The court may extend the date of hearing at the request of the petitioner.

4. An order issued under subsection 3 must state the time and place of the hearing and advise the respondent that at the hearing the court will order that the petitioner may take immediate physical custody of the child and the payment of fees, costs, and expenses under section 598B.312, and may schedule a hearing to determine whether further relief is appropriate, unless the respondent appears and establishes either of the following:

a. The child-custody determination has not been registered and confirmed under section 598B.305 and that any of the following apply:

(1) The issuing court did not have jurisdiction under article II.

(2) The child-custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction to do so under article II.

(3) The respondent was entitled to notice, but notice was not given in accordance with the standards of section 598B.108, in the proceedings before the court that issued the order for which enforcement is sought.

b. The child-custody determination for which enforcement is sought was registered and confirmed under section 598B.305, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under article II.

99 Acts, ch 103, §30; 2000 Acts, ch 1154, §37
Referred to in §598B.311

598B.309 Service of petition and order.

Except as otherwise provided in section 598B.311, the petition and order must be served, by any method authorized by the law of this state, upon the respondent and any person who has physical custody of the child.

99 Acts, ch 103, §31

598B.310 Hearing and order.

1. Unless the court issues a temporary emergency order pursuant to section 598B.204, upon a finding that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent establishes that any of the following applies:

a. The child-custody determination has not been registered and confirmed under section 598B.305, and that any of the following applies:

(1) The issuing court did not have jurisdiction under article II.

(2) The child-custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under article II.

(3) The respondent was entitled to notice, but notice was not given in accordance with the standards of section 598B.108, in the proceedings before the court that issued the order for which enforcement is sought.

b. The child-custody determination for which enforcement is sought was registered and confirmed under section 598B.305, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under article II.

2. The court shall award the fees, costs, and expenses authorized under section 598B.312, and may grant additional relief, including a request for the assistance of law enforcement officials, and set a further hearing to determine whether additional relief is appropriate.

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3. If a party called to testify refuses to answer on the ground that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.

4. A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child shall not be invoked in a proceeding under this article.

99 Acts, ch 103, §32

598B.311 Warrant to take physical custody of child.

1. Upon the filing of a petition seeking enforcement of a child-custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is imminently likely to suffer serious physical harm or be removed from this state.

2. If the court, upon the testimony of the petitioner or other witness, finds that the child is imminently likely to suffer serious physical harm or be removed from this state, it may issue a warrant to take physical custody of the child. The petition must be heard on the next judicial day after the warrant is executed unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The application for the warrant must include the statements required by section 598B.308, subsection 2.

3. A warrant to take physical custody of a child must provide all of the following:

a. Recite the facts upon which a conclusion of imminent serious physical harm or removal from the jurisdiction is based.

b. Direct law enforcement officers to take physical custody of the child immediately.

c. Provide for the placement of the child pending final relief.

4. The respondent must be served with the petition, warrant, and order immediately after the child is taken into physical custody.

5. A warrant to take physical custody of a child is enforceable throughout this state. If the court finds on the basis of the testimony of the petitioner or other witness that a less intrusive remedy is not effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances of the case, the court may authorize law enforcement officers to make a forcible entry at any hour.

6. The court may impose conditions upon placement of a child to ensure the appearance of the child and the child's custodian.

99 Acts, ch 103, §33

Referred to in §598B.309

598B.312 Costs, fees, and expenses.

1. The court shall award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorney fees, investigative fees, expenses for witnesses, travel expenses, and child care expenses during the course of the proceedings, unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.

2. The court shall not assess fees, costs, or expenses against a state unless authorized by law other than this chapter.

99 Acts, ch 103, §34; 2000 Acts, ch 1058, §51

Referred to in §598B.308, 598B.310

598B.313 Recognition and enforcement.

A court of this state shall accord full faith and credit to an order issued by another state and consistent with this chapter which enforces a child-custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court having jurisdiction to do so under article II.

99 Acts, ch 103, §35

598B.314 Appeals.

An appeal may be taken from a final order in a proceeding under this article in accordance with expedited appellate procedures in other civil cases. Unless the court enters a temporary

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emergency order under section 598B.204, the enforcing court shall not stay an order enforcing a child-custody determination pending appeal.

99 Acts, ch 103, §36

598B.315 Role of prosecutor.

1. In a case arising under this chapter or involving the Hague convention on the civil aspects of international child abduction, the prosecutor may take any lawful action, including resort to a proceeding under this article or any other available civil proceeding to locate a child, obtain the return of a child, or enforce a child-custody determination if there is any of the following:

a. An existing child-custody determination.

b. A request to do so from a court in a pending child-custody proceeding.

c. A reasonable belief that a criminal statute has been violated.

d. A reasonable belief that the child has been wrongfully removed or retained in violation of the Hague convention on the civil aspects of international child abduction.

2. A prosecutor acting under this section acts on behalf of the court and shall not represent any party.

99 Acts, ch 103, §37

Referred to in §598B.316, 598B.317

598B.316 Role of law enforcement.

At the request of a prosecutor acting under section 598B.315, a law enforcement officer may take any lawful action reasonably necessary to locate a child or a party and assist a prosecutor with responsibilities under section 598B.315.

99 Acts, ch 103, §38

Referred to in §598B.317

598B.317 Costs and expenses.

If the respondent is not the prevailing party, the court may assess against the respondent all direct expenses and costs incurred by the prosecutor and law enforcement officers under section 598B.315 or 598B.316.

99 Acts, ch 103, §39

ARTICLE IV

MISCELLANEOUS PROVISIONS

598B.401 Application and construction.

In applying and construing this uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

99 Acts, ch 103, §40

598B.402 Transitional provision.

A motion or other request for relief made in a child-custody proceeding or to enforce a child-custody determination which was commenced before July 1, 1999, is governed by the law in effect at the time the motion or other request was made.

99 Acts, ch 103, §41

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CHAPTER 598C

UNIFORM DEPLOYED PARENTS CUSTODY AND VISITATION ACT

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ARTICLE I
GENERAL PROVISIONS

598C.101 Short title.

This chapter shall be known and may be cited as the *"Uniform Deployed Parents Custody and Visitation Act"*.

2016 Acts, ch 1084, §1

598C.102 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Adult"* means an individual who has attained eighteen years of age or is an emancipated minor.

2. *"Caretaking authority"* means the right to live with and care for a child on a day-to-day basis. *"Caretaking authority"* relative to a child includes physical custody, parenting time, right to access, and visitation.

3. *"Child"* means any of the following:

a. An unemancipated individual who has not attained eighteen years of age.

b. An adult son or daughter by birth or adoption, or under a law of this state other than this chapter, who is the subject of a court order concerning custodial responsibility.

4. *"Close and substantial relationship"* means a relationship in which a significant bond exists between a child and a nonparent.

5. *"Court"* means a tribunal, including an administrative agency, authorized under a law

of this state other than this chapter to make, enforce, or modify a decision regarding custodial responsibility.

6. *"Custodial responsibility"* includes all powers and duties relating to caretaking authority and decision-making authority for a child. *"Custodial responsibility"* includes physical custody, legal custody, parenting time, right to access, visitation, and authority to grant limited contact with a child.

7. *"Decision-making authority"* means the power to make important decisions regarding a child, including decisions regarding the child's education, religious training, health care, extracurricular activities, and travel. *"Decision-making authority"* does not include the power to make decisions that necessarily accompany a grant of caretaking authority.

8. *"Deploying parent"* means a service member who is deployed or has been notified of impending deployment and is any of the following:

a. A parent of a child under a law of this state other than this chapter.

b. An individual who has custodial responsibility for a child under a law of this state other than this chapter.

9. *"Deployment"* means the movement or mobilization of a service member for more than ninety days but less than eighteen months pursuant to uniformed service orders that meet any of the following conditions:

a. Are designated as unaccompanied.

b. Do not authorize dependent travel.

c. Otherwise do not permit the movement of family members to the location to which the service member is deployed.

10. *"Family member"* means a sibling, aunt, uncle, cousin, stepparent, or grandparent of a child or an individual recognized to be in a familial relationship with a child under a law of this state other than this chapter.

11. *"Limited contact"* means the authority of a nonparent to visit a child for a limited time. *"Limited contact"* includes authority to take the child to a place other than the residence of the child.

12. *"Nonparent"* means an individual other than a deploying parent or other parent.

13. *"Other parent"* means an individual who, in common with a deploying parent, is one of the following:

a. A parent of a child under a law of this state other than this chapter.

b. An individual who has custodial responsibility for a child under a law of this state other than this chapter.

14. *"Record"* means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

15. *"Return from deployment"* means the conclusion of a service member's deployment as specified in uniformed service orders, less any terminal, medical, or annual leave authorized to the service member.

16. *"Service member"* means a member of a uniformed service.

17. *"Sign"* means, with present intent to authenticate or adopt a record, to execute or adopt a tangible symbol or to attach to or logically associate with the record an electronic symbol, sound, or process.

18. *"State"* means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

19. *"Uniformed service"* means any of the following:

a. Active and reserve components of the army, navy, air force, marine corps, or coast guard of the United States; the United States merchant marine; the commissioned corps of the United States public health service; or the commissioned corps of the national oceanic and atmospheric administration of the United States.

b. The national guard of a state, whether or not activation or performance of duties is pursuant to federal or to state authority.

2016 Acts, ch 1084, §2; 2016 Acts, ch 1138, §27

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598C.103 Remedies for noncompliance.

In addition to other remedies under a law of this state other than this chapter, if a court finds that a party to a proceeding under this chapter has acted in bad faith or intentionally failed to comply with this chapter or a court order issued under this chapter, the court may assess reasonable attorney fees and costs against the party and order other appropriate relief.

2016 Acts, ch 1084, §3

598C.104 Jurisdiction.

1. A court may issue an order regarding custodial responsibility under this chapter only if the court has jurisdiction under chapter 598B, the uniform child-custody jurisdiction and enforcement Act.

2. If a court has issued a temporary order regarding custodial responsibility pursuant to article III, the residence of the deploying parent is not changed by reason of the deployment for the purposes of chapter 598B, the uniform child-custody jurisdiction and enforcement Act, during the deployment.

3. If a court has issued a permanent order regarding custodial responsibility before notice of deployment and the parents modify that order temporarily by agreement pursuant to article II, the residence of the deploying parent is not changed by reason of the deployment for the purposes of chapter 598B, the uniform child-custody jurisdiction and enforcement Act.

4. If a court in another state has issued a temporary order regarding custodial responsibility as a result of impending or current deployment, the residence of the deploying parent is not changed by reason of the deployment for the purposes of chapter 598B, the uniform child-custody jurisdiction and enforcement Act.

5. This section does not prevent a court from exercising temporary emergency jurisdiction under chapter 598B, the uniform child-custody jurisdiction and enforcement Act.

2016 Acts, ch 1084, §4

Referred to in §598C.301

598C.105 Notification required of deploying parent.

1. Except as otherwise provided in subsection 4, and subject to subsection 3, a deploying parent shall notify the other parent, in a record, of a pending deployment, not later than seven days after receiving notice of deployment, unless reasonably prevented from doing so by the circumstances of service. If the circumstances of service prevent giving notification within the seven days, the deploying parent shall give the notification as soon as reasonably possible.

2. Except as otherwise provided in subsection 4, and subject to subsection 3, each parent shall provide the other parent with a plan in a record for fulfilling that parent's share of custodial responsibility during deployment. Each parent shall provide the plan as soon as reasonably possible after notification of deployment is given under subsection 1.

3. If a court order currently in effect prohibits disclosure of the address or contact information of the other parent, notification of deployment under subsection 1 or notification of a plan for custodial responsibility during deployment under subsection 2 may be made only to the issuing court. If the address of the other parent is available to the issuing court, the court shall forward the notification to the other parent. The court shall keep confidential the address or contact information of the other parent.

4. Notification in a record under subsection 1 or 2 is not required if the parents are living in the same residence and both parents have actual notice of the deployment or plan.

5. In a proceeding regarding custodial responsibility, a court may consider the reasonableness of a parent's efforts to comply with this section.

2016 Acts, ch 1084, §5

598C.106 Duty to notify of change of address.

1. Except as otherwise provided in subsection 2, an individual to whom custodial responsibility has been granted during deployment pursuant to article II or III shall notify in a record the deploying parent, and any other individual with custodial responsibility for a child, of any change of the individual's mailing address or residence until the grant is

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terminated. The individual shall provide the notice to any court that has issued a custody or child support order concerning the child which is currently in effect.

2. If a court order currently in effect prohibits disclosure of the address or contact information of an individual to whom custodial responsibility has been granted, a notification under subsection 1 may be made only to the court that issued the order. The court shall keep confidential the mailing address or residence of the individual to whom custodial responsibility has been granted.

2016 Acts, ch 1084, §6

598C.107 General consideration in custody proceeding of parent's military service.

In a proceeding for custodial responsibility of a child of a service member, a court shall not consider a parent's past deployment or probable future deployment in general in determining the best interest of the child.

2016 Acts, ch 1084, §7

598C.108 through 598C.200 Reserved.

ARTICLE II

AGREEMENT ADDRESSING CUSTODIAL RESPONSIBILITY DURING DEPLOYMENT

Referred to in §598C.104, 598C.106, 598C.304, 598C.309, 598C.401, 598C.403

598C.201 Form of agreement.

1. The parents of a child may enter into a temporary agreement under this article granting custodial responsibility during deployment.

2. An agreement under subsection 1 shall comply with all of the following:

a. Be in writing.

b. Be signed by both parents and any nonparent to whom custodial responsibility is granted.

3. Subject to subsection 4, an agreement under subsection 1, if feasible, must provide all of the following:

a. Identify the destination, duration, and conditions of the deployment that is the basis for the agreement.

b. Specify the allocation of caretaking authority among the deploying parent, the other parent, and any nonparent.

c. Specify any decision-making authority that accompanies a grant of caretaking authority.

d. Specify any grant of limited contact to a nonparent.

e. If under the agreement custodial responsibility is shared by the other parent and a nonparent, or by other nonparents, provide a process to resolve any dispute that may arise.

f. Specify the frequency, duration, and means, including electronic means, by which the deploying parent will have contact with the child, any role to be played by the other parent in facilitating the contact, and the allocation of any costs of contact.

g. Specify the contact between the deploying parent and child during the time the deploying parent is on leave or is otherwise available.

h. Acknowledge that any parent's child support obligation cannot be modified by the agreement, and that changing the terms of the child support obligation during deployment requires modification in the appropriate court.

i. Provide that the agreement will terminate according to the procedures under article IV after the deploying parent returns from deployment.

j. If the agreement must be filed pursuant to section 598C.205, specify which parent is required to file the agreement.

4. The omission of any of the items specified in subsection 3 does not invalidate an agreement under this section.

2016 Acts, ch 1084, §8

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598C.202 Nature of authority created by agreement.

1. An agreement under this article is temporary and terminates pursuant to article IV after the deploying parent returns from deployment, unless the agreement has been terminated before that time by court order or modification under section 598C.203. The agreement does not create an independent, continuing right to caretaking authority, decision-making authority, or limited contact in an individual to whom custodial responsibility is given.

2. A nonparent who has caretaking authority, decision-making authority, or limited contact by an agreement under this article has standing to enforce the agreement until it has been terminated by court order, by modification under section 598C.203, or under article IV.

2016 Acts, ch 1084, §9

598C.203 Modification of agreement.

1. By mutual consent, the parents of a child may modify an agreement regarding custodial responsibility made pursuant to this article.

2. If an agreement is modified under subsection 1 before deployment of a deploying parent, the modification must be in writing and signed by both parents and any nonparent who will exercise custodial responsibility under the modified agreement.

3. If an agreement is modified under subsection 1 during deployment of a deploying parent, the modification must be agreed to in a record by both parents and any nonparent who will exercise custodial responsibility under the modified agreement.

2016 Acts, ch 1084, §10
Referred to in §598C.202

598C.204 Power of attorney.

A deploying parent, by power of attorney, may delegate all or part of the deploying parent's custodial responsibility to an adult nonparent for the period of deployment if no other parent possesses custodial responsibility under a law of this state other than this chapter, or if a court order currently in effect prohibits contact between the child and the other parent. The deploying parent may revoke the power of attorney by signing a revocation of the power of attorney.

2016 Acts, ch 1084, §11

598C.205 Filing agreement or power of attorney with court.

An agreement or power of attorney under this article must be filed within a reasonable time with any court that has entered an order on custodial responsibility or child support that is in effect concerning the child who is the subject of the agreement or power of attorney. The case number and heading of the pending case concerning custodial responsibility or child support must be provided to the court with the agreement or power of attorney.

2016 Acts, ch 1084, §12
Referred to in §598C.201, 598C.401

598C.206 through 598C.300 Reserved.

ARTICLE III

JUDICIAL PROCEDURE FOR GRANTING CUSTODIAL RESPONSIBILITY DURING DEPLOYMENT

Referred to in §598C.104, 598C.106, 598C.402, 598C.403, 598C.404

598C.301 Proceeding for temporary custody order.

1. After a deploying parent receives notice of deployment and until the deployment terminates, a court may issue a temporary order granting custodial responsibility unless prohibited by the federal Servicemembers Civil Relief Act, 50 U.S.C. app. §§521 and 522 or the Iowa national guard civil relief provisions contained in chapter 29A, subchapter VI. A court shall not issue a temporary order granting custodial responsibility without notice to the

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deploying parent. A court shall not issue a permanent order granting custodial responsibility without the consent of the deploying parent.

2. At any time after a deploying parent receives notice of deployment, either parent may file a motion regarding custodial responsibility of a child during deployment. The motion must be filed in a pending proceeding for custodial responsibility in a court with jurisdiction under section 598C.104 or, if there is no pending proceeding in a court with jurisdiction under section 598C.104, in a new action for granting custodial responsibility during deployment.

2016 Acts, ch 1084, §13
Referred to in §598C.302

598C.302 Expedited hearing.

If a motion to grant custodial responsibility is filed under section 598C.301, subsection 2, before a deploying parent deploys, the court shall conduct an expedited hearing.

2016 Acts, ch 1084, §14

598C.303 Testimony by electronic means.

In a proceeding under this article, a party or witness who is not reasonably available to appear personally may appear, provide testimony, and present evidence by electronic means unless the court finds good cause to require a personal appearance. For purposes of this section, *"electronic means"* includes communication by telephone, video conference, or the internet.

2016 Acts, ch 1084, §15

598C.304 Effect of prior judicial order or agreement.

In a proceeding for a grant of custodial responsibility pursuant to this article, the following rules shall apply:

1. A prior judicial order designating custodial responsibility in the event of deployment is binding on the court unless the circumstances meet the requirements of a law of this state other than this chapter for modifying a judicial order regarding custodial responsibility.

2. The court shall enforce a prior written agreement between the parents for designating custodial responsibility in the event of deployment, including an agreement executed under article II, unless the court finds that the agreement is contrary to the best interest of the child.

2016 Acts, ch 1084, §16
Referred to in §598C.310

598C.305 Grant of caretaking or decision-making authority to nonparent.

1. On motion of a deploying parent and in accordance with a law of this state other than this chapter, if it is in the best interest of the child, a court may grant caretaking authority to a nonparent who is an adult family member of the child or an adult with whom the child has a close and substantial relationship.

2. Unless a grant of caretaking authority to a nonparent under subsection 1 is agreed to by the other parent, the grant is limited to an amount of time not greater than one of the following:

a. The amount of time granted to the deploying parent under a permanent custody order, but the court may add unusual travel time necessary to transport the child.

b. In the absence of a permanent custody order that is currently in effect, the amount of time that the deploying parent habitually cared for the child before being notified of deployment, but the court may add unusual travel time necessary to transport the child.

3. A court may grant part of a deploying parent's decision-making authority, if the deploying parent is unable to exercise that authority, to a nonparent who is an adult family member of the child or an adult with whom the child has a close and substantial relationship. If a court grants the authority to a nonparent, the court shall specify the decision-making powers granted, including decisions regarding the child's education, religious training, health care, extracurricular activities, and travel.

4. In determining the best interest of the child, the court shall ensure all of the following:

a. That the specified adult family member or adult with whom the child has a close and substantial relationship is not a sex offender as defined in section 692A.101.

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b. That the specified adult family member or adult with whom the child has a close and substantial relationship does not have a history of domestic abuse, as defined in section 236.2. In determining whether a history of domestic abuse exists, the court's consideration shall include but is not limited to commencement of an action pursuant to section 236.3, the issuance of a protective order against the individual or the issuance of a court order or consent agreement pursuant to section 236.5, the issuance of an emergency order pursuant to section 236.6, the holding of an individual in contempt pursuant to section 664A.7, the response of a peace officer to the scene of alleged domestic abuse or the arrest of an individual following response to a report of alleged domestic abuse, or a conviction for domestic abuse assault pursuant to section 708.2A.

c. That the specified adult family member or adult with whom the child has a close and substantial relationship does not have a record of founded child or dependent adult abuse.

d. That the specified adult family member or adult has established a close and substantial relationship with the child and that granting caretaking authority or decision-making authority to the specified individual will provide the child the opportunity to maintain an ongoing relationship that is important to the child.

e. That the specified adult family member or adult with whom the child has a close and substantial relationship demonstrates an ability to personally and financially support the child and will support the child's relationship with both of the child's parents during the grant of caretaking authority or decision-making authority.

2016 Acts, ch 1084, §17

598C.306 Grant of limited contact.

On motion of a deploying parent, and in accordance with a law of this state other than this chapter, unless the court finds that the contact would be contrary to the best interest of the child, a court may grant limited contact to a nonparent who is a family member of the child or an individual with whom the child has a close and substantial relationship.

2016 Acts, ch 1084, §18

598C.307 Nature of authority created by temporary custody order.

1. A grant of authority under this article is temporary and terminates under article IV after the return from deployment of the deploying parent, unless the grant has been terminated before that time by court order. The grant does not create an independent, continuing right to caretaking authority, decision-making authority, or limited contact in an individual to whom it is granted.

2. A nonparent granted caretaking authority, decision-making authority, or limited contact under this article has standing to enforce the grant until it is terminated by court order or under article IV.

2016 Acts, ch 1084, §19

598C.308 Content of temporary custody order.

1. An order granting custodial responsibility under this article must do all of the following:

a. Designate the order as temporary.

b. Identify to the extent feasible the destination, duration, and conditions of the deployment.

2. If applicable, an order for custodial responsibility under this article must do all of the following:

a. Specify the allocation of caretaking authority, decision-making authority, or limited contact among the deploying parent, the other parent, and any nonparent.

b. If the order divides caretaking authority or decision-making authority between individuals, or grants caretaking authority to one individual and limited contact to another, provide a process to resolve any dispute that may arise.

c. Provide for liberal communication between the deploying parent and the child during deployment, including through electronic means, unless contrary to the best interest of the child, and allocate any costs of communications.

d. Provide for liberal contact between the deploying parent and the child during the time

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the deploying parent is on leave or otherwise available, unless contrary to the best interest of the child.

e. Provide for reasonable contact between the deploying parent and the child after return from deployment until the temporary order is terminated, unless it is contrary to the best interest of the child, which may include additional contact time to compensate for contact time lost during deployment.

f. Provide that the order will terminate pursuant to article IV after the deploying parent returns from deployment.

2016 Acts, ch 1084, §20

598C.309 Order for child support.

If a court has issued an order granting caretaking authority under this article, or an agreement granting caretaking authority has been executed under article II, the court may enter a temporary order for child support consistent with a law of this state other than this chapter if the court has jurisdiction under chapter 252K, the uniform interstate family support Act.

2016 Acts, ch 1084, §21

598C.310 Modifying or terminating grant of custodial responsibility to nonparent.

1. Except for an order under section 598C.304, and except as otherwise provided in subsection 2, and consistent with the federal Servicemembers Civil Relief Act, 50 U.S.C. app. §§521 and 522 and the Iowa national guard civil relief provisions contained in chapter 29A, subchapter VI, on motion of a deploying or other parent or any nonparent to whom caretaking authority, decision-making authority, or limited contact has been granted, the court may modify or terminate the grant if the modification or termination is consistent with this article and it is in the best interest of the child. A modification is temporary and terminates pursuant to article IV after the deploying parent returns from deployment, unless the grant has been terminated before that time by court order.

2. The court may appoint a guardian ad litem or an attorney to represent the best interest of the child or may require an appropriate agency to make an investigation of the parties as provided in section 598.12.

2016 Acts, ch 1084, §22

598C.311 through 598C.400 Reserved.

ARTICLE IV

RETURN FROM DEPLOYMENT

Referred to in §598C.201, 598C.202, 598C.307, 598C.308, 598C.310

598C.401 Procedure for terminating temporary grant of custodial responsibility established by agreement.

1. At any time after return from deployment, a temporary agreement granting custodial responsibility under article II may be terminated by an agreement to terminate signed by the deploying parent and the other parent.

2. A temporary agreement under article II granting custodial responsibility terminates on one of the following dates:

a. If an agreement to terminate under subsection 1 specifies a date for termination, on that date.

b. If the agreement to terminate does not specify a date, on the date of the last signature of the deploying parent or the other parent.

3. In the absence of an agreement under subsection 1 to terminate, a temporary agreement granting custodial responsibility terminates under article II sixty days after the deploying parent gives notice in a record to the other parent that the deploying parent returned from deployment.

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4. If a temporary agreement granting custodial responsibility was filed with a court pursuant to section 598C.205, an agreement to terminate the temporary agreement also must be filed with that court within a reasonable time after the signing of the agreement. The case number and heading of the case concerning custodial responsibility or child support must be provided to the court with the agreement to terminate.

2016 Acts, ch 1084, §23

598C.402 Consent procedure for terminating temporary grant of custodial responsibility established by court order.

At any time after a deploying parent returns from deployment, the deploying parent and the other parent may file with the court an agreement to terminate a temporary order for custodial responsibility issued under article III. After an agreement to terminate has been filed, the court shall issue an order terminating the temporary order effective on the date specified in the agreement. If a date is not specified, the order is effective immediately.

2016 Acts, ch 1084, §24

598C.403 Visitation before termination of temporary grant of custodial responsibility.

After a deploying parent returns from deployment and until a temporary agreement or order for custodial responsibility established under article II or III is terminated, the court may issue a temporary order granting the deploying parent reasonable contact with the child unless it is contrary to the best interest of the child, which may include additional contact time to compensate for contact time lost during deployment.

2016 Acts, ch 1084, §25

598C.404 Termination by operation of law of temporary grant of custodial responsibility established by court order.

1. If an agreement between the parties to terminate a temporary order for custodial responsibility under article III has not been filed, the order terminates sixty days after the deploying parent gives notice in a record to the other parent and any nonparent granted custodial responsibility that the deploying parent has returned from deployment.

2. A proceeding seeking to prevent termination of a temporary order for custodial responsibility is governed by the law of this state other than this chapter.

2016 Acts, ch 1084, §26

598C.405 through 598C.500 Reserved.

ARTICLE V
MISCELLANEOUS PROVISIONS

598C.501 Uniformity of application and construction.

This chapter shall be applied and construed with consideration given to the need to promote uniformity of the law with respect to its subject matter among states that enact the uniform deployed parents custody and visitation Act.

2016 Acts, ch 1084, §27

598C.502 Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §7001 et seq., but does not modify, limit, or supersede section 101(c) of that Act, 15 U.S.C. §7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that Act, 15 U.S.C. §7003(b).

2016 Acts, ch 1084, §28

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598C.503 Applicability.

This chapter does not affect the validity of a temporary court order concerning custodial responsibility during deployment which was entered before July 1, 2016.

2016 Acts, ch 1084, §29

CHAPTER 599

MINORS

599.1	Period of minority — exception for certain inmates.	599.4	Payments.
599.2	Contracts — disaffirmance.	599.5	Veterans minority disabilities.
599.3	Misrepresentations — engaging in business.	599.6	Donation of blood by minors.

599.1 Period of minority — exception for certain inmates.

1. The period of minority extends to the age of eighteen years, but all minors attain their majority by marriage.

2. A person who is less than eighteen years old, but who is tried, convicted, and sentenced as an adult and committed to the custody of the director of the department of corrections shall be deemed to have attained the age of majority for purposes of making decisions and giving consent to medical care, related services, and treatment during the period of the person's incarceration.

[C51, §1487; R60, §2539; C73, §2237; C97, §3188; C24, 27, 31, 35, 39, §**10492;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §599.1]

93 Acts, ch 46, §2; 2020 Acts, ch 1062, §94

Referred to in §97B.34A, 144G.1, 421.59, 915.38

599.2 Contracts — disaffirmance.

A minor is bound not only by contracts for necessaries, but also by the minor's other contracts, unless the minor disaffirms them within a reasonable time after attaining majority, and restores to the other party all money or property received by the minor by virtue of the contract, and remaining within the minor's control at any time after attaining majority except as otherwise provided.

[C51, §1488; R60, §2540; C73, §2238; C97, §3189; C24, 27, 31, 35, 39, §**10493;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §599.2]

599.3 Misrepresentations — engaging in business.

No contract can be thus disaffirmed in cases where, on account of the minor's own misrepresentations as to the minor's majority, or from the minor's having engaged in business as an adult, the other party had good reason to believe the minor capable of contracting.

[C51, §1489; R60, §2541; C73, §2239; C97, §3190; C24, 27, 31, 35, 39, §**10494;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §599.3]

599.4 Payments.

Where a contract for the personal services of a minor has been made with the minor alone, and the services are afterwards performed, payment therefor made to the minor, in accordance with the terms of the contract, is a full satisfaction therefor, and the parent or guardian cannot recover a second time.

[C51, §1490; R60, §2542; C73, §2240; C97, §3191; C24, 27, 31, 35, 39, §**10495;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §599.4]

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599.5 Veterans minority disabilities.

The disability of minority of any person otherwise eligible for guaranty or insurance of a loan pursuant to the Servicemen's Readjustment Act of 1944,* as amended and of the minor spouse of any eligible veteran, irrespective of age, in connection with any transaction entered into pursuant to said Act, as amended, is hereby removed for all purposes in connection with such transaction, including but not limited to incurring of indebtedness or obligations, and acquiring, encumbering, selling, releasing or conveying property or any interest therein, and litigating or settling controversies arising therefrom, if all or part of any obligations incident to such transaction be guaranteed or insured by the secretary of the United States department of veterans affairs pursuant to such Act; provided, nevertheless, that this section shall not be construed to impose any other or greater rights or liabilities than would exist if such person and such spouse were under no such disability.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §599.5]

2009 Acts, ch 26, §17

*58 Stat. 291; recodified, 72 Stat. 1105, 1273; now covered by 38 U.S.C. §3701 et seq.

599.6 Donation of blood by minors.

1. A person who is seventeen years of age or older may consent to donate blood in a voluntary and noncompensatory blood program without the permission of a parent or guardian. The consent is not subject to later disaffirmance because of minority.

2. A person who is sixteen years of age may donate blood in a voluntary and noncompensatory blood program if the person obtains written permission from the person's parent or guardian.

83 Acts, ch 13, §1; 2004 Acts, ch 1025, §1

CHAPTER 600

ADOPTION

Referred to in §91A.5B, 232.6, 232.166, 232B.3, 514C.10, 602.8102(86), 602.8105, 815.11

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600.1 Construction.

1. This chapter* shall be construed liberally. The best interest of the person to be adopted

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shall be the paramount consideration in interpreting this chapter. However, the interests of the adopting parents shall be given due consideration in this interpretation. However, in determining the best interest of the person to be adopted and the interests of the adopting parents, any evidence of interests relating to a period of time during which the person to be adopted is placed with prospective adoptive parents and during which the placement is not in compliance with the law, adoption procedures, or any action by the juvenile court or court, shall not be considered in the determination.

2. If a proceeding held under this chapter involves an Indian child as defined in section 232B.3 and the proceeding is subject to the Iowa Indian child welfare Act under chapter 232B, the proceeding and other actions taken in connection with the proceeding or this chapter shall comply with chapter 232B. In any proceeding held or action taken under this chapter involving an Indian child, the applicable requirements of the federal Adoption and Safe Families Act of 1997, Pub. L. No. 105-89, shall be applied to the proceeding or action in a manner that complies with chapter 232B and the federal Indian Child Welfare Act, Pub. L. No. 95-608.

[C77, 79, 81, §600.1]

94 Acts, ch 1174, §6, 22; 2000 Acts, ch 1145, §2; 2003 Acts, ch 153, §16; 2014 Acts, ch 1026, §125; 2018 Acts, ch 1041, §127

*Enacted as sections 600.1 – 600.16, Code 1977

600.2 Definitions.

1. *"Adoption service provider"*, *"adult"*, *"agency"*, *"biological parent"*, *"certified adoption investigator"*, *"child"*, *"court"*, *"custodian"*, *"department"*, *"guardian"*, *"guardian ad litem"*, *"juvenile court"*, *"minor"*, *"parent"*, *"parent-child relationship"*, *"stepparent"*, and *"termination of parental rights"* mean the same as defined in section 600A.2.

2. *"Investigator"* means a natural person who is certified or approved by the department, after inspection by the department of inspections, appeals, and licensing, as being capable of conducting an investigation under section 600.8.

[C77, 79, 81, §600.2]

90 Acts, ch 1204, §64; 94 Acts, ch 1046, §12; 2017 Acts, ch 113, §3; 2023 Acts, ch 19, §1245, 2032

600.3 Commencement of adoption action — jurisdiction — forum non conveniens.

1. An action for the adoption of any natural person shall be commenced by the filing of an adoption petition, as prescribed in section 600.5, in the juvenile court or court of the county in which an adult person to be adopted is domiciled or resides, or in the juvenile court or court of the county in which the guardian of a minor person to be adopted or the petitioner is domiciled or resides.

2. *a.* An adoption petition shall not be filed until a termination of parental rights has been accomplished except in the following cases:

(1) No termination of parental rights is required if the person to be adopted is an adult.

(2) If the stepparent of the child to be adopted is the adoption petitioner, the parent-child relationship between the child and the parent who is not the spouse of the petitioner may be terminated as part of the adoption proceeding by the filing of that parent's consent to the adoption.

(3) A termination of parental rights order is not required prior to the filing of an adoption petition if the adoption is a standby adoption as defined in section 600.14A.

b. For the purposes of this subsection, a consent to adopt recognized by the juvenile courts or courts of another jurisdiction in the United States and obtained from a resident of that jurisdiction shall be accepted in this state in lieu of a termination of parental rights proceeding.

c. Any adoption proceeding pending on or completed prior to July 1, 1978, is hereby legalized and validated to the extent that it is consistent with this subsection.

3. If upon filing of the adoption petition or at any later time in the adoption action the juvenile court or court finds that in the interest of substantial justice the adoption action

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should be conducted in another juvenile court or court, it may transfer, stay, or dismiss the adoption action on any conditions that are just.

4. An adoption petition shall be limited to the adoption of one natural person.

[R60, §2600; C73, §2307; C97, §3250; C24, §10496; C27, 31, 35, §10501-b1; C39, §**10501.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §600.1; C77, 79, 81, §600.3]

2000 Acts, ch 1145, §3; 2001 Acts, ch 57, §2; 2007 Acts, ch 71, §1

Referred to in §13B.9, 600.4, 600.5, 600.12A, 600A.9

600.4 Qualifications to file adoption petition.

Any person who may adopt may file an adoption petition under section 600.3. The following persons may adopt:

1. An unmarried adult.
2. Husband and wife together.
3. A husband or wife separately if the person to be adopted is not the other spouse and if any of the following conditions apply:

a. The adopting spouse is the stepparent of the person to be adopted.

b. The adopting spouse has been separated from the other spouse by reason of the other spouse's abandonment as prescribed in section 597.10.

c. The adopting spouse is unable to petition with the other spouse because of the prolonged and unexplained absence, unavailability, or incapacity of the other spouse, or because of an unreasonable withholding of joinder by the other spouse, as determined by the juvenile court or court under section 600.5, subsection 7.

[R60, §2600; C73, §2307; C97, §3250; C24, §10496; C27, 31, 35, §10501-b1; C39, §**10501.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §600.1; C77, 79, 81, §600.4]

2000 Acts, ch 1145, §4; 2022 Acts, ch 1021, §162

Referred to in §600.5, 600.14A

600.5 Contents of an adoption petition.

An adoption petition shall be signed and verified by the petitioner, shall be filed with the juvenile court or court designated in section 600.3, and shall state:

1. The name, as it appears on the birth certificate or in a verified birth record or as it appears as a result of marriage, and the residence or domicile of the person to be adopted.
2. The date and place of birth of the person to be adopted.
3. Any new name requested to be given the person to be adopted.
4. The name, residence, and domicile of any guardian or custodian of the person to be adopted and the name, residence, and domicile of that person's guardian ad litem if one is appointed for the adoption proceedings.
5. The name, residence, and domicile of the petitioner, if this is not required to be stated under subsection 4 of this section, and the date or expected date on which the person to be adopted, if a minor, began or will begin living with the petitioner.
6. The name, residence, and domicile of any parent of the person to be adopted.
7. A designation of the particular provision in section 600.4 under which the petitioner is qualified to adopt and, if under section 600.4, subsection 3, paragraph "c", a request that the juvenile court or court approve the petitioner's qualification to adopt.
8. Any name by which the petitioner is known or has been known.
9. The existence of any criminal conviction or deferred judgment for an offense other than a simple misdemeanor under a law of any state against the petitioner, and the existence of any founded child abuse report in which the petitioner is named.
10. If the parents of the person to be adopted had their parental rights terminated pursuant to chapter 232, the petition shall include the names of any known siblings placed separately from the person to be adopted and either the plan for ongoing contact between the siblings if a court found that continued contact is in the best interest of each sibling or a statement that the court found continued contact between the siblings is not in the best interest of each sibling.
11. A description and estimate of the value of any property owned by or held for the person to be adopted.

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12. A description of the facilities and resources, including those provided under a subsidy agreement pursuant to sections 600.17 through 600.22, that the petitioner is willing and able to supply for the nurture and care of any minor person to be adopted.

13. When and where termination of parental rights pertaining to the person to be adopted has occurred, if termination was required under section 600.3.

14. Whether or not a guardian ad litem should be appointed for a minor child to be adopted, and if not, the reasons for that determination.

[R60, §2600; C73, §2307; C97, §3250; C24, §10496; C27, 31, 35, §10501-b1; C39, §**10501.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §600.1; C77, 79, 81, §600.5]

2000 Acts, ch 1145, §5, 6; 2006 Acts, ch 1029, §1; 2016 Acts, ch 1069, §1; 2017 Acts, ch 29, §158; 2021 Acts, ch 80, §350; 2022 Acts, ch 1096, §6; 2022 Acts, ch 1153, §13

Referred to in §600.3, 600.4, 600.8

600.6 Attachments to an adoption petition.

An adoption petition shall have attached to it the following:

1. A certified copy of the birth certificate showing parentage of the person to be adopted or, if such certificate is not available, a verified birth record. The department shall provide a certified copy of a birth certificate or a verified birth record, as applicable, to the person adopting a child when the department is the guardian of the child.

2. A copy of any order terminating parental rights with respect to the person to be adopted.

3. If parental rights were terminated pursuant to chapter 232, a copy of any court orders concerning whether ongoing contact between siblings not placed with the person to be adopted is in the best interest of each sibling.

4. Any written consent and verified statement required under section 600.7, except the consent required under subsection 1, paragraph *"d"*, of that section.

5. Any preplacement investigation report that has been prepared at the time of filing pursuant to section 600.8.

6. In the case of a standby adoption as defined in section 600.14A, a form completed by the terminally ill parent consenting to termination of parental rights and adoption of the child by a person or persons specified in the consent form, effective at a future date when the terminally ill parent of the child has died or requests that a final adoption decree be issued.

[R60, §2601; C73, §2308; C97, §3251; C24, §10497; C27, 31, 35, §10501-b3; C39, §**10501.3;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §600.3; C77, 79, 81, §600.6]

89 Acts, ch 140, §1; 99 Acts, ch 43, §1; 2001 Acts, ch 57, §3; 2022 Acts, ch 1096, §7; 2023 Acts, ch 134, §2; 2024 Acts, ch 1043, §102

Referred to in §600.14A

600.6A Court determination regarding appointment of guardian ad litem.

Prior to ordering a hearing on the adoption petition, the court shall make a determination of the need for a guardian ad litem for a minor child to be adopted and shall, in writing, either appoint or waive the appointment of a guardian ad litem for purposes of the adoption proceeding in the order setting the adoption hearing.

2016 Acts, ch 1069, §2

600.7 Consents to the adoption.

1. An adoption petition shall not be granted unless the following persons consent to the adoption or unless the juvenile court or court makes a determination under subsection 4:

a. Any guardian of the person to be adopted.

b. The spouse of a petitioner who is a stepparent.

c. The spouse of a petitioner who is separately petitioning to adopt an adult person.

d. The person to be adopted if that person is fourteen years of age or older.

2. A consent to the adoption shall be in writing, shall name the person to be adopted and the petitioner, shall be signed by the person consenting, and shall be made in the following manner:

a. If by any minor person to be adopted who is fourteen years of age or older, in the presence of the juvenile court or court in which the adoption petition is filed.

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b. If by any other person, either in the presence of the juvenile court or court in which the adoption petition is filed or before a notary public as provided in chapter 9B.

3. A consent to the adoption may be withdrawn prior to the issuance of an adoption decree under section 600.13 by the filing of an affidavit of consent withdrawal with the juvenile court or court. Such affidavit shall be treated in the same manner as an attached verified statement is treated under subsection 4.

4. If any person required to consent under this section refuses to or cannot be located to give consent, the petitioner may attach to the petition a verified statement of such refusal or lack of location. The juvenile court or court shall then determine, at the adoption hearing prescribed in section 600.12, whether, in the best interests of the person to be adopted and the petitioner, any particular consent shall be unnecessary to the granting of an adoption petition.

[R60, §2600, 2601; C73, §2307, 2308; C97, §3250, 3251; C24, §10496, 10497; C27, 31, 35, §10501-b1, 10501-b3; C39, §**10501.1, 10501.3;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §600.1, 600.3; C77, 79, 81, §600.7]

2000 Acts, ch 1145, §7 – 9; 2012 Acts, ch 1050, §53, 60

Referred to in §600.6, 600.11, 600.14A

600.7A Adoption services provided by or through the department — selection of adoptive parent criteria.

1. The department shall adopt rules which provide that if adoption services are provided by or through the department, notwithstanding any other selection of adoptive parent criteria, the overriding criterion shall be a preference for placing a child in a stable home environment as expeditiously as possible.

2. *a.* The department shall not do any of the following:

(1) Require a prospective adoptive parent to affirm, accept, or support a policy related to sexual orientation or gender identity that conflicts with the person's sincerely held religious or moral beliefs.

(2) Preclude a person from being qualified as a prospective adoptive parent based on the person's sincerely held religious or moral beliefs related to sexual orientation or gender identity, including but not limited to the person's intent to guide, instruct, or raise a child in a manner consistent with the person's sincerely held religious or moral beliefs.

b. (1) The department, and the department's designees, shall not adopt a standard, policy, or rule that precludes a person from being considered as a child's prospective adoptive parent based on the person's sincerely held religious or moral beliefs related to sexual orientation or gender identity.

(2) This paragraph shall not preclude the department from taking into account the sincerely held moral and religious beliefs, including sincerely held moral and religious beliefs related to sexual orientation and gender identity, of a child and the child's family of origin as compared to the sincerely held moral and religious beliefs of a prospective adoptive parent when determining the most appropriate placement for the child consistent with the best interests of the child.

c. (1) A prospective adoptive parent may bring an action asserting a violation of this subsection. A court may provide a prospective adoptive parent injunctive relief, declaratory relief, or other relief as the court deems appropriate, and may award reasonable attorney fees and costs.

(2) The attorney general may bring an action to enforce this subsection.

d. For purposes of this subsection, "*gender identity*" means the same as defined in section 279.78, and "*sexual orientation*" means the same as defined in section 216.2.

96 Acts, ch 1174, §7; 2023 Acts, ch 19, §1246; 2026 Acts, ch 1149, §2

Referred to in §600.14A

Section amended

600.7B Postadoption information.

The department shall develop and furnish to the state registrar of vital statistics a document listing all postadoption services available to adoptive families in the state, to be delivered

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along with a copy of the new birth certificate to the parents named in the adoption decree pursuant to section 600.13.

2018 Acts, ch 1045, §1
Referred to in §600.14A

600.8 Placement investigations and reports.

1. *a.* A preplacement investigation shall be directed to and a report of this investigation shall answer the following:

(1) Whether the home of the prospective adoption petitioner is a suitable one for the placement of a minor person to be adopted.

(2) How the prospective adoption petitioner's emotional maturity, finances, health, relationships, and any other relevant factor may affect the petitioner's ability to accept, care, and provide a minor person to be adopted with an adequate environment as that person matures.

(3) Whether the prospective adoption petitioner has been convicted of a crime under a law of any state or has a record of founded child abuse. The preplacement investigation and report shall include an examination of the criminal and child abuse records of the prospective adoption petitioner including all of the following:

(a) Criminal, child abuse, and sex offender registries maintained by the state.

(b) Child abuse registries maintained by any other state in which the prospective adoption petitioner has resided during the five years prior to the issuance of the preplacement investigation report.

(c) National biometric identification-based criminal records. For the purposes of international adoption preplacement investigations, the national biometric identification-based criminal record check results obtained pursuant to the standards of the United States department of homeland security shall satisfy the requirement of this subparagraph division.

(4) Whether the minor person to be adopted was the subject of a termination of parental rights proceeding pursuant to chapter 232, whether there are siblings not placed with the minor person to be adopted, and whether, if there are siblings, there is an ongoing relationship between the siblings and the minor child to be adopted or a court order finding contact between the siblings is in the best interest of each sibling.

b. A postplacement investigation and a report of this investigation shall:

(1) Consist of no fewer than three face-to-face visits with the minor person to be adopted and the adoption petitioner to be conducted within thirty days, ninety days, and one hundred eighty days following the placement and during completion of the minimum residence period specified in section 600.10.

(2) Verify the allegations of the adoption petition and its attachments and of the report of expenditures required under section 600.9.

(3) Evaluate the progress of the placement of the minor person to be adopted.

(4) Determine whether adoption by the adoption petitioner may be in the best interests of the minor person to be adopted.

(5) Include documentation verifying that any unique needs of the minor person to be adopted are being appropriately met in the placement before the investigator recommends finalization of the adoption.

c. (1) A background information investigation of the medical and social history of the biological parents of the minor person to be adopted and a report of the investigation shall be made by the adoption service provider, the department, or a certified adoption investigator prior to the placement of the minor person to be adopted with any prospective adoption petitioner.

(2) The background information investigation and report shall not disclose the identity of the biological parents of the minor person to be adopted.

(3) The completed report shall be filed with the court prior to the holding of the adoption hearing prescribed in section 600.12.

(4) The report shall be in substantial conformance with the prescribed medical and

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social history forms designed by the department pursuant to section 600A.4, subsection 2, paragraph *"g"*.

(5) A copy of the background information investigation report shall be furnished to the prospective adoption petitioner prior to placement of the minor person to be adopted with the prospective adoption petitioner.

(6) Any person, including a juvenile court, who has gained relevant background information concerning a minor person subject to an adoption petition shall, upon request, fully cooperate with the conducting of a background information investigation by disclosing any relevant background information, whether contained in sealed records or not.

2. *a.* (1) A preplacement investigation and report of the investigation shall be completed and the prospective adoption petitioner approved for a placement by the person making the investigation prior to any adoption service provider or department placement of a minor person in the petitioner's home in anticipation of an ensuing adoption.

(2) A report of a preplacement investigation that has approved a prospective adoption petitioner for a placement shall not authorize placement of a minor person with that petitioner after two years from the date of the report's issuance. However, if the prospective adoption petitioner is described by subsection 12, paragraph *"a"*, subparagraph (1) or (2), and has assumed custody of a minor person to be adopted, a preplacement investigation of this petitioner and a report of the investigation may be completed at a time established by the juvenile court or court or may be waived as provided in subsection 12.

b. (1) The person making the investigation shall not approve a prospective adoption petitioner pursuant to subsection 1, paragraph *"a"*, subparagraph (3), and an evaluation shall not be performed under subparagraph (2), if the petitioner has been convicted of any of the following felony offenses:

(a) Within the five-year period preceding the petition date, a drug-related offense.
(b) Child endangerment or neglect or abandonment of a dependent person.
(c) Domestic abuse.
(d) A crime against a child, including but not limited to sexual exploitation of a minor.
(e) A forcible felony.

(2) The person making the investigation shall not approve a prospective adoption petitioner pursuant to subsection 1, paragraph *"a"*, subparagraph (3), unless an evaluation has been made which considers the nature and seriousness of the crime or founded abuse in relation to the adoption, the time elapsed since the commission of the crime or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation, and the number of crimes or founded abuse committed by the person involved.

c. If the person making the investigation does not approve a prospective adoption petitioner under paragraph *"a"* of this subsection, the person investigated may appeal the disapproval as a contested case to the director of health and human services. Judicial review of any adverse decision by the director may be sought pursuant to chapter 17A.

3. The department, an agency, or a certified adoption investigator shall conduct all investigations and reports required under subsection 2.

4. A postplacement investigation and the report of the investigation shall be completed and filed with the juvenile court or court prior to the holding of the adoption hearing prescribed in section 600.12. Upon the filing of an adoption petition pursuant to section 600.5, the juvenile court or court shall immediately appoint the department, an agency, or a certified adoption investigator to conduct and complete the postplacement report. Any person who has gained relevant background information concerning a minor person subject to an adoption petition shall, upon request, fully cooperate with the conducting of the postplacement investigation by disclosing any relevant information requested, whether contained in sealed records or not.

5. Any person conducting an investigation under subsection 1, paragraph "*c*", subsection 3, or subsection 4, may, in the investigation or subsequent report, include, utilize, or rely upon any reports, studies, or examinations to the extent they are relevant.

6. Any person conducting an investigation under subsection 1, paragraph "*c*", subsection 3, or subsection 4, may charge a fee which does not exceed the reasonable cost of the services

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rendered and which is based on a sliding scale schedule relating to the investigated person's ability to pay.

7. *a.* An investigation or report shall not be required under this section in any of the following circumstances:

(1) The person to be adopted is an adult.

(2) The prospective adoption petitioner or adoption petitioner is a stepparent of the person to be adopted. However, in the case of a stepparent adoption, the juvenile court or court, upon the request of an interested person or on its own motion stating the reasons therefor of record, may order an investigation or report pursuant to this section.

b. If an adoption petitioner discloses a criminal conviction or deferred judgment for an offense, other than a simple misdemeanor, or founded child abuse report pursuant to section 600.5, the petitioner shall notify the court of the inclusion of this information in the petition prior to the final adoption hearing, and the court shall make a specific ruling regarding whether to waive any investigation or report required under subsection 1.

8. Any person designated to make an investigation and report under this section may request an agency, certified adoption investigator, or state agency, within or outside this state, to conduct a portion of the investigation or the report, as may be appropriate, and to file a supplemental report of such investigation or report with the juvenile court or court. In the case of the adoption of a minor person by a person domiciled or residing in any other jurisdiction of the United States, any investigation or report required under this section which has been conducted pursuant to the standards of that other jurisdiction shall be recognized in this state.

9. The department may investigate, on its own initiative or on order of the juvenile court, any placement made or adoption petition filed under this chapter or chapter 600A and may report its resulting recommendation to the juvenile court.

10. The department, an agency, or a certified adoption investigator may conduct any investigations required for an interstate or interagency placement. Any interstate investigations or placements shall follow the procedures and regulations under the interstate compact on the placement of children. Such investigations and placements shall be in compliance with the laws of the states involved.

11. Any person who assists in or impedes the placement or adoption of a minor person in violation of the provisions of this section shall be, upon conviction, guilty of a simple misdemeanor.

12. *a.* A juvenile court or court may waive an investigation and report required under subsection 1 in any of the following circumstances:

(1) The adoption petitioner is related within the fourth degree of consanguinity to the person to be adopted.

(2) The adoption petitioner meets all of the following requirements:

(a) The adoption petitioner is the current legal guardian for the person to be adopted.

(b) The adoption petitioner has been the legal guardian for the person to be adopted for the thirty-six consecutive months immediately preceding the date the adoption petition is filed.

(c) The adoption petitioner has complied with section 232D.402 for the thirty-six consecutive months immediately preceding the date the adoption petition is filed.

b. Notwithstanding paragraph *"a"*, if an adoption petitioner discloses a criminal conviction or deferred judgment for an offense, other than a simple misdemeanor, or founded child abuse report pursuant to section 600.5, the petitioner shall notify the court of the inclusion of this information in the petition prior to the final adoption hearing and the court shall make a specific ruling regarding whether to waive any investigation or report required under subsection 1.

[C27, 31, 35, §10501-b2; C39, §**10501.2;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §600.2; C77, 79, 81, §600.8]

83 Acts, ch 96, §157, 159; 87 Acts, ch 153, §18, 19; 88 Acts, ch 1134, §101; 94 Acts, ch 1046, §13; 98 Acts, ch 1190, §30; 99 Acts, ch 138, §1, 2; 2000 Acts, ch 1145, §10, 11; 2001 Acts, ch

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24, §67, 68, 74; 2006 Acts, ch 1029, §2, 3; 2011 Acts, ch 98, §5; 2014 Acts, ch 1029, §1, 2; 2017 Acts, ch 113, §4 – 6; 2022 Acts, ch 1096, §8; 2023 Acts, ch 19, §1247; 2025 Acts, ch 21, §1, 2

Referred to in §600.2, 600.6, 600.11, 600.12A, 600.14A, 600.15, 600.16, 600A.2

Interstate compact on placement of children, see §232.158

600.9 Report of expenditures — penalty.

1. *a.* A biological parent shall not receive any thing of value as a result of the biological parent's child or former child being placed with and adopted by another person, unless that thing of value is an allowable expense under subsection 2.

b. Any person assisting in any way with the placement or adoption of a minor person shall not charge a fee which is more than usual, necessary, and commensurate with the services rendered.

c. If the biological parent receives any prohibited thing of value, if a person gives a prohibited thing of value, or if a person charges a prohibited fee under this subsection, the person is guilty of a serious misdemeanor.

2. *a.* An adoption petitioner of a minor person shall file with the juvenile court or court, prior to the adoption hearing, a full accounting of all disbursements of any thing of value paid or agreed to be paid by or on behalf of the petitioner in connection with the petitioned adoption. This accounting shall be made by a report prescribed by the juvenile court or court and shall be signed and verified by the petitioner. The report shall be accompanied by documentation of all disbursements made prior to the date of filing of the report. Only expenses incurred in connection with the following and any other expenses approved by the juvenile court or court are allowable:

(1) The birth of the minor person to be adopted.

(2) Placement of the minor person by the adoption service provider.

(3) Legal expenses related to the termination of parental rights and adoption processes.

(4) Pregnancy-related medical care received by the biological parents or the minor person during the pregnancy or delivery of the minor person and for medically necessary postpartum care for the biological parent and the minor person.

(5) Ordinary and necessary living expenses of the mother including but not limited to the costs of housing, food, utilities, and transportation for medical purposes related to the pregnancy and birth of the child, in an amount not to exceed two thousand dollars and for no longer than thirty days after the birth of the minor person.

(6) Costs of the counseling provided to the biological parents prior to the birth of the child, prior to the release of custody, and any counseling provided to the biological parents for not more than sixty days after the birth of the child.

(7) Living expenses or care of the minor person during the pendency of the termination of parental rights proceedings.

b. All payments for allowable expenses shall be made through the adoption service provider. An adoption service provider shall deposit all funds received from prospective adoptive parents as payments for allowable expenses for a designated biological parent into an escrow account established with a financial institution located in this state whose accounts are insured by the federal deposit insurance corporation, the national credit union administration, or the federal savings and loan insurance corporation. Such escrow funds shall not be commingled with other revenues or expense accounts of the adoption service provider and separate accounting shall be maintained for each prospective adoptive parent whose funds are deposited in the escrow account. Any escrow funds not disbursed by the adoption service provider for the benefit of the designated biological parent shall be returned to the prospective adoptive parents with a full accounting of all deposits and disbursements. If the adoption service provider is a licensed attorney, use of the attorney's state-sanctioned trust account shall satisfy the requirements relative to the escrow account under this paragraph.

c. Any payments for allowable expenses shall not be made to a biological parent, but instead shall be made directly to the provider of the service, product, or other activity to which the allowable expense is attributable, if applicable.

d. The provisions of this subsection do not apply in a stepparent adoption.

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3. The juvenile court or court shall review the report prior to the adoption hearing and shall include findings regarding the allowance or disallowance of any disbursements or projected disbursements in the adoption decree.

[C77, 79, 81, §600.9]

94 Acts, ch 1046, §14, 15; 94 Acts, ch 1174, §7, 22; 99 Acts, ch 138, §3; 2000 Acts, ch 1145, §12; 2001 Acts, ch 24, §67, 74; 2013 Acts, ch 30, §261; 2017 Acts, ch 113, §7

Referred to in §600.8, 600.9A, 600.14A

600.9A Prohibited practices — penalties.

1. All of the following are prohibited practices regarding a proceeding under this chapter:

a. The provision of termination of parental rights, child placement, or adoption services to any biological or adoptive parent by any person other than an adoption service provider or the department.

b. The charging of a fee by an adoption service provider that is more than the usual and necessary fee commensurate with the services rendered.

c. The facilitation, encouragement, or advisement of adoptive parents by an adoption service provider to provide any thing of value beyond those expenditures allowed pursuant to section 600.9.

d. The knowing encouragement or solicitation of payment of allowable expenses or provision of anything of value beyond those expenditures allowed pursuant to section 600.9, by a person falsely representing that a child may be available for adoption with the intent to defraud the other person.

2. A person who commits a prohibited practice under this section is guilty of a serious misdemeanor for the first violation and a class "C" felony for any second or subsequent violation.

2017 Acts, ch 113, §8

Referred to in §600.14A

Other related prohibited practices, see §600A.10, 714.8(23)

600.10 Minimum residence of a minor child.

The adoption of a minor person shall not be decreed until that person has lived with the adoption petitioner for a minimum residence period of one hundred eighty days. However, the juvenile court or court may waive this period if the adoption petitioner is a stepparent or related to the minor person within the fourth degree of consanguinity or may shorten this period upon good cause shown when the juvenile court or court is satisfied that the adoption petitioner and the person to be adopted are suited to each other.

[C27, 31, 35, §10501-b2; C39, §**10501.2;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §600.2; C77, 79, 81, §600.10]

2000 Acts, ch 1145, §13

Referred to in §600.8, 600.12A, 600.14A, 600.20

600.11 Notice of adoption hearing.

1. The juvenile court or court shall set the time and place of the adoption hearing prescribed in section 600.12 upon application of the petitioner. The juvenile court or court may continue the adoption hearing if the notice prescribed in subsections 2 and 4 or subsections 3 and 4, as applicable, is given, except that such notice shall only be given at least ten days prior to the date which has been set for the continuation of the adoption hearing.

2. *a.* Unless the person to be adopted is an adult and subsection 3 is applicable, at least twenty days before the adoption hearing, a copy of the petition and its attachments and a notice of the adoption hearing shall be given by the adoption petitioner to all of the following:

(1) A guardian, guardian ad litem if appointed for the adoption proceedings, and custodian of, and a person in a parent-child relationship with the person to be adopted. This subparagraph does not require notice to be given to a person whose parental rights have been terminated with regard to the person to be adopted.

(2) Any person who is designated to make an investigation and report under section 600.8.

(3) Any other person who is required to consent under section 600.7.

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(4) A person who has been granted visitation rights with the child to be adopted pursuant to section 600C.1.

(5) A person who is ordered to pay support pursuant to chapter 234, 252A, 252C, 252F, 598, 600B, or any other chapter of the Code, for a person eighteen years of age or older who is being adopted by a stepparent, and the support order or order requires payment of support for any period of time after the child reaches eighteen years of age.

b. (1) At least twenty days prior to the adoption hearing, a copy of the order setting the adoption hearing shall be provided to siblings of the person to be adopted when either of the following applies:

(a) The sibling and the person to be adopted have an existing relationship.

(b) There is a court finding that ongoing contact with the person to be adopted is in the best interest of each sibling and the person to be adopted was a minor child when the parents of the person to be adopted had their parental rights terminated subsequent to the person to be adopted having been adjudicated a child in need of assistance.

(2) Notwithstanding subsection 4, a copy of the order setting the adoption hearing may be provided to a sibling via ordinary mail if the sibling's address is known. A copy of an order setting an adoption hearing sent to a sibling under ten years of age shall be addressed to the sibling's custodian or guardian.

(3) This paragraph does not require a copy of the order setting the adoption hearing to be provided to any of the following:

(a) A person whose parental rights have been terminated with regard to the person to be adopted.

(b) Siblings who are placed with the sibling to be adopted at the time the court issued the order setting the adoption hearing.

(c) A previously adopted sibling, unless the siblings were the subjects of child in need of assistance or termination of parental rights proceedings that occurred at the same time.

c. Nothing in this subsection shall require the petitioner to give notice to self or to petitioner's spouse. A duplicate copy of the petition and its attachments shall be mailed to the department by the clerk of court at the time the petition is filed.

3. If the person to be adopted is an adult, at least twenty days before the adoption hearing, a copy of the petition and its attachments and a notice of the adoption hearing shall be given by the adoption petitioner to the person to be adopted and any other person who is required to consent to the adoption under section 600.7.

4. A notice of the adoption hearing shall state the time, place, and purpose of the hearing and shall be served in accordance with rule of civil procedure 1.305. Proof of the giving of notice shall be filed with the juvenile court or court prior to the adoption hearing. Acceptance of service by the party being given notice shall satisfy the requirements of this subsection.

[C27, 31, 35, §10501-b4; C39, §**10501.4;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §600.4; C77, 79, 81, §600.11]

94 Acts, ch 1174, §8, 22; 2000 Acts, ch 1145, §14; 2002 Acts, ch 1018, §20; 2005 Acts, ch 69, §54; 2007 Acts, ch 218, §207; 2011 Acts, ch 34, §133; 2022 Acts, ch 1096, §9; 2023 Acts, ch 134, §3; 2023 Acts, ch 140, §9, 10; 2025 Acts, ch 57, §4, 5

Referred to in §600.12, 600.12A, 600.14A

2025 amendment to subsection 2, paragraph a, subparagraph (5) applies to a support order, decree, or judgment entered or pending on or after July 1, 2025; 2025 Acts, ch 57, §5

600.12 Adoption hearing.

1. An adoption hearing shall be conducted informally as a hearing in equity. The hearing shall be reported or electronically recorded.

2. Only those persons notified under section 600.11 and their witnesses and legal counsel or persons requested by the juvenile court or court to be present shall be admitted to the court chambers while an adoption hearing is being conducted. The adoption petitioner and the person to be adopted shall be present at the hearing, unless the presence of either is excused by the juvenile court or court.

3. Any person admitted to the hearing shall be heard and allowed to present evidence

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upon request and according to the manner in which the juvenile court or court conducts the hearing.

[C27, 31, 35, §10501-b4; C39, §**10501.4;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §600.4; C77, 79, 81, §600.12]

2000 Acts, ch 1145, §15; 2021 Acts, ch 66, §1
Referred to in §600.7, 600.8, 600.11, 600.14A

600.12A Death of person to be adopted — process for final adoption decree.

1. If the person to be adopted dies following the filing of an adoption petition pursuant to section 600.3, but prior to issuance of a final adoption decree pursuant to section 600.13, the juvenile court or court may waive any investigations and reports required pursuant to section 600.8 that remain uncompleted, waive the minimum residence requirements pursuant to section 600.10, proceed to the adoption hearing, and issue a final adoption decree, unless any person to whom notice is to be provided pursuant to section 600.11 objects to the adoption.

2. If the person to be adopted dies following termination of the parental rights of the person's biological parents but prior to the filing of an adoption petition, the person who was the guardian or custodian of the person to be adopted prior to the person's death or the person who was in a parent-child relationship with the person to be adopted prior to the person's death may file an adoption petition and the juvenile court or court in the interest of justice may waive any other procedures or requirements related to the adoption, proceed to the adoption hearing, and issue a final adoption decree, unless any person to whom notice is to be provided pursuant to section 600.11 objects to the adoption.

3. A final adoption decree issued pursuant to this section terminates any parental rights existing prior to the time of its issuance and establishes the parent-child relationship between the adoption petitioner and the person adopted. However, the final adoption decree does not confer any rights on the adoption petitioner to the estate of the adopted person and does not confer any rights on the adopted person to the estate of the adoption petitioner.

98 Acts, ch 1064, §1, 3; 98 Acts, ch 1190, §31; 2000 Acts, ch 1145, §16

600.13 Adoption decrees.

1. At the conclusion of the adoption hearing, the juvenile court or court shall do one of the following:

a. Issue a final adoption decree.

b. Issue an interlocutory adoption decree.

c. Issue a standby adoption decree pursuant to section 600.14A.

d. Dismiss the adoption petition if the requirements of this chapter have not been met or if dismissal of the adoption petition is in the best interest of the person whose adoption has been petitioned. Upon dismissal, the juvenile court or court shall determine who is to be guardian or custodian of a minor child, including the adoption petitioner if it is in the best interest of the minor person whose adoption has been petitioned.

2. An interlocutory adoption decree automatically becomes a final adoption decree at a date specified by the juvenile court or court in the interlocutory adoption decree, which date shall not be less than one hundred eighty days nor more than three hundred sixty days from the date the interlocutory decree is issued. However, an interlocutory adoption decree may be vacated prior to the date specified for it to become final. Also, the juvenile court or court may provide in the interlocutory adoption decree for further observation, investigation, and report of the conditions of and the relationships between the adoption petitioner and the person petitioned to be adopted.

3. If an interlocutory adoption decree is vacated under subsection 2, it shall be void from the date of issuance and the rights, duties, and liabilities of all persons affected by it shall, unless they have become vested, be governed accordingly. Upon vacation of an interlocutory adoption decree, the juvenile court or court shall proceed under the provisions of subsection 1, paragraph "*d*".

4. A final adoption decree terminates any parental rights, except those of a spouse of the adoption petitioner, existing at the time of its issuance and establishes the parent-child relationship between the adoption petitioner and the person petitioned to be adopted. Unless

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otherwise specified by law, such parent-child relationship shall be deemed to have been created at the birth of the child.

5. *a.* An interlocutory or a final adoption decree shall be entered with the clerk of court. Such decree shall set forth any facts of the adoption petition which have been proven to the satisfaction of the juvenile court or court and any other facts considered to be relevant by the juvenile court or court and shall grant the adoption petition. If so designated in the adoption decree, the name of the adopted person shall be changed by issuance of that decree.

b. The clerk of the court shall, within thirty days of issuance, deliver one certified copy of any adoption decree to the petitioner, at no charge, one copy of any adoption decree to the department and any adoption service provider who placed a minor person for adoption, at no charge, and one certified copy of any adoption decree, and any contact preference form or medical history form associated with the certified copy of any adoption decree for the purposes of section 144.24A, to the state registrar of vital statistics to prepare a certificate of birth as prescribed in section 144.19.

c. Upon receipt of the certified copy of the adoption decree, the state registrar shall prepare a new birth certificate pursuant to section 144.23 and shall do one of the following, as applicable:

(1) Deliver to the parents named in the decree a copy of the new birth certificate along with a document, developed and furnished by the department, listing all postadoption services available to adoptive families in the state.

(2) Deliver to any adult person adopted by the decree a copy of the new birth certificate.

d. The parents shall pay the fee prescribed in section 144.46.

e. Upon receipt of the certified copy of the adoption decree, the state registrar shall also attach a copy of any contact preference form or medical history form included with the certified copy to the original certificate of birth for the purposes of section 144.24A.

f. If the person adopted was born outside this state but in the United States, the state registrar shall forward the certified copy of the adoption decree to the appropriate agency in the state of birth.

g. A copy of any interlocutory adoption decree vacation shall be delivered and another birth certificate shall be prepared in the same manner as a certified copy of the adoption decree is delivered and the birth certificate was originally prepared.

[R60, §2601, 2602, 2603; C73, §2308, 2309, 2310; C97, §3251, 3252, 3253; S13, §3253; C24, §10498, 10499, 10500; C27, 31, 35, §10501-b5, 10501-b6, 10501-b8; C39, §**10501.5, 10501.6, 10501.8;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §600.5, 600.6, 600.8; C77, 79, 81, §600.13]

89 Acts, ch 140, §2; 99 Acts, ch 43, §2; 2000 Acts, ch 1145, §17; 2000 Acts, ch 1232, §83; 2001 Acts, ch 24, §69, 74; 2001 Acts, ch 57, §4; 2002 Acts, ch 1040, §3, 5; 2003 Acts, ch 44, §101; 2017 Acts, ch 113, §9; 2018 Acts, ch 1045, §2; 2021 Acts, ch 113, §3

Referred to in §144.13A, 600.7, 600.7B, 600.12A

600.14 Appeal — rules.

1. An appeal from any final order or decree rendered under this chapter or chapter 600A shall be taken in the same manner as an appeal is taken from a final judgment under the rules of civil procedure. However, a rule of civil procedure provision regarding a minimum amount of value in controversy shall not bar an adoption appeal. The supreme court shall review an adoption appeal de novo.

2. The supreme court may adopt rules which provide for the expediting of contested cases under this chapter and chapter 600A.

[C77, 79, 81, §600.14]

94 Acts, ch 1174, §9, 22; 2018 Acts, ch 1041, §127

600.14A Standby adoption.

1. As used in this section:

a. "*Standby adoption*" means an adoption in which a terminally ill parent consents to termination of parental rights and the issuance of a final adoption decree effective upon the occurrence of a future event, which is either the death of the terminally ill parent or the request of the parent for the issuance of a final adoption decree.

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b. "Terminally ill parent" means an individual who has a medical prognosis by a licensed physician that the individual has an incurable and irreversible condition which will lead to death.

2. A terminally ill parent may consent to termination of parental rights and adoption of a child under a standby adoption if the other parent of the child is not living or the other parent has previously had the parent's parental rights terminated.

3. A person who meets the qualifications to file an adoption petition pursuant to section 600.4 may file a petition for standby adoption. A standby adoption shall comply with the requirements of sections 600.7 through 600.12. However, the court may order that the completion of placement investigations and reports be expedited based on the circumstances of a particular case. The court may waive the minimum residence period requirement pursuant to section 600.10 to expedite the standby adoption if necessary.

4. If a consent to a standby adoption is attached to an adoption petition pursuant to section 600.6, the court determines that the requirements of this chapter relative to a standby adoption are met, and the court determines that the standby adoption is in the best interest of the child to be adopted, the court shall issue a standby adoption decree or a final adoption decree. However, the terminally ill parent's parental rights shall not be terminated and the standby adoption shall not be finalized until the death of the terminally ill parent or the request of the terminally ill parent for issuance of the final adoption decree.

5. A standby adoption decree shall become final upon notice of the death of the terminally ill parent or upon the terminally ill parent's request that a final adoption decree be issued. If the court determines at the time of the notice or request that the standby adoption is still in the best interest of the child, the court shall issue a final adoption decree.

2001 Acts, ch 57, §5
Referred to in §600.3, 600.6, 600.13

600.15 Foreign and international adoptions.

1. A decree establishing a parent-child relationship by adoption which is issued pursuant to due process of law by a juvenile court or court of any other jurisdiction within or outside the United States shall be recognized in this state.

2. For an adoption based on a decree issued by a foreign jurisdiction within the United States, an investigator shall conduct a postplacement investigation and issue a postplacement report as provided in section 600.8.

3. *a.* For an adoption based on a decree issued by a jurisdiction outside the United States, an investigator shall conduct a postplacement investigation that consists of a minimum of three face-to-face visits with the minor person and the adoptive parents during the first year after the placement, with the first such visit to be conducted within sixty days of the placement of the minor person in the adoptive home. Additional visits shall be conducted if required by the jurisdiction that issued the decree.

b. The postplacement investigation and report under this subsection shall include documentation that any unique needs of the minor person are being appropriately met through the placement.

[C77, 79, 81, §600.15]

87 Acts, ch 140, §1 – 3; 98 Acts, ch 1064, §2; 99 Acts, ch 138, §4; 2000 Acts, ch 1145, §18; 2001 Acts, ch 24, §67, 74; 2002 Acts, ch 1040, §4, 5; 2014 Acts, ch 1029, §3
Referred to in §144.25A

600.16 Adoption record — penalty for violations.

1. Any information compiled under section 600.8, subsection 1, paragraph "*c*", relating to medical and developmental histories shall be made available at any time by the clerk of court, the department, or any adoption service provider that made the placement to:

a. The adopting parents.

b. The adopted person, provided that person is an adult at the time the request for information is made. For the purposes of this paragraph "*adult*" means a person twenty-one years of age or older or a person who attains majority by marriage.

c. Any person approved by the department if the person uses this information solely for

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the purposes of conducting a legitimate medical research project or of treating a patient in a medical facility.

d. A descendant of an adopted person.

2. Information regarding an adopted person's existing medical and developmental history and family medical history, which meets the definition of background information in section 600.8, subsection 1, paragraph "*c*", shall be made available as provided in subsection 1. However, the identity of the adopted person's biological parents shall not be disclosed.

3. The provisions of this section also apply to information collected pursuant to section 600A.4, pertaining to the family medical history, medical and developmental history, and social history of the person to be adopted.

4. Any person other than the adopting parents or the adopted person, who discloses information in violation of this section, is guilty of a simple misdemeanor for the first offense, a serious misdemeanor for a second offense, and an aggravated misdemeanor for a third or subsequent offense.

[C46, §600.9; C50, 54, 58, 62, 66, 71, 73, 75, §600.9, 600.10; C77, 79, 81, §600.16]

89 Acts, ch 102, §7; 91 Acts, ch 243, §3; 92 Acts, ch 1142, §1; 92 Acts, ch 1196, §3; 94 Acts, ch 1046, §16; 94 Acts, ch 1174, §10, 11, 22; 99 Acts, ch 138, §5; 2017 Acts, ch 113, §10

Referred to in §237.21, 238.24, 600.16B, 600A.4

600.16A Termination and adoption records closed — exceptions — penalty.

1. The permanent termination of parental rights record of the juvenile court under chapter 600A and the permanent adoption record of the juvenile court or court shall be sealed by the clerk of the juvenile court or the clerk of court, as appropriate, when they are complete and after the time for appeal has expired.

2. With the exception of access to the original certificate of birth as provided in section 144.24A, all of the papers and records pertaining to a termination of parental rights under chapter 600A and to an adoption shall not be open to inspection and the identity of the biological parents of an adopted person shall not be revealed except under any of the following circumstances:

a. The department or an adoption service provider involved in placement shall contact the adopting parents or the adult adopted child regarding eligibility of the adopted child for benefits based on entitlement of benefits or inheritance from the terminated biological parents.

b. The juvenile court or court, for good cause, shall order the opening of the permanent adoption record of the juvenile court or court for the adopted person who is an adult and reveal the names of either or both of the biological parents following consideration of both of the following:

(1) A biological parent may file an affidavit requesting that the juvenile court or court reveal or not reveal the parent's identity. The juvenile court or court shall consider any such affidavit in determining whether there is good cause to order opening of the records. To facilitate the biological parents in filing an affidavit, the department shall, upon request of a biological parent, provide the biological parent with an adoption information packet containing an affidavit for completion and filing with the juvenile court or court.

(2) If the adopted person who applies for revelation of the biological parents' identity has a sibling who is a minor and who has been adopted by the same parents, the juvenile court or court may deny the application on the grounds that revelation to the applicant may also indirectly and harmfully permit the same revelation to the applicant's minor sibling.

c. A biological sibling of an adopted person may file or may request that the department file an affidavit in the juvenile court or court in which the adopted person's adoption records have been sealed requesting that the juvenile court or court reveal or not reveal the sibling's name to the adopted person. The juvenile court or court shall consider any such affidavit in determining whether there is good cause to order opening of the records upon application for revelation by the adopted person. However, the name of the biological sibling shall not be revealed until the biological sibling has attained majority.

d. The juvenile court or court may, upon competent medical evidence, open termination or adoption records if opening is shown to be necessary to save the life of or prevent

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irreparable physical or mental harm to an adopted person or the person's offspring. The juvenile court or court shall make every reasonable effort to prevent the identity of the biological parents from becoming revealed under this paragraph to the adopted person. The juvenile court or court may, however, permit revelation of the identity of the biological parents to medical personnel attending the adopted person or the person's offspring. These medical personnel shall make every reasonable effort to prevent the identity of the biological parents from becoming revealed to the adopted person.

e. Subject to section 235A.15, the juvenile court or court shall order the opening of the permanent adoption record of the juvenile court or court, the permanent termination of parental rights record under chapter 232, or both, pertaining to an adopted person who is an adult, upon request of the adopted person if the parents of the adopted person had their parental rights terminated pursuant to chapter 232.

3. *a.* In addition to other procedures by which adoption records may be opened under this section, if both of the following conditions are met, the department, the clerk of court, or the adoption service provider that made the placement shall open the adoption record for inspection and shall reveal the identity of the biological parents to the adult adopted child or the identity of the adult adopted child to the biological parents:

(1) A biological parent has placed in the adoption record written consent to revelation of the biological parent's identity to the adopted child at an age specified by the biological parent, upon request of the adopted child.

(2) An adult adopted child has placed in the adoption record written consent to revelation of the identity of the adult adopted child to a biological parent.

b. A person who has placed in the adoption record written consent pursuant to paragraph *"a"*, subparagraph (1) or (2) may withdraw the consent at any time by placing a written withdrawal of consent statement in the adoption record.

c. Notwithstanding the provisions of this subsection, if the adult adopted person has a sibling who is a minor and who has also been adopted by the same parents, the department, the clerk of court, or the adoption service provider that made the placement may deny the request of either the adult adopted person or the biological parent to open the adoption records and to reveal the identities of the parties pending determination by the juvenile court or court that there is good cause to open the records pursuant to subsection 2.

4. An adopted person whose adoption became final prior to July 4, 1941, and whose adoption record was not required to be sealed at the time when the adoption record was completed, shall not be required to show good cause for an order opening the adoption record under this subsection, provided that the juvenile court or court shall consider any affidavit filed under this subsection.

5. Notwithstanding subsection 2, a termination of parental rights order issued pursuant to this chapter, section 600A.9, or any other chapter shall be disclosed to child support services, upon request, without court order.

6. Any person, other than the adopting parents or the adopted person, who discloses information in violation of this section, is guilty of a simple misdemeanor. This subsection shall not apply to department personnel who disclose information to personnel within the department for the purposes of ensuring continuity of the department's services to the child.

92 Acts, ch 1142, §2; 92 Acts, ch 1196, §4; 94 Acts, ch 1046, §17; 2000 Acts, ch 1145, §19 – 21; 2001 Acts, ch 79, §3; 2005 Acts, ch 112, §19; 2013 Acts, ch 30, §182; 2017 Acts, ch 113, §11 – 13; 2021 Acts, ch 113, §4; 2022 Acts, ch 1096, §10; 2023 Acts, ch 19, §1248; 2024 Acts, ch 1075, §1

Referred to in §144.24, 237.21, 238.24, 600.16B

600.16B Fees.

The supreme court shall prescribe and the department shall adopt rules, to defray the actual cost of the provision of information or the opening of records pursuant to section 600.16 or 600.16A.

92 Acts, ch 1196, §5; 2023 Acts, ch 19, §1249

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600.17 Financial assistance.

The department shall, within the limits of funds appropriated to the department and any gifts or grants received by the department for this purpose, provide financial assistance to any person who adopts a child with physical or mental disabilities or an older or otherwise hard-to-place child, if the adoptive parent has the capability of providing a suitable home for the child but the need for special services or the costs of maintenance are beyond the economic resources of the adoptive parent.

1. Financial assistance shall not be provided when the special services are available free of cost to the adoptive parent or are covered by an insurance policy of the adoptive parent.

2. *"Special services"* means any medical, dental, therapeutic, educational, or other similar service or appliance required by an adopted child by reason of a mental or physical disability.

3. The department shall make adoption presubsidy and adoption subsidy payments to adoptive parents at the beginning of the month for the current month.

[C73, 75, §600.11; C77, 79, 81, §600.17]

83 Acts, ch 96, §157, 159; 96 Acts, ch 1129, §102; 2005 Acts, ch 175, §126; 2023 Acts, ch 19, §1250, 1251

Referred to in §234.47, 600.5, 600.18, 600.22, 627.19

600.18 Determination of assistance.

1. Any prospective adoptive parent desiring financial assistance shall state this fact in the petition for adoption. The department shall investigate the person petitioning for adoption and the child and shall file with the juvenile court or court a statement of whether the department will provide assistance as provided in section 600.17, this section, and sections 600.19 through 600.22, the estimated amount, extent, and duration of assistance, and any other information the juvenile court or court may order.

2. If the department is unable to determine that an insurance policy will cover the costs of special services, it shall proceed as if no policy existed, for the purpose of determining eligibility to receive assistance. The department shall, to the amount of financial assistance given, be subrogated to the rights of the adoptive parent in the insurance contract.

[C73, 75, §600.12; C77, 79, 81, §600.18]

83 Acts, ch 96, §157, 159; 2000 Acts, ch 1145, §22; 2018 Acts, ch 1041, §127; 2021 Acts, ch 80, §351; 2023 Acts, ch 19, §1252

Referred to in §600.5, 600.22, 627.19

600.19 Amount of assistance.

The amount of financial assistance for maintenance shall not exceed the amount the department would normally spend for foster care of the child. The amount of financial assistance for special services shall not exceed the amount the department would normally spend if it were to provide these services.

[C73, 75, §600.13; C77, 79, 81, §600.19]

Referred to in §600.5, 600.18, 600.22, 627.19

600.20 Availability of assistance.

Financial assistance shall be available only if the child to be adopted was under the guardianship of the state, county, or an agency immediately prior to adoption. The one-hundred-eighty-day period of residence in the proposed home required in section 600.10 shall not apply to this section.

[C73, 75, §600.14; C77, 79, 81, §600.20]

2017 Acts, ch 113, §14

Referred to in §600.5, 600.18, 600.22, 627.19

600.21 Termination of assistance.

Financial assistance shall terminate when the need for assistance no longer exists. Financial assistance shall not extend beyond the adopted child's twenty-first birthday.

[C73, 75, §600.15; C77, 79, 81, §600.21]

Referred to in §600.5, 600.18, 600.22, 627.19

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600.22 Rules.

The department shall adopt rules in accordance with the provisions of chapter 17A, which are necessary for the administration of sections 600.17 through 600.21 and 600.23.

[C73, 75, §600.16; C77, 79, 81, §600.22]

83 Acts, ch 96, §157, 159; 87 Acts, ch 102, §1; 2021 Acts, ch 80, §352; 2023 Acts, ch 19, §1253

Referred to in §600.5, 600.18, 627.19

600.23 Adoption assistance compact.

1. *Purpose.* The department may enter into interstate agreements with state agencies of other states for the protection of children on behalf of whom adoption subsidy is being provided by the department and to provide procedures for interstate children's adoption assistance payments, including medical payments.

2. *Compact authorization and definitions.*

a. The department may enter into interstate agreements with state agencies of other states for the provision of medical services to adoptive families who participate in the subsidized adoption or adoption assistance program.

b. The department may develop, participate in the development of, negotiate, and enter into one or more interstate compacts on behalf of this state with other states to implement one or more of the purposes set forth in this section. When so entered into, and for so long as it shall remain in force, such a compact shall have the force and effect of law.

c. For the purposes of this section, the term *"state"* means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or a territory or possession of or administered by the United States.

d. For the purposes of this section, the term *"adoption assistance or subsidized adoption state"* means the state that is signatory to an adoption assistance agreement in a particular case.

e. For the purposes of this section, the term *"residence state"* means the state of which the child is a resident by virtue of the residence of the adoptive parents.

3. *Compact contents.* A compact entered into pursuant to the authority conferred by this section shall have the following content:

a. A provision making it available for joinder by all states.

b. A provision or provisions for withdrawal from the compact upon written notice to the parties, but with a period of one year between the date of the notice and the effective date of the withdrawal.

c. A requirement that the protections afforded by or pursuant to the compact continue in force for the duration of the adoption assistance and be applicable to all children and their adoptive parents who on the effective date of the withdrawal are receiving adoption assistance from a party state other than the one in which they are resident and have their principal place of abode.

d. A requirement that each instance of adoption assistance to which the compact applies be covered by an adoption assistance agreement in writing between the adoptive parents and the state child welfare agency of the state which undertakes to provide the adoption assistance, and that any such agreement be expressly for the benefit of the adopted child and enforceable by the adoptive parents, and the state agency providing the adoption assistance.

e. Such other provisions as may be appropriate to implement the proper administration of the compact.

4. *Medical assistance.*

a. A child with special needs residing in this state who is the subject of an adoption assistance agreement with another state shall be entitled to receive a medical assistance card from this state upon the filing of a certified copy of the adoption assistance agreement obtained from the adoption assistance state. In accordance with regulations of the department, the adoptive parents shall be required at least annually to show that the agreement is still in force or has been renewed.

b. The department shall consider the holder of a medical assistance card pursuant to this section as any other holder of a medical assistance card under the laws of this state and shall

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process and make payment on claims on account of such holder in the same manner and pursuant to the same conditions and procedures as for other recipients of medical assistance.

c. The department shall provide coverage and benefits for a child who is in another state and who is covered by an adoption subsidy agreement made prior to July 1, 1987, by the department for the coverage or benefits, if any, not provided by the residence state. The adoptive parents acting for the child may submit evidence of payment for services or benefit amounts not payable in the residence state and shall be reimbursed for such expense. However, reimbursement shall not be made for services or benefit amounts covered under any insurance or other third party medical contract or arrangement held by the child or the adoptive parents. The additional coverages and benefit amounts provided pursuant to this subsection shall be for services to the cost of which there is no federal contribution, or which, if federally aided, are not provided by the residence state. Such regulations shall include procedures to be followed in obtaining prior approvals for services in those instances where required for the assistance.

d. A person who submits a claim for payment or reimbursement for services or benefits pursuant to this subsection or makes any statement in connection therewith, which claim or statement the maker knows or should know to be false, misleading, or fraudulent is guilty of an aggravated misdemeanor.

e. This subsection applies only to medical assistance for children under adoption assistance agreements from states that have entered into a compact with this state under which the other state provides medical assistance to children with special needs under adoption subsidy agreements made by this state. All other children entitled to medical assistance pursuant to adoption assistance agreements entered into by this state shall be eligible to receive medical assistance in accordance with the laws and procedures applicable to medical assistance.

87 Acts, ch 102, §2; 2023 Acts, ch 19, §1254 – 1256
Referred to in §600.22

600.24 Access to records.

The department may allow access to adoption records held by the department or an agency if all of the following conditions are met:

1. The identity of the biological parents of the adopted person is concealed from the person gaining access to the records.

2. The person gaining access to the records uses them solely for the purposes of conducting a legitimate medical research project or of treating a patient in a medical facility.

[C79, 81, §600.24]
92 Acts, ch 1142, §3; 94 Acts, ch 1046, §18

600.25 Pending parental rights unaffected.

A termination of parental rights proceeding or an adoption proceeding pending on January 1, 1977, or a release of parental rights or affidavit of consent or consent to adopt properly given prior to January 1, 1977 shall not be affected by the provisions of chapter 600A.

[C79, 81, §600.25]

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CHAPTER 600A

TERMINATION OF PARENTAL RIGHTS

Referred to in §144.13A, 232.6, 232B.3, 238.32, 321.180B, 321.184, 600.8, 600.14, 600.16A, 600.25, 600B.41A, 814.11, 815.10, 815.11

Proceedings prior to January 1, 1977; see §600.25

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600A.1 Construction.

1. This chapter shall be construed liberally. The best interest of the child subject to the proceedings of this chapter shall be the paramount consideration in interpreting this chapter. However, the interests of the parents of this child or any natural person standing in the place of the parents to this child shall be given due consideration in this interpretation.

2. The best interest of a child requires that each biological parent affirmatively assume the duties encompassed by the role of being a parent. In determining whether a parent has affirmatively assumed the duties of a parent, the court shall consider, but is not limited to consideration of, the fulfillment of financial obligations, demonstration of continued interest in the child, demonstration of a genuine effort to maintain communication with the child, and demonstration of the establishment and maintenance of a place of importance in the child's life. Application of this chapter is limited to termination of parental rights proceedings and shall not apply to actions to establish paternity or to overcome established paternity.

[C77, 79, 81, §600A.1]

94 Acts, ch 1174, §12, 22; 2018 Acts, ch 1041, §127

600A.2 Definitions.

As used in this chapter:

1. *"Adoption service provider"* means an agency or a licensed attorney.
2. *"Adult"* means a person who is married or eighteen years of age or older.
3. *"Agency"* means a child-placing agency as defined in section 238.1.
4. *"Biological parent"* means a parent who has been a biological party to the procreation of the child.
5. *"Certified adoption investigator"* means a person who is certified and approved by the department, after inspection by the department of inspections, appeals, and licensing, as being capable of conducting an investigation under section 600.8.
6. *"Child"* means a son or daughter of a parent, whether by birth or adoption.
7. *"Court"* means a district court.
8. *"Custodian"* means a stepparent or a relative within the fourth degree of consanguinity to a minor child who has assumed responsibility for that child, a person who has accepted a release of custody, or a person appointed by a court or juvenile court having jurisdiction over a child. A custodian has the rights and duties provided in section 600A.2A.
9. *"Department"* means the department of health and human services.
10. *"Guardian"* means a person who is not the parent of a minor child, but who has been appointed by a court or juvenile court having jurisdiction over the minor child to make important decisions which have permanent effect on the life and development of that child and to promote the general welfare of that child. A guardian has the rights and duties provided in section 600A.2B. A guardian may be a court or a juvenile court. *"Guardian"* does

not mean *"conservator"*, as defined in section 633.3, although a person who is appointed to be a guardian may also be appointed to be a conservator.

11. *"Guardian ad litem"* means a person appointed by a court or juvenile court having jurisdiction over the minor child to represent that child in a legal action. A guardian ad litem appointed under this chapter shall be a practicing attorney.

12. *a. "Indigent"* means any of the following:

(1) A person has an income level at or below one hundred twenty-five percent of the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

(2) A person has an income level greater than one hundred twenty-five percent but at or below two hundred percent of the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services, and the court makes a written finding that not appointing an attorney would create a substantial hardship.

b. In making the determination of a person's ability to pay for the cost of an attorney or a guardian ad litem, the court shall consider the person's income and the availability of any assets subject to execution, including but not limited to cash, stocks, bonds, and any other property which may be applied to the satisfaction of judgments, and the nature and complexity of the case.

13. *"Juvenile court"* means the juvenile court established by section 602.7101.

14. *"Minor"* means an unmarried person who is under the age of eighteen years.

15. *"Parent"* means a father or mother of a child, whether by birth or adoption.

16. *"Parent-child relationship"* means the relationship between a parent and a child recognized by the law as conferring certain rights and privileges and imposing certain duties. The term extends equally to every child and every parent, regardless of the marital status of the parents of the child. The rights, duties, and privileges recognized in the parent-child relationship include those which are maintained by a guardian, custodian, and guardian ad litem.

17. *"Putative father"* means a man who is alleged to be or who claims to be the biological father of a child born to a woman to whom the man is not married at the time of birth of the child.

18. *"Stepparent"* means a person who is the spouse of a parent in a parent-child relationship, but who is not a parent in that parent-child relationship.

19. *"Termination of parental rights"* means a complete severance and extinguishment of a parent-child relationship between one or both living parents and the child.

20. *"To abandon a minor child"* means that a parent, putative father, custodian, or guardian rejects the duties imposed by the parent-child relationship, guardianship, or custodianship, which may be evinced by the person, while being able to do so, making no provision or making only a marginal effort to provide for the support of the child or to communicate with the child.

[C77, 79, 81, §600A.2]

83 Acts, ch 96, §157, 159; 83 Acts, ch 186, §10111, 10201; 90 Acts, ch 1271, §1510; 94 Acts, ch 1046, §19; 94 Acts, ch 1174, §13, 22; 97 Acts, ch 161, §1; 97 Acts, ch 209, §27, 30; 2005 Acts, ch 107, §2, 14; 2008 Acts, ch 1031, §63; 2009 Acts, ch 133, §248; 2017 Acts, ch 113, §15 – 17; 2023 Acts, ch 19, §1257, 2033; 2024 Acts, ch 1112, §1

Referred to in §233.1, 422.12A, 600.2, 600B.41A, 714I.4

600A.2A Rights and duties of custodian.

1. The rights and duties of a custodian with respect to a child shall be as follows:

a. To maintain or transfer to another the physical possession of that child.

b. To protect, train, and discipline that child.

c. To provide food, clothing, housing, and ordinary medical care for that child.

d. To consent to emergency medical care, including surgery.

e. To sign a release of medical information to a health professional.

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2. All rights and duties of a custodian shall be subject to any residual rights and duties remaining in a parent or guardian.

2008 Acts, ch 1031, §64
Referred to in §600A.2

600A.2B Rights and duties of guardian.

Unless otherwise enlarged or circumscribed by a court or juvenile court having jurisdiction over the minor child or by operation of law, the rights and duties of a guardian with respect to a minor child shall be as follows:

1. To consent to marriage, enlistment in the armed forces of the United States, or medical, psychiatric, or surgical treatment.
2. To serve as custodian, unless another person has been appointed custodian.
3. To make reasonable visitations if the guardian does not have physical possession or custody of the minor child.
4. To consent to adoption and to make any other decision that the parents could have made when the parent-child relationship existed.

2008 Acts, ch 1031, §65
Referred to in §600A.2

600A.3 Exclusivity.

1. Termination of parental rights shall be accomplished only according to the provisions of this chapter. However, termination of parental rights between an adult child and the child's parents may be accomplished by a decree of adoption establishing a new parent-child relationship.
2. If a proceeding held under this chapter involves an Indian child as defined in section 232B.3 and the proceeding is subject to the Iowa Indian child welfare Act under chapter 232B, the proceeding and other actions taken in connection with the proceeding or this chapter shall comply with chapter 232B. In any proceeding held or action taken under this chapter involving an Indian child, the applicable requirements of the federal Adoption and Safe Families Act of 1997, Pub. L. No. 105-89, shall be applied to the proceeding or action in a manner that complies with chapter 232B and the federal Indian Child Welfare Act, Pub. L. No. 95-608.

[C66, 71, 73, 75, §232.40; C77, 79, 81, §600A.3]
2003 Acts, ch 153, §17; 2014 Acts, ch 1026, §126; 2018 Acts, ch 1041, §127

600A.4 Relationship unaltered — release of custody — voluntariness of release.

1. A parent shall not permanently alter the parent-child relationship, except as ordered by a juvenile court or court. However, custody of a minor child may be assumed by a stepparent or a relative of that child within the fourth degree of consanguinity or transferred by an acceptance of a release of custody. A person who assumes custody or an adoption service provider which accepts a release of custody under this section becomes, upon assumption or acceptance, the custodian of the minor child.
2. A release of custody:

a. Shall be accepted only by an adoption service provider.

b. Shall not be accepted by a person who in any way intends to adopt the child who is the subject of the release.

c. Shall be in writing.

d. (1) Shall contain written acknowledgment of the biological parents that after the birth of the child three hours of counseling regarding the decision to release custody and the alternatives available have been offered to the biological parents by the department or an adoption service provider. The release of custody shall also contain written acknowledgment of the acceptance or refusal of the counseling by the biological parent.

(2) If accepted, the counseling shall be provided after the birth of the child and prior to the signing of a release of custody or the filing of a petition for termination of parental rights as applicable. Counseling shall be provided only by a person who is qualified under rules adopted by the department which shall include a requirement that the person complete a minimum number of hours of training in the area of adoption-related counseling approved

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by the department. If counseling is accepted, the counselor shall provide an affidavit, which shall be attached to the release of custody, when practicable, certifying that the counselor has provided the biological parent with the requested counseling and documentation that the person is qualified to provide the requested counseling as prescribed by this paragraph *"d"*. The requirements of this paragraph *"d"* do not apply to a release of custody which is executed for the purposes of a stepparent adoption.

e. Shall contain a notice to the biological parent that if the biological parent chooses to identify the other biological parent and knowingly and intentionally identifies a person who is not the other biological parent in the written release of custody or in any other document related to the termination of parental rights proceedings, the biological parent who provides the incorrect identifying information is guilty of a simple misdemeanor.

f. Shall be accompanied by a contact preference form or medical history form completed by the biological parent of the person to be adopted and attached to the original certificate of birth as provided in section 144.24A. The contact preference form or medical history form shall be attached to any termination of parental rights order issued pursuant to section 600A.9.

g. Shall be accompanied by a report which includes, to the extent available, the complete family medical and social history of the person to be adopted including any known genetic, metabolic, or familial disorders and the complete medical and developmental history of the person to be adopted, and a social history of the minor child and the minor child's family but which does not disclose the identity of the biological parents of the person to be adopted. The social history may include but is not limited to the minor child's racial, ethnic, and religious background and a general description of the minor child's biological parents and an account of the minor child's prior and existing relationship with any relative, foster parent, or other individual with whom the minor child regularly lives or whom the child regularly visits.

(1) A biological parent may also provide ongoing information to the adoptive parents, as additional medical or social history information becomes known, by providing information to the clerk of court, the department, or the adoption service provider that made the placement, and may provide the current address of the biological parent. The clerk of court, the department, or the adoption service provider that made the placement shall transmit the information to the adoptive parents if the address of the adoptive parents is known.

(2) A person who furnishes a report required under this paragraph *"g"* and the court shall not disclose any information upon which the report is based except as otherwise provided in this section and such a person is subject to the penalties provided in section 600.16, as applicable. A person who is the subject of any report may bring a civil action against a person who discloses the information in violation of this section.

(3) Information provided under this paragraph *"g"* shall not be used as evidence in any civil or criminal proceeding against a person who is the subject of the information.

(4) The department shall prescribe forms designed to obtain the family medical and social history and shall provide the forms at no charge to any adoption service provider or person who executes a release of custody of the minor child or who files a petition for termination of parental rights. The existence of this report does not limit a person's ability to petition the court for release of records in accordance with other provisions of law.

h. Shall be signed, not less than seventy-two hours after the birth of the child to be released, by all living parents. The seventy-two-hour minimum time period requirement shall not be waived.

i. Shall be witnessed by two persons familiar with the parent-child relationship.

j. Shall name the person who is accepting the release.

k. Shall be followed, within a reasonable time, by the filing of a petition for termination of parental rights under section 600A.5.

l. Shall state the purpose of the release, shall indicate that if it is not revoked it may be grounds for termination, and shall fully inform the signing parent of the manner in which a revocation of the release may be sought.

3. Notwithstanding the provisions of subsection 2, the department or an adoption service provider may assume custody of a minor child upon the signature of the one living parent who has possession of the minor child if the department or an adoption service provider

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immediately petitions the juvenile court designated in section 600A.5 to be appointed custodian and otherwise petitions, either in the same petition or within a reasonable time in a separate petition, for termination of parental rights under section 600A.5. Upon the custody petition, the juvenile court may appoint a guardian as well as a custodian.

4. Either a parent who has signed a release of custody, or a nonsigning parent, may, at any time prior to the entry of an order terminating parental rights, request the juvenile court designated in section 600A.5 to order the revocation of any release of custody previously executed by either parent. If such request is by a signing parent, and is within ninety-six hours of the time such parent signed a release of custody, the juvenile court shall order the release revoked. Otherwise, the juvenile court shall order the release or releases revoked only upon clear and convincing evidence that good cause exists for revocation. Good cause for revocation includes but is not limited to a showing that the release was obtained by fraud, coercion, or misrepresentation of law or fact which was material to its execution. In determining whether good cause exists for revocation, the juvenile court shall give paramount consideration to the best interests of the child including avoidance of a disruption of an existing relationship between a parent and child. The juvenile court shall also give due consideration to the interests of the parents of the child and of any person standing in the place of the parents.

[S13, §3260-c; C24, §3665; C27, 31, 35, §3661-a82, -a83, -a86; C39, §**3661.096, 3661.097, 3661.100;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §238.25, 238.26, 238.29; C77, 79, 81, §600A.4]

92 Acts, ch 1192, §1, 5; 94 Acts, ch 1174, §14, 15, 22; 99 Acts, ch 138, §6; 2013 Acts, ch 30, §161; 2017 Acts, ch 113, §18 – 21; 2021 Acts, ch 113, §5; 2023 Acts, ch 19, §1258

Referred to in §144.24A, 232B.7, 600.8, 600.16, 600A.8, 600A.10

600A.5 Petition for termination — venue — safety or security concerns.

1. The following persons may petition a juvenile court for termination of parental rights under this chapter if the child of the parent-child relationship is born or expected to be born within one hundred eighty days of the date of petition filing:

a. A parent or prospective parent of the parent-child relationship.

b. A custodian or guardian of the child.

2. A petition for termination of parental rights shall be filed, and venue shall lie, with the juvenile court in the county in which the guardian or custodian of the child resides or the child, the biological mother, or the pregnant woman is domiciled. If a juvenile court has made an order pertaining to a minor child under chapter 232, subchapter III, and that order is still in force, the termination proceedings shall be conducted pursuant to the provisions of chapter 232, subchapter IV.

3. A petition for termination of parental rights shall include the following:

a. The legal name, age, and domicile, if any, of the child.

b. The names, residences, and domicile of any:

(1) Living parents of the child.

(2) Guardian of the child.

(3) Custodian of the child.

(4) Guardian ad litem of the child.

(5) Petitioner.

(6) Person standing in the place of the parents of the child.

c. A plain statement of the facts and grounds in section 600A.8 which indicate that the parent-child relationship should be terminated.

d. A plain statement explaining why the petitioner does not know any of the information required under paragraphs *"a"* and *"b"* of this subsection.

e. The signature and verification of the petitioner.

f. If the petitioner intends to access public funds for the fees of the guardian ad litem or the respondent's attorney fees, an attached financial affidavit, signed under penalty of perjury, reflecting the household income and family size of the petitioner.

4. If the petitioner alleges and affirms in the verified petition that the petitioner has a legitimate concern for the safety or security of the child or petitioner, all of the following shall apply:

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a. Notwithstanding subsection 2, the petitioner may file the petition in a county within the same judicial district but other than those counties specified, and venue shall be in the county in which the petition is filed.

b. The court shall keep confidential the residence and domicile of the child and the petitioner disclosed in the petition.

[C66, 71, 73, 75, §232.42, 232.43; C77, 79, 81, §600A.5]

94 Acts, ch 1046, §20; 95 Acts, ch 49, §21; 95 Acts, ch 182, §25; 2017 Acts, ch 87, §1; 2020 Acts, ch 1062, §94; 2024 Acts, ch 1112, §2

Referred to in §600A.4, 600A.6, 600A.8

600A.6 Notice of termination hearing.

1. A termination of parental rights under this chapter shall, unless provided otherwise in this section, be ordered only after notice has been served on all necessary parties and these parties have been given an opportunity to be heard before the juvenile court except that notice need not be served on the petitioner or on any necessary party who is the spouse of the petitioner. *"Necessary party"* means any person whose name, residence, and domicile are required to be included on the petition under section 600A.5, subsection 3, paragraphs *"a"* and *"b"*, and any putative father who files a declaration of paternity in accordance with section 144.12A, or any unknown putative father, if any, except a biological parent who has been convicted of having sexually abused the other biological parent while not cohabiting with that parent as husband and wife, thereby producing the birth of the child who is the subject of the termination proceedings.

2. *a.* Prior to the service of notice on the necessary parties, the juvenile court shall appoint a guardian ad litem for a minor child if the child does not have a guardian or if the interests of the guardian conflict with the interests of the child. Such guardian ad litem shall be a necessary party under subsection 1 of this section.

b. A person who is appointed as a guardian ad litem for a minor child shall not also be the attorney for any party other than the minor child in any proceeding involving the minor child. The guardian ad litem may make an independent investigation of the interest of the child and may cause witnesses to appear before the court to provide testimony relevant to the best interest of the minor child.

3. Notice under this section may be served personally or constructively, as specified under subsections 4 and 5. This notice shall state:

a. The time and place of the hearing on termination of parental rights.

b. A clear statement of the purpose of the action and hearing.

c. A statement that the person against whom a proceeding for termination of parental rights is brought shall have the right to counsel pursuant to section 600A.6A.

4. A necessary party whose identity and location or address is known shall be served in accordance with rule of civil procedure 1.305 or sent by certified mail restricted delivery, whichever is determined to be the most effective means of notification. Such notice shall be served according to the rules of civil procedure relating to an original notice where not inconsistent with the provisions of this section. Notice pursuant to rule of civil procedure 1.305 shall be served not less than seven days prior to the hearing on termination of parental rights. Notice by certified mail restricted delivery shall be sent not less than fourteen days prior to the hearing on termination of parental rights. A notice by certified mail restricted delivery which is refused by the necessary party being noticed shall be sufficient notice to that party under this section. Acceptance of notice by the necessary party shall satisfy the requirements of this subsection.

5. A necessary party whose identity is known but whose location or address is unknown or all unknown putative fathers, if any, shall be served by published notice in the form provided in this subsection. If the identity of a necessary party is known but the location of the necessary party is unknown, notice by publication shall also include the name of the necessary party. The child's actual or expected date of birth and place of birth shall also be stated in the notice. Notice by publication shall be served according to the rules of civil procedure relating to an original notice where not inconsistent with the provisions of this section. Notice by publication shall be published once a week for two consecutive weeks in

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a medium which is reasonably expected to provide notice to the necessary party, the last publication to be not less than three days prior to the hearing on termination of parental rights. The notice shall be substantially in the following form:

> TO: ..... (OR) ALL PUTATIVE FATHERS OF A CHILD (EXPECTED TO BE) BORN ON THE ..... DAY OF ....., ..., IN ....., IOWA.
>
> You are notified that there is now on file in the office of the clerk of court for ..... county, a petition in case number ....., which prays for a termination of your parent-child relationship to a child (expected to be) born on the ..... day of ....., ... For further details contact the clerk's office. The petitioner's attorney is .....
>
> You are notified that there will be a hearing on the petition to terminate parental rights before the Iowa District Court for ..... County, at the Courthouse in ....., Iowa, at .....M. on the ..... day of ....., ...
> CLERK OF THE ABOVE COURT

6. Proof of service of notice in the manner prescribed shall be filed with the juvenile court prior to the hearing on termination of parental rights.

[C66, 71, 73, 75, §232.44, 232.45; C77, 79, 81, §600A.6]

94 Acts, ch 1046, §21; 94 Acts, ch 1174, §16 – 18, 22; 96 Acts, ch 1174, §8; 97 Acts, ch 173, §15; 2005 Acts, ch 107, §3, 14; 2013 Acts, ch 30, §261

Referred to in §233.2, 600A.6C, 600A.8

600A.6A Right to and appointment of counsel.

1. Upon the filing of a petition for termination of parental rights under this chapter, the parent identified in the petition shall have the right to counsel in connection with all subsequent hearings and proceedings.

2. If the parent against whom the petition is filed desires but is financially unable to employ counsel, the court shall appoint counsel for the person if the person requests appointment of counsel and the court determines that the person is indigent.

2005 Acts, ch 107, §4, 14; 2014 Acts, ch 1038, §3, 5

Referred to in §600A.6, 600A.6B, 602.1302

600A.6B Payment of attorney fees.

1. A person filing a petition for termination of parental rights under this chapter shall be responsible for the payment of reasonable attorney fees for services provided by counsel appointed pursuant to section 600A.6A in juvenile court or in an appellate proceeding initiated by the person filing the petition unless the person filing the petition is a private child-placing agency licensed under chapter 238 or the court determines that the person filing the petition is indigent.

2. If the person filing the petition is a private child-placing agency licensed under chapter 238 or if the person filing the petition is indigent, the prospective parent on whose behalf the petition is filed shall be responsible for the payment of reasonable attorney fees for services provided in juvenile court or an appellate proceeding for counsel appointed pursuant to section 600A.6A unless the court determines that the prospective parent on whose behalf the petition is filed is indigent.

3. If the prospective parent on whose behalf the petition is filed is indigent, and if the person filing the petition is indigent or a private child-placing agency licensed under chapter 238, the appointed counsel shall be paid reasonable attorney fees as determined by the state public defender from the indigent defense fund established in section 815.11.

4. If the parent against whom the petition is filed appeals a termination order under section 600A.9, subsection 1, paragraph *"b"*, the person who filed the petition or the person on whose behalf the petition is filed shall not be responsible for the payment of attorney fees for services provided by counsel appointed pursuant to section 600A.6A in the appellate proceeding. Instead, the appointed attorney shall be paid reasonable attorney fees as

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determined by the state public defender from the indigent defense fund established pursuant to section 815.11.

5. The state public defender shall review all the claims submitted under subsection 3 or 4 and shall have the same authority with regard to the payment of these claims as the state public defender has with regard to claims submitted under chapters 13B and 815, including the authority to adopt rules concerning the review and payment of claims submitted.

2005 Acts, ch 107, §5, 14; 2006 Acts, ch 1071, §1, 2; 2009 Acts, ch 133, §249; 2013 Acts, ch 105, §2; 2014 Acts, ch 1038, §4

Referred to in §602.1302, 815.11

600A.6C Payment of services of guardian ad litem.

1. A person filing a petition for termination of parental rights under this chapter shall be responsible for the payment of reasonable fees for services provided by a guardian ad litem appointed pursuant to section 600A.6 in juvenile court or in an appellate proceeding initiated by the person filing the petition unless the person filing the petition is a private child-placing agency licensed under chapter 238 or the court determines that the person filing the petition is indigent.

2. If the person filing the petition is a private child-placing agency licensed under chapter 238 or if the person filing the petition is indigent, the prospective parent on whose behalf the petition is filed shall be responsible for the payment of reasonable fees for services provided in juvenile court or an appellate proceeding for a guardian ad litem appointed pursuant to section 600A.6 unless the court determines that the prospective parent on whose behalf the petition is filed is indigent.

3. If the prospective parent on whose behalf the petition is filed is indigent, and if the person filing the petition is indigent or a private child-placing agency licensed under chapter 238, the appointed guardian ad litem shall be paid reasonable fees as determined by the state public defender from the indigent defense fund established in section 815.11.

4. The state public defender shall review all the claims submitted under subsection 2 or 3 and shall have the same authority with regard to the payment of these claims as the state public defender has with regard to claims submitted under chapters 13B and 815, including the authority to adopt rules concerning the review and payment of claims submitted.

2024 Acts, ch 1112, §3

Referred to in §815.11

Former §600A.6C transferred to §600A.6D; 2024 Acts, ch 1112, §5

600A.6D Report of expenditures — penalty.

1. *a.* A biological parent shall not receive any thing of value as a result of the biological parent terminating the parent's parental rights, unless that thing of value is an allowable expense under subsection 2.

b. Any person assisting in any way with the termination of parental rights shall not charge a fee which is more than usual, necessary, and commensurate with the services rendered.

c. If the biological parent receives any prohibited thing of value, if a person gives a prohibited thing of value, or if a person charges a prohibited fee under this subsection, the person is guilty of a serious misdemeanor.

2. *a.* The petitioner shall file with the juvenile court or court, prior to the termination hearing, a full accounting of all disbursements of any thing of value paid or agreed to be paid by or on behalf of the petitioner or intended adoptive parent in connection with the petitioned termination. This accounting shall be made by a report prescribed by the juvenile court or court and shall be signed and verified by the petitioner. The report shall be accompanied by documentation of all disbursements made prior to the date of filing of the report. Only expenses incurred in connection with the following and any other expenses approved by the juvenile court or court are allowable:

(1) The birth of the minor person to be adopted.
(2) Placement of the minor person by the adoption service provider.
(3) Legal expenses related to the termination of parental rights and adoption processes.
(4) Pregnancy-related medical care received by the biological parents or the minor person

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during the pregnancy or delivery of the minor person and for medically necessary postpartum care for the biological parent and the minor person.

(5) Ordinary and necessary living expenses of the mother including but not limited to the costs of housing, food, utilities, and transportation for medical purposes related to the pregnancy and birth of the child, in an amount not to exceed two thousand dollars and for no longer than thirty days after the birth of the minor person.

(6) Costs of the counseling provided to the biological parents prior to the birth of the child, prior to the release of custody, and any counseling provided to the biological parents for not more than sixty days after the birth of the child.

(7) Living expenses or care of the minor person during the pendency of the termination of parental rights proceedings.

b. All payments for allowable expenses shall be made through the adoption service provider. An adoption service provider shall deposit all funds received from prospective adoptive parents as payments for allowable expenses for a designated biological parent into an escrow account established with a financial institution located in this state whose accounts are insured by the federal deposit insurance corporation, the national credit union administration, or the federal savings and loan insurance corporation. Such escrow funds shall not be commingled with other revenues or expense accounts of the adoption service provider and separate accounting shall be maintained for each prospective adoptive parent whose funds are deposited in the escrow account. Any escrow funds not disbursed by the adoption service provider for the benefit of the designated biological parent shall be returned to the prospective adoptive parents with a full accounting of all deposits and disbursements. If the adoption service provider is a licensed attorney, use of the attorney's state-sanctioned trust account shall satisfy the requirements relative to the escrow account under this paragraph.

c. Any payments for allowable expenses shall not be made to a biological parent, but instead shall be made directly to the provider of the service, product, or other activity to which the allowable expense is attributable, if applicable.

d. The provisions of this subsection do not apply in a stepparent adoption.

3. The juvenile court or court shall review the report prior to the termination hearing and shall include findings regarding the allowance or disallowance of any disbursements or projected disbursements in the termination order.

2017 Acts, ch 113, §22
C2018, §600A.6C
2024 Acts, ch 1112, §5
C2025, §600A.6D
Referred to in §600A.10

600A.7 Termination hearing — forum non conveniens.

1. The hearing on termination of parental rights shall be conducted in accordance with the provisions of sections 232.91 through 232.96 and otherwise in accordance with the rules of civil procedure. Such hearing shall be held no earlier than one week after the child is born.

2. Relevant information, including that contained in reports, studies or examinations and testified to by interested persons, may be admitted into evidence at the hearing and relied upon to the extent of its probative value. When such information is so admitted, the person submitting it or testifying shall be subject to both direct and cross-examination by a necessary party.

3. If a putative father files a declaration of paternity pursuant to section 144.12A, the putative father or the mother of the child may request that paternity be established pursuant to section 600B.41 prior to the granting of a dismissal of the petition to terminate parental rights.

[C66, 71, 73, 75, §232.42, 232.46; C77, 79, 81, §600A.7]
94 Acts, ch 1174, §19, 22; 2021 Acts, ch 80, §353

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600A.8 Grounds for termination.

The juvenile court shall base its findings and order under section 600A.9 on clear and convincing proof. The following shall be, either separately or jointly, grounds for ordering termination of parental rights:

1. A parent has signed a release of custody pursuant to section 600A.4 and the release has not been revoked.

2. A parent has petitioned for the parent's termination of parental rights pursuant to section 600A.5.

3. The parent has abandoned the child. For the purposes of this subsection, a parent is deemed to have abandoned a child as follows:

a. (1) If the child is less than six months of age when the termination hearing is held, a parent is deemed to have abandoned the child unless the parent does all of the following:

(a) Demonstrates a willingness to assume custody of the child rather than merely objecting to the termination of parental rights.

(b) Takes prompt action to establish a parental relationship with the child.

(c) Demonstrates, through actions, a commitment to the child.

(2) In determining whether the requirements of this paragraph are met, the court may consider all of the following:

(a) The fitness and ability of the parent in personally assuming custody of the child, including a personal and financial commitment which is timely demonstrated.

(b) Whether efforts made by the parent in personally assuming custody of the child are substantial enough to evince a settled purpose to personally assume all parental duties.

(c) With regard to a putative father, whether the putative father publicly acknowledged paternity or held himself out to be the father of the child during the six continuing months immediately prior to the termination proceeding.

(d) With regard to a putative father, whether the putative father paid a fair and reasonable sum, in accordance with the putative father's means, for medical, hospital, and nursing expenses incurred in connection with the mother's pregnancy or with the birth of the child, or whether the putative father demonstrated emotional support as evidenced by the putative father's conduct toward the mother.

(e) Any measures taken by the parent to establish legal responsibility for the child.

(f) Any other factors evincing a commitment to the child.

b. If the child is six months of age or older when the termination hearing is held, a parent is deemed to have abandoned the child unless the parent maintains substantial and continuous or repeated contact with the child as demonstrated by contribution toward support of the child of a reasonable amount, according to the parent's means, and as demonstrated by any of the following:

(1) Visiting the child at least monthly when physically and financially able to do so and when not prevented from doing so by the person having lawful custody of the child.

(2) Regular communication with the child or with the person having the care or custody of the child, when physically and financially unable to visit the child or when prevented from visiting the child by the person having lawful custody of the child.

(3) Openly living with the child for a period of six months within the one-year period immediately preceding the termination of parental rights hearing and during that period openly holding himself or herself out to be the parent of the child.

c. The subjective intent of the parent, whether expressed or otherwise, unsupported by evidence of acts specified in paragraph *"a"* or *"b"* manifesting such intent, does not preclude a determination that the parent has abandoned the child. In making a determination, the court shall not require a showing of diligent efforts by any person to encourage the parent to perform the acts specified in paragraph *"a"* or *"b"*. In making a determination regarding a putative father, the court may consider the conduct of the putative father toward the child's mother during the pregnancy. Demonstration of a commitment to the child is not met by the putative father marrying the mother of the child after adoption of the child.

4. A parent has been ordered to contribute to the support of the child or financially aid in the child's birth and has failed to do so without good cause.

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5. A parent does not object to the termination after having been given proper notice and the opportunity to object.

6. A parent does not object to the termination although every reasonable effort has been made to identify, locate and give notice to that parent as required in section 600A.6.

7. An adoptive parent requests termination of parental rights and the parent-child relationship based upon a showing that the adoption was fraudulently induced in accordance with the procedures set out in section 600A.9, subsection 3.

8. Both of the following circumstances apply to a parent:

a. The parent has been determined to be a person with a substance use disorder as defined in section 125.2 and the parent has committed a second or subsequent domestic abuse assault pursuant to section 708.2A.

b. The parent has abducted the child, has improperly removed the child from the physical custody of the person entitled to custody without the consent of that person, or has improperly retained the child after a visit or other temporary relinquishment of physical custody.

9. The parent has been imprisoned for a crime against the child, the child's sibling, or another child in the household, or the parent has been imprisoned and it is unlikely that the parent will be released from prison for a period of five or more years.

10. The parent has been convicted of a felony offense that is a sex offense against a minor as defined in section 692A.101, the parent is divorced from or was never married to the minor's other parent, and the parent is serving a minimum sentence of confinement of at least five years for that offense.

11. The court finds there is clear and convincing evidence that the child was conceived as the result of sexual abuse as defined in section 709.1, and the biological parent against whom the sexual abuse was perpetrated requests termination of the parental rights of the biological parent who perpetrated the sexual abuse.

[C66, 71, 73, 75, §232.41; C77, 79, 81, §600A.8]

92 Acts, ch 1192, §2, 5; 95 Acts, ch 182, §26; 97 Acts, ch 161, §2; 97 Acts, ch 209, §27, 30; 2004 Acts, ch 1010, §1, 2; 2005 Acts, ch 69, §55; 2006 Acts, ch 1182, §63; 2009 Acts, ch 119, §43; 2011 Acts, ch 121, §59, 62; 2016 Acts, ch 1046, §2; 2023 Acts, ch 19, §1259

Referred to in §600A.5, 600A.9

600A.9 Termination findings and order — vacation of order.

1. Subsequent to the hearing on termination of parental rights under this chapter, the juvenile court shall make a finding of facts and shall do one of the following:

a. Order the petition dismissed.

b. Order the petition granted. The juvenile court shall appoint a guardian and a custodian or a guardian only. An order issued under this paragraph shall include the finding of facts. Such finding shall specify the factual basis for terminating the parent-child relationship and shall specify the ground or grounds upon which the termination is ordered.

2. *a.* If an order is issued under subsection 1, paragraph *"b"*, the juvenile court shall retain jurisdiction to change a guardian or custodian and to allow a terminated parent or any putative biological parent to request vacation or appeal of the termination order which request must be made within thirty days of issuance of the granting of the order. The period for request by a terminated parent or by a putative biological parent for vacation or appeal shall not be waived or extended and a vacation or appeal shall not be granted after the expiration of this period. The juvenile court shall grant the vacation request only if it is in the best interest of the child. The supreme court shall prescribe rules to establish a period of thirty days, which shall not be waived or extended, in which a terminated or putative biological parent may request a vacation or appeal of a termination order.

b. If an order is issued under subsection 1, paragraph *"b"*, to terminate the parental rights of a biological parent who indicated in the parent's petition for termination of parental rights the grounds for termination specified in section 600A.8, subsection 1, but an order to terminate the parental rights of any other putative biological parent is not issued by the court pursuant to subsection 1, paragraph *"b"*, nor has the other putative biological parent consented to the adoption in lieu of termination of the parent's parental rights, thereby prohibiting the filing of an adoption petition pursuant to section 600.3, subsection 2, the

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court shall allow the parent for whom the court issued an order terminating parental rights to request a vacation of the order within thirty days of issuance of the granting of the order. The period for request by a terminated parent for vacation shall not be waived or extended and a vacation shall not be granted after the expiration of this period. The juvenile court shall grant the vacation request only if it is in the best interest of the child. The supreme court shall prescribe rules to establish a period of thirty days, which shall not be waived or extended, in which a terminated parent may request a vacation of a termination order under this paragraph *"b"*.

3. If an order is issued under subsection 1, paragraph *"b"*, the juvenile court shall have jurisdiction to allow an adoptive parent to request termination of the adoptive parent's parental rights and of the parent-child relationship based upon a showing that the adoption was fraudulently induced and to request that the order issued under subsection 1, paragraph *"b"*, be vacated. The juvenile court shall grant the termination and vacation requests only after the parent whose rights have been terminated is given an opportunity to contest the vacation of the termination order and only if the termination of the adoptive parent's parental rights and the vacation of the termination order are in the best interest of the child.

4. A copy of any order made under this section shall be sent by the clerk of the juvenile court to:

a. The department.

b. The petitioner.

c. The parents whose rights have been terminated if they request such copies.

d. Any guardian, custodian, or guardian ad litem of the child.

e. The state registrar for the purposes of section 144.13A, subsection 2.

[S13, §254-a21; C24, 27, 31, 35, 39, §**3638;** C46, 50, 54, 58, 62, §232.22; C66, 71, 73, 75, §232.47 – 232.50; C77, 79, 81, §600A.9]

92 Acts, ch 1192, §3, 5; 94 Acts, ch 1174, §20, 22; 2004 Acts, ch 1156, §2; 2022 Acts, ch 1032, §100; 2023 Acts, ch 135, §1

Referred to in §232.119, 600.16A, 600A.4, 600A.6B, 600A.8, 600B.5

600A.10 Termination procedures — prohibited practices — penalty for violation.

1. Any biological parent who chooses to identify the other biological parent and who knowingly and intentionally identifies a person who is not the other biological parent in the written release of custody or in any other document related to the termination of parental rights proceedings is guilty of a serious misdemeanor.

2. Any person who signs or accepts a release of custody under section 600A.4 prior to the expiration of the seventy-two-hour period required is guilty of a serious misdemeanor.

3. *a.* All of the following are prohibited practices regarding a proceeding under this chapter:

(1) The provision of termination of parental rights, child placement, or adoption services to any biological or adoptive parent by any person other than an adoption service provider or the department.

(2) The charging of a fee by an adoption service provider that is more than the usual and necessary fee commensurate with the services rendered.

(3) The facilitation, encouragement, or advisement of adoptive parents by an adoption service provider to provide any thing of value beyond those expenditures allowed pursuant to section 600A.6D.

(4) The knowing encouragement or solicitation of payment of allowable expenses or provision of anything of value beyond those expenditures allowed pursuant to section 600A.6D, by a person falsely representing that a child may be available for adoption with the intent to defraud the other person.

b. A person who commits a prohibited practice under this subsection is guilty of a serious misdemeanor for the first violation and a class "C" felony for any second or subsequent violation.

94 Acts, ch 1174, §21, 22; 2017 Acts, ch 113, §23

Other related prohibited practices, see §600.9A, 714.8(23)

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CHAPTER 600B

PATERNITY AND OBLIGATION FOR SUPPORT

Referred to in §252A.3A, 252B.3, 252B.4, 252B.5, 252B.14, 252B.20, 252C.1, 252D.1, 252D.16, 252D.16A, 252E.1, 252E.1A, 252E.16, 252H.2, 252H.4, 252H.21, 252I.2, 252J.1, 598.21C, 598.21G, 598.21H, 598.22, 598.22B, 598.23A, 598A.2, 598A.13, 598A.16, 598A.19, 598A.22, 600.11, 602.6111, 602.8102(47)

See also chapters 252A – 252K

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600B.39 "Child" defined.
600B.40 Custody and visitation.
600B.40A Temporary orders — support, custody, or visitation of a child.
600B.41 Blood and genetic tests.
600B.41A Actions to overcome paternity — applicability — conditions.
600B.42 Security for payment of support — forfeiture.

600B.1 Obligation of parents.

The parents of a child born out of wedlock and not legitimized (in this chapter referred to as "the child") owe the child necessary maintenance, education, and support. They are also liable for the child's funeral expenses. The father is also liable to pay the expense of the mother's pregnancy and confinement.

[C27, 31, 35, §12667-a1; C39, §**12667.01;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.1]

C93, §600B.1

2015 Acts, ch 14, §2

600B.2 Recovery by mother from father.

The mother may recover from the father a reasonable share of the necessary support of the child.

[C27, 31, 35, §12667-a2; C39, §**12667.02;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.2]

C93, §600B.2

600B.3 Reserved.

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600B.4 Recovery by others than mother.

The obligation of the father as hereby provided creates also a cause of action on behalf of the legal representative of the mother, or on behalf of third persons furnishing support or defraying the reasonable expenses thereof, where paternity has been judicially established by proceedings brought by the mother or by or on behalf of the child or by the authorities charged with its support, or where paternity has been acknowledged by the father in writing or by the part performance of the obligations imposed upon him.

[C27, 31, 35, §12667-a4; C39, §**12667.04;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.4]

C93, §600B.4

600B.5 Discharge of father's obligation.

The obligation of the father other than that under the laws providing for the support of poor relatives is discharged by complying with a judicial decree for support or with the terms of a judicially approved settlement. The legal adoption of a child into another family discharges the obligation for the period subsequent to the adoption, unless the adoption was fraudulently induced and the adoptive father's parental rights have been terminated and the order terminating the biological father's parental rights has been vacated in accordance with the procedures set out in section 600A.9, subsection 3.

[C27, 31, 35, §12667-a5; C39, §**12667.05;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.5]

92 Acts, ch 1192, §4, 5

C93, §600B.5

94 Acts, ch 1046, §22

Referred to in §600B.41A

600B.6 Liability of the father's estate.

The obligation of the father, when his paternity has been judicially established in his lifetime, or has been acknowledged by him in writing or by the part performance of his obligations, is enforceable against his estate in such an amount as the court may determine, having regard to the age of the child, the ability of the mother to support it, the amount of property left by the father, the number, age, and financial condition of the lawful issue, if any, and the rights of the widow, if any. The court may direct the discharge of the obligation by periodical payments or by the payment of a lump sum.

[C27, 31, 35, §12667-a6; C39, §**12667.06;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.6]

C93, §600B.6

Referred to in §600B.22

600B.7 Proceedings to establish paternity.

Proceedings to establish paternity and to compel support by the father may be brought in accordance with the provisions of this chapter. They shall not be exclusive of other proceedings that may be available on principles of law and equity.

[C27, 31, 35, §12667-a7; C39, §**12667.07;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.7]

C93, §600B.7

See also chapters 252A, 252F, 252K

600B.8 Who may institute proceedings.

The proceedings may be brought by the mother, or other interested person, or if the child is or is likely to be a public charge, by the authorities charged with its support. After the death of the mother or in case of her disability, it may also be brought by the child acting through its guardian or next friend.

[C51, §848; R60, §1416; C73, §4715; C97, §5629; C24, §12658; C27, 31, 35, §12667-a8; C39, §**12667.08;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.8]

C93, §600B.8

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600B.9 Time of instituting proceedings.

The proceedings may be instituted during the pregnancy of the mother or after the birth of the child, but, except with the consent of all parties, the trial shall not be held until after the birth of the child and shall be held no earlier than twenty days from the date the alleged father is served with notice of the action or, if blood or genetic tests are conducted, no earlier than thirty days from the date the test results are filed with the clerk of the district court as provided under section 600B.41.

[C27, 31, 35, §12667-a9; C39, §**12667.09;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.9]

C93, §600B.9

94 Acts, ch 1171, §43; 97 Acts, ch 175, §204

600B.10 Venue.

The action shall be by ordinary proceedings entitled in the name of the complainant against the defendant and shall be brought in the district court in the county in which the alleged father is permanently or temporarily resident, or in which the mother or the child resides or is found.

[C51, §848; R60, §1416; C73, §4715; C97, §5629; C24, §12658; C27, 31, 35, §12667-a10; C39, §**12667.10;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.10]

C93, §600B.10

600B.11 Nonresident complainant.

It is not a bar to the jurisdiction of the court, that the complaining mother or child resides in another state.

[C27, 31, 35, §12667-a11; C39, §**12667.11;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.11]

C93, §600B.11

600B.12 Complaint — where brought.

The complaint may be made to the county attorney.

[C51, §848; R60, §1416; C73, §4715; C97, §5629; C24, §12658; C27, 31, 35, §12667-a12; C39, §**12667.12;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.12]

C93, §600B.12

600B.13 Form of complaint — verification.

The complaint may be made in writing, or oral and in the presence of the complainant reduced to writing by the prosecuting attorney. It shall be verified by oath or affirmation of the complainant.

[C51, §848; R60, §1416; C73, §4715; C97, §5629; C24, §12658; C27, 31, 35, §12667-a13; C39, §**12667.13;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.13]

C93, §600B.13

600B.14 Substance of complaint.

The complainant shall charge the person named as defendant with being the father of the child.

[C51, §848; R60, §1416; C73, §4715; C97, §5629; C24, §12658; C27, 31, 35, §12667-a14; C39, §**12667.14;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.14]

C93, §600B.14

600B.15 Original notice.

An original notice shall be issued as in other civil cases, which notice shall be served as in ordinary actions.

[C51, §849; R60, §1417; C73, §4716; C97, §5630; C24, §12659; C27, 31, 35, §12667-a16; C39, §**12667.15;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.15]

C93, §600B.15

Referred to in §600B.24

Manner of service, R.C.P. 1.302 – 1.315

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600B.16 Lis pendens.

From the time of the filing of such complaint, a lien shall be created upon the real property of the accused in the county where the action is pending for the payment of any money and the performance of any order adjudged by the proper court.

[C51, §850; R60, §1418; C73, §4717; C97, §5631; C24, §12660; C27, 31, 35, §12667-a17; C39, §**12667.16;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.16]

C93, §600B.16

600B.17 Writ of attachment.

The district court may order an attachment to issue thereon without bond, which order shall specify the amount of property to be seized thereunder, and may be revoked at any time by such court on a showing made for a revocation of the same, and on such terms as such court may deem proper in the premises.

[C73, §4718; C97, §5632; C24, §12661; C27, 31, 35, §12667-a18; C39, §**12667.17;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.17]

C93, §600B.17

600B.18 Method of trial.

The trial shall be by the court, and shall be conducted as in other civil cases.

[C51, §851, 854; R60, §1419, 1422; C73, §4720; C97, §5634; C24, §12663; C27, 31, 35, §12667-a27; C39, §**12667.18;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.18]

C93, §600B.18

97 Acts, ch 175, §205

600B.19 County attorney to prosecute.

The county attorney, on being notified of the facts justifying a complaint as provided in this chapter, or of the filing of such complaint, shall prosecute the matter in behalf of the complainant.

[C73, §4719; C97, §5633; C24, §12662; C27, 31, 35, §12667-a28; C39, §**12667.19;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.19]

C93, §600B.19

Referred to in §331.756(64)

600B.20 Exclusion of bystanders.

Unless objection is raised by either party to the action the judge shall exclude from the hearing all persons except the employees of the court, witnesses, and immediate relatives of the parties involved.

[C27, 31, 35, §12667-a29; C39, §**12667.20;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.20]

C93, §600B.20

600B.21 Death, absence or mental illness of mother — testimony receivable.

If after the complaint the mother dies or becomes mentally ill or cannot be found within the jurisdiction, the proceeding does not abate, but the child shall be substituted as complainant. The testimony of the mother taken by deposition as in other civil cases, may in any such case be read as evidence and in all cases shall be read as evidence if demanded by the defendant.

[C27, 31, 35, §12667-a31; C39, §**12667.21;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.21]

C93, §600B.21

Referred to in §229.27

600B.22 Death of defendant.

In case of the death of the defendant the action may be prosecuted against the personal representative of the deceased with like effects as if the defendant were living, subject as regards the measure of support to the provision of section 600B.6.

[C27, 31, 35, §12667-a32; C39, §**12667.22;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.22]

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C93, §600B.22
2016 Acts, ch 1011, §108

600B.23 Costs payable by county.

If the finding of the court be in favor of the defendant the costs of the action shall be paid by the county.

[C24, §12666; C27, 31, 35, §12667-a33; C39, §**12667.23;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.23]
C93, §600B.23
97 Acts, ch 175, §206

600B.24 Judgment in general.

1. If the defendant, after being served with notice as required under section 600B.15, fails to timely respond to the notice, or to appear for blood or genetic tests pursuant to a court or administrative order, or to appear at a scheduled hearing after being provided notice of the hearing, the court shall find the defendant in default and enter a default judgment.

2. Upon a finding of paternity against the defendant, the court shall enter a judgment against the defendant declaring paternity and ordering support of the child.

[C51, §855; R60, §1423; C73, §4721; C97, §5635; C24, §12664; C27, 31, 35, §12667-a35; C39, §**12667.24;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.24]
C93, §600B.24
94 Acts, ch 1171, §44; 97 Acts, ch 175, §207
Referred to in §600B.25

600B.25 Form of judgment — contents of support order — evidence — costs.

1. Upon a finding of paternity pursuant to section 600B.24, the court shall establish the father's monthly support payment and the amount of the support debt accrued or accruing pursuant to section 598.21B. The support obligation shall include support of the child between the ages of eighteen and nineteen years if the child is engaged full-time in completing high school graduation or equivalency requirements in a manner which is reasonably expected to result in completion of the requirements prior to the person reaching nineteen years of age. The court may order the father to pay amounts the court deems appropriate for the past support and maintenance of the child and for the reasonable and necessary expenses incurred by or for the mother in connection with prenatal care, the birth of the child, and postnatal care of the child and the mother, and other medical support as defined in section 252E.1. The court may award the prevailing party the reasonable costs of suit, including but not limited to reasonable attorney fees.

2. A copy of a bill for the costs of prenatal care or the birth of the child shall be admitted as evidence, without requiring third-party foundation testimony, and shall constitute prima facie evidence of amounts incurred.

[C51, §855; R60, §1423; C73, §4721; C97, §5635; C24, §12664; C27, 31, 35, §12667-a36; C39, §**12667.25;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.25]
85 Acts, ch 100, §10; 87 Acts, ch 98, §2; 89 Acts, ch 166, §7; 90 Acts, ch 1224, §49
C93, §600B.25
97 Acts, ch 175, §208; 2005 Acts, ch 69, §56
Referred to in §600B.38

600B.26 Payment of attorney fees.

In a proceeding to determine custody or visitation, or to modify a paternity, custody, or visitation order under this chapter, the court may award the prevailing party reasonable attorney fees.

2007 Acts, ch 24, §1

UNOFFICIAL VERSION: 2017 EDITION RELEASE

600B.27 Payment to trustees.

The court may require the payment to be made to the mother, or to some person or corporation to be designated by the court as trustee. The payments shall be directed to be made to a trustee if the mother does not reside within the jurisdiction of the court.

[C27, 31, 35, §12667-a38; C39, §**12667.27;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.27]

C93, §600B.27

600B.28 Report by trustee.

The trustee shall report to the court annually, or more often as directed by the court, the amounts received and paid over.

[C27, 31, 35, §12667-a39; C39, §**12667.28;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.28]

C93, §600B.28

2005 Acts, ch 3, §101

600B.29 Desertion statute applicable.

The provisions of sections 726.3 through 726.5 relating to desertion and abandonment of children, have the same effect in cases of illegitimacy where paternity has been judicially established, or has been acknowledged by the father in writing or by the furnishing of support, as in cases of children born in wedlock.

[C27, 31, 35, §12667-a45; C39, §**12667.29;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.29]

83 Acts, ch 101, §128

C93, §600B.29

600B.30 Agreement or compromise. Repealed by 97 Acts, ch 175, §217.

600B.31 Continuing jurisdiction.

Subject to 28 U.S.C. §1738B, the court has continuing jurisdiction over proceedings brought to compel support and to increase or decrease the amount thereof until the judgment of the court has been completely satisfied, and also has continuing jurisdiction to determine the custody in accordance with the interests of the child.

[C73, §4722; C97, §5636; C24, §12667; C27, 31, 35, §12667-a47; C39, §**12667.31;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.31]

C93, §600B.31

96 Acts, ch 1141, §30

600B.31A Parties to and court issuing original order — notice.

1. If a proceeding is initiated in a court for an adoption involving the children of parents whose paternity, obligation for support, or custody determination has been determined under this chapter or for modification of a child support or custody order granted under this chapter, the following requirements shall be met if the proceedings are initiated in a court other than the court which issued the original order:

a. The party initiating the proceedings shall present to the court the names and addresses of the parties to the original proceeding, if known, as well as the name and place of the court which issued the original order and the date of the original order.

b. The court in which the proceedings are initiated shall cause notice of the proceedings to be served upon all the parties to the original order unless the parties are deceased.

2. The court in which the proceedings are initiated or any party to the proceedings may also request that a copy of the transcript of the proceedings of the court which issued the original order be made available for consideration in the new proceedings.

2006 Acts, ch 1096, §1; 2013 Acts, ch 30, §261

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600B.32 Concurrence of remedies.

A criminal prosecution shall not be a bar to, or be barred by, civil proceedings to compel support; but money paid toward the support of the child shall be allowed for and accredited in determining or enforcing any civil liability.

[C27, 31, 35, §12667-a49; C39, §**12667.32;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.32]

C93, §600B.32

600B.33 Limitations of actions.

1. An action to establish paternity and support under this chapter may be brought within the time limitations set forth in section 614.8.

2. Notwithstanding subsection 1, an action to establish paternity and support under this chapter may be brought concerning a person who was under age eighteen on August 16, 1984, regardless of whether any prior action was dismissed because a statute of limitations of less than eighteen years was then in effect. Such an action may be brought within the time limitations set forth in section 614.8, or until July 2, 1992, whichever is later.

90 Acts, ch 1224, §50

C91, §675.33

C93, §600B.33

600B.34 Foreign judgments. Repealed by 97 Acts, ch 175, §220, 221. See chapter 252K.

600B.35 Reference to illegitimacy prohibited.

In all records, certificates, or other papers made or executed, other than birth records and certificates or records of judicial proceedings in which the question of birth out of wedlock is at issue, requiring a declaration by or notice to the mother of a child born out of wedlock, it shall be sufficient for all purposes to refer to the mother as the parent having the sole custody of the child or to the child as being in the sole custody of the mother and no explicit reference shall be made to illegitimacy, and the term biological shall be deemed equivalent to the term illegitimate when referring to parentage or birth out of wedlock.

[C27, 31, 35, §12667-a52; C39, §**12667.35;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.35]

C93, §600B.35

94 Acts, ch 1046, §23

600B.36 Report to registrar of vital statistics.

Upon the entry of a judgment determining the paternity of a child the clerk of the district court shall notify in writing the state registrar of vital statistics of the name of the person against whom such judgment has been entered, together with such other facts disclosed by the records as may assist in identifying the record of the birth of the child as the same may appear in the office of said registrar. If such judgment shall thereafter be vacated that fact shall be reported by the clerk in the same manner.

[C27, 31, 35, §12667-a53; C39, §**12667.36;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §675.36]

C93, §600B.36

94 Acts, ch 1046, §24

Referred to in §252F.7, 602.8102(119)

600B.37 Contempt.

If a party fails to comply with or violates the terms or conditions of an order made pursuant to this chapter, the party shall be held in contempt and punished by the court in the same manner and to the same extent as is provided by law for a contempt of such court in any other suit or proceeding cognizable by such court.

[C73, 75, 77, 79, 81, §675.37]

C93, §600B.37

2016 Acts, ch 1011, §109; 2017 Acts, ch 98, §1

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600B.37A Action for default or contempt — costs.

If an action is brought on the grounds that a party to an order made pursuant to this chapter is in default or contempt of the order, and the court determines that the party is in default or contempt of the order, the costs of the proceeding, including reasonable attorney fees, may be taxed against that party.

2017 Acts, ch 98, §2

600B.38 Recipients of public assistance — assignment of support payments.

1. If public assistance is provided by the department of health and human services to or on behalf of a dependent child or a dependent child's caretaker, there is an assignment by operation of law to the department of any and all rights in, title to, and interest in any support obligation, payment, and arrearages owed to or on behalf of the child or caretaker, not to exceed the amount of public assistance paid for or on behalf of the child or caretaker as follows:

a. For family investment program assistance, section 239B.6 shall apply.

b. For foster care services, section 234.39 shall apply.

c. For medical assistance, section 252E.11 shall apply.

2. The department shall immediately notify the clerk of court by mail when such a child or caretaker has been determined to be eligible for public assistance. Upon notification by the department, the clerk of court shall make a notation of the automatic assignment in the judgment docket and lien index. The notation constitutes constructive notice of the assignment. For public assistance approved and provided on or after July 1, 1997, if the applicant for public assistance is a person other than a parent of the child, the department shall send notice by regular mail to the last known addresses of the obligee and obligor. The clerk of court shall forward support payments received pursuant to section 600B.25, to which the department is entitled, to the department, which may secure support payments in default through other proceedings.

3. The clerk shall furnish the department with copies of all orders or decrees and temporary or domestic abuse orders addressing support when the parties are receiving public assistance or services are otherwise provided by child support services. Unless otherwise specified in the order, an equal and proportionate share of any child support awarded shall be presumed to be payable on behalf of each child subject to the order or judgment for purposes of an assignment under this section.

[C77, 79, 81, §675.38; 82 Acts, ch 1237, §5]
83 Acts, ch 96, §157, 159
C93, §600B.38
97 Acts, ch 175, §209; 2008 Acts, ch 1019, §6, 7; 2023 Acts, ch 19, §1260

600B.39 "Child" defined.

For the purposes of this chapter, *"child"* means a person less than eighteen years of age.

[C81, §675.39]
87 Acts, ch 98, §2
C93, §600B.39

600B.40 Custody and visitation.

1. The mother of a child born out of wedlock whose paternity has not been acknowledged and who has not been adopted has sole custody of the child unless the court orders otherwise. If a judgment of paternity is entered, the father may petition for rights of visitation or custody in the same paternity action or in an equity proceeding separate from any action to establish paternity.

2. In determining the visitation or custody arrangements of a child born out of wedlock, if a judgment of paternity is entered and the mother of the child has not been awarded sole custody, section 598.41 shall apply to the determination, as applicable, and the court shall consider the factors specified in section 598.41, subsection 3, including but not limited to the factor related to a parent's history of domestic abuse.

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3. In a proceeding under this chapter to determine custody or visitation or to modify a custody or visitation order, section 598.15 shall apply to the parties.

4. The court may order the appointment of a guardian ad litem or attorney for a child, a child custody investigator, or a child and family reporter consistent with the provisions of sections 598.12, 598.12A, and 598.12B.

[C81, §675.40]
C93, §600B.40
95 Acts, ch 182, §27; 2004 Acts, ch 1061, §2; 2017 Acts, ch 98, §3; 2021 Acts, ch 61, §1

600B.40A Temporary orders — support, custody, or visitation of a child.

Upon petition of either parent in a proceeding involving support, custody, or visitation of a child for whom paternity has been established and whose mother and father have not been and are not married to each other at the time of filing of the petition, the court may issue a temporary order for support, custody, or visitation of the child. The temporary orders shall be made in accordance with the provisions relating to issuance of and changes in temporary orders for support, custody, or visitation of a child by the court in a dissolution of marriage proceeding pursuant to chapter 598.

97 Acts, ch 160, §1
Referred to in §598A.11

600B.41 Blood and genetic tests.

1. In a proceeding to establish paternity in law or in equity the court may on its own motion, and upon request of a party shall, require the child, mother, and alleged father to submit to blood or genetic tests, except that if the mother and child previously submitted blood or genetic specimens in a prior action to establish paternity against a different alleged father, the previously submitted specimens and prior results, if available, may be utilized for testing in this action.

2. If a blood or genetic test is required, the court shall direct that inherited characteristics be determined by appropriate testing procedures, and shall appoint an expert qualified as an examiner of genetic markers to analyze and interpret the results and to report to the court. Appropriate testing procedures shall include any genetic test generally acknowledged as reliable by accreditation bodies designated by the secretary of the United States department of health and human services and which are performed by a laboratory approved by such an accreditation body.

3. Verified documentation of the chain of custody of the blood or genetic specimen is competent evidence to establish the chain of custody. The testimony of the court-appointed expert at trial is not required.

4. A verified expert's report shall be admitted at trial. A copy of a bill for blood or genetic testing shall be admitted as evidence, without requiring third-party foundation testimony, and shall constitute prima facie evidence of amounts incurred for blood or genetic testing.

5. The results of the tests shall have the following effects:

a. Test results which show a statistical probability of paternity are admissible. To challenge the test results, a party shall file a notice of the challenge, with the court, no later than twenty days after the filing of the expert's report with the clerk of the district court.

(1) Any subsequent rescheduling or continuances of the originally scheduled hearing shall not extend the original time frame.

(2) Any challenge filed after the time frame is not acceptable or admissible by the court.

(3) If a challenge is not timely filed, the test results shall be admitted as evidence of paternity without the need of additional proof of authenticity or accuracy.

b. If the expert concludes that the test results show that the alleged father is not excluded and that the probability of the alleged father's paternity is ninety-five percent or higher, there shall be a rebuttable presumption that the alleged father is the father, and this evidence must be admitted.

(1) To challenge this presumption of paternity, a party must file a notice of the challenge with the court within the time frames prescribed in paragraph *"a"*.

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(2) The party challenging the presumption of the alleged father's paternity has the burden of proving that the alleged father is not the father of the child.

(3) The presumption of paternity can be rebutted only by clear and convincing evidence.

c. If the expert concludes that the test results show that the alleged father is not excluded and that the probability of the alleged father's paternity is less than ninety-five percent, test results shall be weighed along with other evidence of the alleged father's paternity. To challenge the test results, a party must file a notice of the challenge with the court within the time frames prescribed in paragraph *"a"*.

6. If the results of the tests or the expert's analysis of inherited characteristics is disputed in a timely fashion, the court, upon reasonable request of a party, shall order that an additional test be made by the same laboratory or an independent laboratory at the expense of the party requesting additional testing. When a subsequent test is conducted, all time frames prescribed in this chapter associated with blood or genetic tests shall apply to the most recently completed test.

7. All costs shall be paid by the parties or parents in proportions and at times determined by the court, except as otherwise provided pursuant to section 600B.41A.

[C81, §675.41]

92 Acts, ch 1195, §210

C93, §600B.41

93 Acts, ch 79, §22, 23; 94 Acts, ch 1171, §45 – 47, 52; 95 Acts, ch 52, §9; 97 Acts, ch 175, §210, 211; 2015 Acts, ch 110, §125

Referred to in §232.3A, 252A.6A, 600A.7, 600B.9, 600B.41A

600B.41A Actions to overcome paternity — applicability — conditions.

1. Paternity which is legally established may be overcome as provided in this section if subsequent blood or genetic testing indicates that the previously established father of a child is not the biological father of the child. Unless otherwise provided in this section, this section applies to the overcoming of paternity which has been established by one of the methods enumerated in section 252A.3, subsection 10, or by operation of law due to the established father's marriage to the mother at the time of conception, birth, or at any time during the period between conception and birth of the child.

2. This section does not apply to any of the following:

a. A paternity determination made in or by another state or foreign country as defined in chapter 252K or a paternity determination which has been made in or by that jurisdiction and registered in this state in accordance with section 252A.18 or chapter 252K.

b. A paternity determination based upon a court or administrative order if the order was entered based upon blood or genetic test results which demonstrate that the alleged father was not excluded and that the probability of the alleged father's paternity was ninety-five percent or higher, unless the tests were conducted prior to July 1, 1992.

3. Establishment of paternity may be overcome under this section if all of the following conditions are met:

a. The action to overcome paternity is filed with the court prior to the child reaching majority.

(1) A petition to overcome paternity may be filed only by the mother of the child, the established father of the child, the child, or the legal representative of any of these parties.

(2) If paternity was established by court or administrative order, a petition to overcome paternity shall be filed in the county in which the order is filed.

(3) In all other determinations of paternity, a petition to overcome paternity shall be filed in an appropriate county in accordance with the rules of civil procedure.

b. The petition contains, at a minimum, all of the following:

(1) The legal name, age, and domicile, if any, of the child.

(2) The names, residences, and domicile of the following:

(a) Living parents of the child.

(b) Guardian of the child.

(c) Custodian of the child.

(d) Guardian ad litem of the child.

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(e) Petitioner.

(f) Person standing in the place of the parents of the child.

(3) A plain statement that the petitioner believes that the established father is not the biological father of the child, any reasons for this belief, and that the petitioner wishes to have the paternity determination set aside.

(4) A plain statement explaining why the petitioner does not know any of the information required under subparagraphs (1) and (2).

c. Notice of the action to overcome paternity is served on any parent of the child not initiating the action and any assignee of the support obligation, in accordance with the rules of civil procedure and in accordance with the following:

(1) If enforcement services are being provided by child support services pursuant to chapter 252B, notice shall also be served on child support services.

(2) The responding party shall have twenty days from the date of the service of the notice to file a written response with the court.

d. A guardian ad litem is appointed for the child.

e. Blood or genetic testing is conducted in accordance with section 600B.41 or chapter 252F.

(1) Unless otherwise specified pursuant to subsection 2 or 10, blood or genetic testing shall be conducted in an action to overcome the establishment of paternity.

(2) Unless otherwise specified in this section, section 600B.41 applies to blood or genetic tests conducted as the result of an action brought to overcome paternity.

(3) The court may order additional testing to be conducted by the expert or an independent expert in order to confirm a test upon which an expert concludes that the established father is not the biological father of the child.

f. The court finds all of the following:

(1) That the conclusion of the expert as disclosed by the evidence based upon blood or genetic testing demonstrates that the established father is not the biological father of the child.

(2) If paternity was established pursuant to section 252A.3A, the signed affidavit was based on fraud, duress, or material mistake of fact, as shown by the petitioner.

4. Establishment of paternity may be overcome under this section by a juvenile court pursuant to section 232.3A if all of the following conditions are met:

a. Paternity of a child is contested during an active child in need of assistance proceeding and the child is under the jurisdiction of the juvenile court at the time an order overcoming paternity is entered.

b. A guardian ad litem is appointed for the child.

c. Notice of the action to overcome paternity is served on any parent of the child in accordance with chapter 232 and if enforcement services are being provided by child support services pursuant to chapter 252B, notice shall also be served on child support services.

d. Blood or genetic testing is conducted in accordance with sections 232.3A and 600B.41.

(1) Unless otherwise specified pursuant to subsection 2 or 10, blood or genetic testing shall be conducted in an action to overcome the establishment of paternity in the child in need of assistance proceeding.

(2) Unless otherwise specified in this section, section 600B.41 applies to blood or genetic testing conducted as the result of an action brought to overcome paternity.

(3) The juvenile court may order additional testing to be conducted by the expert or an independent expert in order to confirm a test upon which an expert concludes that the established father is not the biological father of the child.

e. The juvenile court finds all of the following, as applicable:

(1) That the conclusion of the expert as disclosed by the evidence based upon blood or genetic testing demonstrates that the established father is not the biological father of the child.

(2) If paternity was established pursuant to section 252A.3A, the signed affidavit was based on fraud, duress, or material mistake of fact.

(3) The established father agrees that his paternity should be overcome or the juvenile

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court finds it is in the best interest of the child that the established father's paternity be overcome despite the established father's objection.

5. If the court finds that the establishment of paternity is overcome, in accordance with all of the conditions prescribed under subsection 3 or 4, the court shall enter an order which provides all of the following:

a. That the established father is relieved of any and all future support obligations owed on behalf of the child from the date that the order determining that the established father is not the biological father is filed.

b. That any unpaid support due prior to the date the order determining that the established father is not the biological father is filed, is satisfied.

6. An action brought under this section shall be heard and decided by the court, and shall not be subject to a jury trial.

7. *a.* If the court determines that test results conducted in accordance with section 600B.41 or chapter 252F exclude the established father as the biological father, the court may dismiss the action to overcome paternity and preserve the paternity determination only if all of the following apply:

(1) The established father requests that paternity be preserved and that the parent-child relationship, as defined in section 600A.2, be continued.

(2) The court finds that it is in the best interest of the child to preserve paternity. In determining the best interest of the child, the court shall consider all of the following:

(a) The age of the child.

(b) The length of time since the establishment of paternity.

(c) The previous relationship between the child and the established father, including but not limited to the duration and frequency of any time periods during which the child and established father resided in the same household or engaged in a parent-child relationship as defined in section 600A.2.

(d) The possibility that the child could benefit by establishing the child's actual paternity.

(e) Additional factors which the court determines are relevant to the individual situation.

(3) The biological father is a party to the action and does not object to termination of the biological father's parental rights, or the established father petitions the court for termination of the biological father's parental rights and the court grants the petition pursuant to chapter 600A.

b. If the court dismisses the action to overcome paternity and preserves the paternity determination under this subsection, the court shall enter an order establishing that the parent-child relationship exists between the established father and the child, and including establishment of a support obligation pursuant to section 598.21B and provision of custody and visitation pursuant to section 598.41.

8. *a.* For any order entered under this section on or before May 21, 1997, in which the court's determination excludes the established father as the biological father but dismisses the action to overcome paternity and preserves paternity, the established father may petition the court to issue an order which provides all of the following:

(1) That the parental rights of the established father are terminated.

(2) That the established father is relieved of any and all future support obligations owed on behalf of the child from the date the order under this subsection is filed.

b. The established father may proceed pro se under this subsection. The supreme court shall prescribe standard forms for use under this subsection and shall distribute the forms to the clerks of the district court.

c. If a petition is filed pursuant to this section and notice is served on any parent of the child not filing the petition and any assignee of the support obligation, the court shall grant the petition.

9. The costs of testing, the fee of the guardian ad litem, and all court costs shall be paid by the person bringing the action to overcome paternity.

10. This section shall not be construed as a basis for termination of an adoption decree or for discharging the obligation of an adoptive father to an adoptive child pursuant to section 600B.5.

11. Unless specifically addressed in an order entered pursuant to this section, provisions

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previously established by the court order regarding custody or visitation of the child are unaffected by an action brought under this section.

12. Participation of child support services created in section 252B.2 in an action brought under this section shall be limited as follows:

a. Child support services shall only participate in actions if services are being provided by child support services pursuant to chapter 252B.

b. When services are being provided by child support services under chapter 252B, child support services may enter an administrative order for blood and genetic tests pursuant to chapter 252F.

c. Child support services is not responsible for or required to provide for or assist in obtaining blood or genetic tests in any case in which services are not being provided by child support services.

d. Child support services is not responsible for the costs of blood or genetic testing conducted pursuant to an action brought under this section.

e. Pursuant to section 252B.7, subsection 4, an attorney employed by child support services represents the state in any action under this section. Child support services' attorney is not the legal representative of the mother, the established father, or the child in any action brought under this section.

94 Acts, ch 1171, §48, 52; 97 Acts, ch 175, §212 – 216, 218, 219, 221; 98 Acts, ch 1074, §32; 2005 Acts, ch 69, §57; 2015 Acts, ch 110, §116; 2023 Acts, ch 19, §1261, 1262, 1358; 2023 Acts, ch 123, §10 – 12

Referred to in §232.3A, 252A.6A, 252C.4, 598.21E, 600B.41, 602.6306

600B.42 Security for payment of support — forfeiture.

Upon entry of an order for support or upon the failure of a father to make payments pursuant to an order for support, the court may require the father to provide security, a bond, or other guarantee which the court determines is satisfactory to secure the payment of the support. Upon the father's failure to pay the support under the order, the court may declare the security, bond, or other guarantee forfeited.

85 Acts, ch 100, §11
CS85, §675.42
C93, §600B.42

CHAPTER 600C
GRANDPARENT VISITATION

Referred to in §598A.2

600C.1 Grandparent and great-grandparent visitation.

600C.1 Grandparent and great-grandparent visitation.

1. The grandparent or great-grandparent of a minor child may petition the court for grandchild or great-grandchild visitation when the parent of the minor child, who is the child of the grandparent or the grandchild of the great-grandparent, is deceased.

2. The court shall consider a fit parent's objections to granting visitation under this section. A rebuttable presumption arises that a fit parent's decision to deny visitation to a grandparent or great-grandparent is in the best interest of a minor child.

3. The court may grant visitation to the grandparent or great-grandparent under this section if the court finds all of the following by clear and convincing evidence:

a. It is in the best interest of the child to grant such visitation.

b. The grandparent or great-grandparent has established a substantial relationship with the child prior to the filing of the petition.

c. That the presumption that the parent who is being asked to temporarily relinquish care,

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custody, and control of the child to provide visitation is fit to make the decision regarding visitation is overcome by demonstrating one of the following:

(1) The parent is unfit to make such decision.

(2) The parent's judgment has been impaired and the relative benefit to the child of granting visitation greatly outweighs any effect on the parent-child relationship. Impaired judgment of a parent may be evidenced by any of, but not limited to, the following:

(a) Neglect of the child.

(b) Abuse of the child.

(c) Violence toward the child.

(d) Indifference or absence of feeling toward the child.

(e) Demonstrated unwillingness and inability to promote the emotional and physical well-being of the child.

(f) Substance use disorder.

(g) A diagnosis of mental illness.

4. In determining the best interest of the child, the court shall consider all of the following:

a. The prior interaction and interrelationships of the child with the child's parents, siblings, and other persons related by consanguinity or affinity, compared to the child's relationship with the grandparent or great-grandparent.

b. The geographical location of the grandparent's or great-grandparent's residence and the distance between the grandparent's or great-grandparent's residence and the child's residence.

c. The child's and parent's available time, including but not limited to the parent's employment schedule, the child's school schedule, the amount of time that will be available for the child to spend with siblings, and the child's and the parent's holiday and vacation schedules.

d. The age of the child.

e. If the court has interviewed the child in chambers as provided in this section regarding the wishes and concerns of the child as to visitation by the grandparent or great-grandparent or as to a specific visitation schedule, the wishes and concerns of the child, as expressed to the court.

f. The health and safety of the child.

g. The mental and physical health of all parties.

h. Whether the grandparent or great-grandparent previously has been convicted of or pleaded guilty to any criminal offense involving any act that resulted in a child being an abused child or a neglected child; whether the grandparent or great-grandparent previously has been convicted of or pleaded guilty to a crime involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the current proceeding; and whether there is reason to believe that the grandparent or great-grandparent has acted in a manner resulting in a child having ever been found to be an abused child or a neglected child.

i. The wishes and concerns of the child's parent, as expressed by the parent to the court.

j. Any other factor in the best interest of the child.

5. For the purposes of this section, *"substantial relationship"* includes but is not limited to any of the following:

a. The child has lived with the grandparent or great-grandparent for at least six months.

b. The grandparent or great-grandparent has voluntarily and in good faith supported the child financially in whole or in part for a period of not less than six months.

c. The grandparent or great-grandparent has had frequent visitation including occasional overnight visitation with the child for a period of not less than one year.

6. If the court interviews any child concerning the child's wishes and concerns regarding parenting time or visitation, the interview shall be conducted in chambers, and only the child, the child's attorney, the judge, any necessary court personnel, and, in the judge's discretion, the attorney of the parent shall be permitted to be present in the chambers during the interview. A person shall not obtain or attempt to obtain from a child a written or recorded statement or affidavit setting forth the wishes and concerns of the child regarding parenting time or visitation.

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7. For the purposes of this section, *"court"* means the district court or the juvenile court if that court currently has jurisdiction over the child in a pending action. If an action is not pending, the district court has jurisdiction.

8. Notwithstanding any provision of this chapter to the contrary, venue for any action to establish, enforce, or modify visitation under this section shall be in the county where the child resides if no final custody order determination relating to the grandchild or great-grandchild has been entered by any other court. If a final custody order has been entered by any other court, venue shall be located exclusively in the county where the most recent final custody order was entered. If any other custodial proceeding is pending when an action to establish, enforce, or modify visitation under this section is filed, venue shall be located exclusively in the county where the pending custodial proceeding was filed.

9. Notice of any proceeding to establish, enforce, or modify visitation under this section shall be personally served upon the parent of the child whose interests are affected by a proceeding brought pursuant to this section and all grandparents or great-grandparents who have previously obtained a final order or commenced a proceeding under this section.

10. The court shall not enter any temporary order to establish, enforce, or modify visitation under this section.

11. An action brought under this section is subject to chapter 598B, and in an action brought to establish, enforce, or modify visitation under this section, each party shall submit in its first pleading or in an attached affidavit all information required by section 598B.209.

12. A grandparent or great-grandparent shall not petition for visitation under this section more than once every two years absent a showing of good cause.

13. The court shall not issue an order restricting the movement of the child if such restriction is solely for the purpose of allowing the grandparent or great-grandparent the opportunity to exercise the grandparent's or great-grandparent's visitation under this section.

2007 Acts, ch 218, §206; 2010 Acts, ch 1193, §130; 2011 Acts, ch 34, §134; 2023 Acts, ch 19, §1263

Referred to in §600.11

CHAPTER 601

PARENTS AND GUARDIANS — RIGHTS

601.1 Parents and guardians — rights.

601.1 Parents and guardians — rights.

1. For purposes of this section:

a. *"Emergent care situation"* means a sudden or unforeseen occurrence or onset of a medical or behavioral condition that could result in serious injury or harm to a minor child in the event immediate medical attention is not provided.

b. *"Medical care"* means any care, treatment, service, or procedure to prevent, diagnose, alleviate, treat, or cure a minor child's physical or mental condition.

c. *"Minor child"* means an unmarried and unemancipated person under the age of eighteen years.

2. *a.* Subject to section 147.164, a parent or guardian bears the ultimate responsibility, and has the fundamental, constitutionally protected right, to make decisions affecting the parent's or guardian's minor child, including decisions related to the minor child's medical care, moral upbringing, religious upbringing, residence, education, and extracurricular activities.

b. A parent or guardian of a minor child may consent to and authorize the minor child's evaluation, counseling, therapy, rehabilitation service, medication management, outpatient treatment, inpatient treatment, or prescreening interview and consultation for inpatient treatment for a substance use disorder as defined in section 125.2, or a mental health

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condition. A parent's or guardian's consent and authorization under this paragraph shall be effective over any objection to the consent and authorization by the minor child.

c. This subsection shall not be construed to require a mental health care professional as defined in section 228.1, or a facility as defined in section 125.2, to provide treatment to a minor child if the mental health professional or facility determines that treatment is not appropriate, the criteria to admit the minor child for treatment has not been met, or the mental health professional or facility is otherwise unable to treat the minor child.

d. Any and all restrictions of the rights described in this subsection shall be subject to strict scrutiny.

3. This section shall not be construed to prohibit any of the following:

a. A minor child from receiving medical attention in an emergent care situation.

b. A person from cooperating in a child abuse assessment commenced in accordance with section 232.71B.

c. A court from issuing an order that is permitted by law.

4. This section shall not be construed to authorize a parent or guardian to engage in conduct that is unlawful or to abuse or neglect a minor child in violation of the laws of this state.

5. The rights guaranteed to parents and guardians by this section are not a comprehensive list of the rights reserved to parents or guardians of a minor child. The enumeration of the rights contained in this section shall not be construed to limit the rights reserved to parents or guardians of a minor child.

2023 Acts, ch 91, §24; 2026 Acts, ch 1060, §3
Subsection 2 amended

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SUBTITLE 2

COURTS

CHAPTER 602

JUDICIAL BRANCH

Referred to in §12F.2, 12H.2, 12J.2, 12K.1, 70A.30, 97D.5, 331.424, 453A.2, 564A.2, 564A.3

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Referred to in §602.11101

PART 1
DEFINITIONS AND COMPOSITION

602.1101 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Book"*, *"record"*, or *"register"* means any mode of permanent recording, including but not limited to, card files, microfilm, microfiche, and electronic records.
2. *"Chief judge"* means the district judge selected to serve as the chief judge of the judicial district pursuant to section 602.1210.
3. *"Chief justice"* means the chief justice of the supreme court selected pursuant to section 602.4103.
4. *"Chief juvenile court officer"* means a person appointed under section 602.1217.
5. *"Court employee"* or *"employee of the judicial branch"* means an officer or employee of the judicial branch except a judicial officer.
6. *"Director of juvenile court services"* means the same as defined in the Iowa court rules of juvenile court services directed programs as prescribed by the supreme court and includes the deputy director of juvenile court services.
7. *"District court administrator"* means a person appointed pursuant to section 602.1214.
8. *"Judicial officer"* means a supreme court justice, a judge of the court of appeals, a district judge, a district associate judge, an associate juvenile judge, an associate probate judge, or a magistrate. The term also includes a person who is temporarily serving as a justice, judge, or magistrate as permitted by section 602.1612 or 602.9206.
9. *"Magistrate"* means a person appointed under article 6, part 4 to exercise judicial functions.
10. *"Senior judge"* means a person who qualifies as a senior judge under article 9, part 2.
11. *"Senior magistrate"* means a person who qualifies as a senior magistrate under section 602.9302.
12. *"State court administrator"* means the person appointed by the supreme court pursuant to section 602.1208.

83 Acts, ch 186, §1101, 10201, 10202; 96 Acts, ch 1153, §2; 98 Acts, ch 1047, §31, 32; 2025 Acts, ch 86, §42; 2026 Acts, ch 1063, §26

Referred to in §9B.17, 99D.2, 99F.1, 607A.3, 708.17, 708.18, 720.7, 724.6
NEW subsection 11 and former subsection 11 renumbered as 12

602.1102 Judicial branch.

The judicial branch consists of all of the following:

1. The supreme court.
2. The court of appeals.
3. The district court.
4. The clerks of all of the courts of this state.
5. Juvenile court officers.
6. Court reporters.
7. All other court employees.

83 Acts, ch 186, §1102, 10201; 98 Acts, ch 1047, §33

Referred to in §8.76, 8A.101, 423.13A

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The supreme court has supervisory and administrative control over the judicial branch and over all judicial officers and court employees.

83 Acts, ch 186, §1201, 10201; 98 Acts, ch 1047, §34

602.1202 Judicial council.

1. A judicial council is established, consisting of the chief judges of the judicial districts, the chief judge of the court of appeals, and the chief justice who shall be the chairperson. The council shall convene not less than twice each year at times and places as ordered by the chief justice. The council shall advise the supreme court with respect to the supervision and administration of the judicial branch.

2. A meeting of the judicial council in which the judicial retirement system is discussed shall not be held as a closed session under section 21.5.

83 Acts, ch 186, §1202, 10201; 98 Acts, ch 1047, §35; 2026 Acts, ch 1191, §6

Referred to in §231E.4

Section amended

602.1203 Personnel conferences.

The chief justice may order conferences of judicial officers or court employees on matters relating to the administration of justice or the affairs of the judicial branch. For judges and other court employees who handle cases involving children and family law, the chief justice shall require regular training concerning mental or emotional disorders which may afflict children and the impact children with such disorders have upon their families.

83 Acts, ch 186, §1203, 10201; 95 Acts, ch 182, §28; 98 Acts, ch 1047, §36

602.1204 Procedures for judicial branch.

1. The supreme court shall prescribe procedures for the orderly and efficient supervision and administration of the judicial branch. These procedures shall be executed by the chief justice.

2. The state court administrator may issue directives relating to the management of the judicial branch. The subject matters of these directives shall include, but need not be limited to, fiscal procedures, the judicial retirement system, and the collection and reporting of statistical and other data. In addition, when establishing salaries and benefits the state court administrator shall not discriminate in the employment or pay between employees on the basis of gender by paying wages to employees at a rate less than the rate at which wages are paid to employees of the opposite gender for work of comparable worth. As used in this section *"comparable worth"* means the value of work as measured by the composite of the skill, effort, responsibility, and working conditions normally required in the performance of work.

3. The supreme court shall compile and publish all procedures and directives relating to the supervision and administration of the internal affairs of the judicial branch, and shall distribute a copy of the compilation and all amendments to each operating component of the judicial branch.

4. The supreme court shall accept bids for the printing of court forms from both public and private enterprises and shall attempt to contract with both public and private enterprises for a reasonable portion of the court forms.

83 Acts, ch 186, §1204, 10201; 98 Acts, ch 1047, §37; 2003 Acts, ch 35, §43, 49; 2003 Acts, ch 145, §271; 2026 Acts, ch 1186, §32

Referred to in §602.1208, 602.1209, 602.1401

Subsection 2 amended

602.1205 Procedures for courts.

1. The supreme court shall prescribe procedures for the orderly and efficient

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administration of the judicial business of the courts. These procedures shall be executed by the chief justice.

2. Procedures for the district court shall provide for a court session at least once each week in each county to be fixed in advance and announced in the form of a printed schedule. However, court sessions may be at intervals other than once each week if in the opinion of the chief judge more efficient operations in the district will result. The procedures shall also provide for additional sessions for the trial of cases in each county at a frequency which will promptly dispose of the cases that are ready for trial.

83 Acts, ch 186, §1205, 10201

602.1206 Rules for judges and attorneys.

1. The supreme court shall prescribe rules as necessary to supervise the conduct of attorneys and judicial officers. These rules shall be executed by the chief justice.

2. Supreme court rules shall be published as provided in section 2B.5B.

83 Acts, ch 186, §1206, 10201; 92 Acts, ch 1163, §109; 2015 Acts, ch 29, §103

602.1207 Report of the condition of the judicial branch.

The chief justice shall communicate the condition of the judicial branch by message to each general assembly, and may recommend matters the chief justice deems appropriate.

83 Acts, ch 186, §1207, 10201; 98 Acts, ch 1047, §38

602.1208 State court administrator.

1. The supreme court, by majority vote, shall appoint a state court administrator and may remove the administrator for cause.

2. The state court administrator is the principal administrative officer of the judicial branch, subject to the immediate direction and supervision of the chief justice.

3. The state court administrator shall employ staff as necessary to perform the duties of the administrator, subject to the approval of the supreme court and budget limitations. The administrator shall implement the comparable worth directives issued under section 602.1204, subsection 2 in all court employment decisions.

4. All judicial officers and court employees shall comply with procedures and requests of the state court administrator with respect to information and statistical data bearing on the state of the dockets of the courts, the progress of court business, and other matters reflecting judicial business and the expenditure of moneys for the maintenance and operation of the judicial system.

83 Acts, ch 186, §1208, 10201; 98 Acts, ch 1047, §39

Referred to in §602.1101

602.1209 General duties of the state court administrator.

The state court administrator shall:

1. Manage the judicial branch.

2. Administer funds appropriated to the judicial branch.

3. Authorize the filling of vacant court employee positions and review the qualifications of each person to be employed within the judicial branch. The state court administrator shall not approve the employment of a person when either the proposed terms and conditions of employment or the qualifications of the individual do not satisfy personnel policies of the judicial branch. The administrator shall implement the comparable worth directives issued under section 602.1204, subsection 2, in all court employment decisions.

4. Supervise the employees of the supreme court and court of appeals, and the clerk of the supreme court.

5. Administer the judicial retirement system as provided in article 9.

6. Collect and compile information and statistical data, and submit reports relating to judicial business, including juvenile court activities and other matters relating to the judicial branch.

7. Formulate and submit recommendations for improvement of the judicial system, with reference to the structure of the judicial branch and its organization and methods of

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operation, the selection, compensation, number, and tenure of judicial officers and court employees, and other matters as directed by the chief justice or the supreme court.

8. Call conferences of district court administrators as necessary in the administration of the judicial branch.

9. Provide a secretary and clerical services for the board of examiners of shorthand reporters under article 3.

10. Act as executive secretary of the commission on judicial qualifications under article 2.

11. Act as custodian of the bonds and oaths of office of judicial officers and court employees.

12. Issue vouchers for the payment of per diem and expenses from funds appropriated for purposes of articles 2, 3, and 10.

13. Collect and account for fees paid to the board of examiners of shorthand reporters under article 3.

14. Collect and account for fees paid to the board of bar examiners under article 10.

15. Distribute notices of interest rates and changes to interest rates as required by section 668.13, subsection 3.

16. Prescribe practices and procedures for the implementation of the preapplication screening assessment program referred to in section 125.74.

17. Prescribe practices and procedures for the maintenance of electronic recordings and production of transcripts from electronic recordings referred to in section 602.6405, subsection 4.

18. Carry out duties relating to the identification and service of jurors as provided in chapter 607A.

19. Perform other duties as assigned by the supreme court, or the chief justice, or by law.

83 Acts, ch 186, §1209, 10201; 87 Acts, ch 157, §2; 89 Acts, ch 19, §2; 98 Acts, ch 1047, §40; 2012 Acts, ch 1079, §16; 2013 Acts, ch 130, §54; 2016 Acts, ch 1022, §1; 2017 Acts, ch 133, §4; 2018 Acts, ch 1165, §134; 2026 Acts, ch 1186, §33

Referred to in §602.1215, 602.1402
Subsection 3 amended

602.1209A State court administrator may contractually limit vendor liability.

1. The state court administrator may authorize the procurement of goods and services in which a contractual limitation of vendor liability is provided for and set forth in the documents initiating the procurement.

2. *a.* The state court administrator shall consider all of the following criteria when determining whether to permit a contractual limitation of vendor liability with regard to any procurement of goods or services:

(1) Whether authorizing a contractual limitation of vendor liability is necessary to prevent harm to the state from a failure to obtain the goods or services sought, or from obtaining the goods or services at a higher price if the state refuses to allow a contractual limitation of vendor liability.

(2) Whether the contractual limitation of vendor liability is commercially reasonable when taking into account any risk to the state created by the goods or services to be procured and the purpose for which they will be used.

b. The state court administrator may consider additional criteria.

3. Notwithstanding subsection 1, a contractual limitation of vendor liability shall not include any limitation on the liability of any vendor for intentional torts, criminal acts, or fraudulent conduct.

2023 Acts, ch 114, §9

602.1210 Selection of chief judges.

Not later than December 15 in each odd-numbered year the chief justice shall appoint chief judges of the judicial districts, subject to the approval of the supreme court. The chief judge of a judicial district shall be appointed from those district judges who are serving within the district. A chief judge shall serve for a two-year term and is eligible for reappointment. The supreme court, by majority vote, may remove a person from the position of chief judge.

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Vacancies in the office of chief judge shall be filled in the same manner. An order appointing a chief judge shall be filed with the clerk of the supreme court, who shall mail a copy to the clerk of the district court in each county in the judicial district.

83 Acts, ch 186, §1210, 10201
Referred to in §602.1101

602.1211 Duties of chief judges.

1. In addition to judicial duties, a chief judge of a judicial district shall supervise all judicial officers and court employees serving within the district. The chief judge shall by order fix the times and places of holding court, and shall designate the respective presiding judges, supervise the performance of all administrative and judicial business of the district, allocate the workloads of district associate judges and magistrates, and conduct judicial conferences to consider, study, and plan for improvement of the administration of justice.

2. A chief judge shall not attempt to direct or influence a judicial officer in a judicial ruling or decision.

3. A chief judge may appoint from among the other judicial officers of the district, excluding the magistrates, one or more assistants to serve throughout the judicial district. A chief judge may remove a person from the position of assistant. An assistant shall have administrative duties as specified in court rules or in the order of appointment. An appointment or removal shall be made by judicial order and shall be filed with the clerk of the district court in each county in the judicial district.

4. A chief judge may designate other public officers to accept bond money or security under section 232.23 or 811.2 at times when the office of the clerk of court is not open.

83 Acts, ch 186, §1211, 10201; 85 Acts, ch 17, §1; 96 Acts, ch 1153, §3; 97 Acts, ch 126, §43
Referred to in §811.2

602.1212 Judges for public utility rate cases.

1. The supreme court shall designate at least one district judge in each judicial district in the state who shall be subject to assignment by the chief justice to preside as necessary in this state in judicial review proceedings referred to in section 476.13, subsection 1. Designations shall be made on the basis of qualifications and experience, and shall be for the purpose of developing a pool of district judges who will have the knowledge and experience needed to expedite judicial review proceedings in those cases.

2. Upon receipt of notice from a district court clerk under section 476.13, subsection 2, the chief justice of the supreme court shall assign one of the district judges selected under subsection 1 to preside at the judicial review proceeding under section 476.13.

83 Acts, ch 127, §43
Referred to in §476.13

602.1213 District judicial conferences.

1. The judicial officers within a judicial district, excluding the magistrates, may convene as an administrative body as necessary to:

a. Prescribe local court procedures, subject to the approval of the supreme court.

b. Advise the chief judge respecting supervision and administration of the judicial district.

c. Exercise other duties, as established by law or by the supreme court.

2. A district judicial conference shall act by majority vote of its members.

83 Acts, ch 186, §1212, 10201; 96 Acts, ch 1153, §4
Referred to in §633.18

602.1214 District court administrator.

1. The chief judge of a judicial district shall appoint a district court administrator and may remove the administrator for cause.

2. The district court administrator shall assist the chief judge in the supervision and administration of the judicial district.

3. The district court administrator shall assist the state court administrator in the implementation of policies of the judicial branch and in the performance of the duties of the state court administrator.

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4. The district court administrator shall employ and supervise all employees of the district court except court reporters, clerks of the district court, employees of the clerks of the district court, juvenile court officers, and employees of juvenile court officers.

5. The district court administrator shall comply with policies of the judicial branch and the judicial district.

6. The supreme court shall establish the qualifications for appointment as a district court administrator.

7. The district court administrator shall maintain a record of the name, address, and term of office of each member of the judicial election district magistrate appointing commission as provided in section 602.6501, and certify to the state court administrator the names and addresses of the magistrates appointed by the commission as provided in section 602.6403.

83 Acts, ch 186, §1213, 10201; 85 Acts, ch 67, §59; 98 Acts, ch 1047, §41; 2026 Acts, ch 1063, §5, 25

Referred to in §602.1101
Subsection 7 effective November 1, 2026; 2026 Acts, ch 1063, §25
NEW subsection 7

602.1215 Clerk of the district court.

1. Subject to the provisions of section 602.1209, subsection 3, the district judges of each judicial election district shall by majority vote appoint persons to serve as clerks of the district court within the judicial election district. The district judges of a judicial election district may appoint a person to serve as clerk of the district court for more than one county in the same judicial district. A person does not qualify for appointment to the office of clerk of the district court unless the person is at the time of application a resident of the state. A clerk of the district court may be removed from office for cause by the chief judge of the judicial district, after consultation with the district judges of the judicial election district. Prior to removal, the clerk of the district court shall be notified of the cause for removal.

2. The clerk of the district court has the duties specified in article 8, and other duties as prescribed by law or by the supreme court.

3. The clerk of the district court shall assist the state court administrator and the district court administrator in carrying out the rules, directives, and procedures of the judicial branch and the judicial district.

4. The clerk of the district court shall comply with rules, directives, and procedures of the judicial branch and the judicial district.

83 Acts, ch 186, §1214, 10201; 92 Acts, ch 1115, §1; 98 Acts, ch 1047, §42; 2003 Acts, ch 151, §29; 2014 Acts, ch 1031, §1; 2020 Acts, ch 1121, §81

Referred to in §602.8101, 602.11101
Appointment of clerk subject to approval of state court administrator; 2006 Acts, ch 1174, §3

602.1216 Retention of clerks of the district court.

A clerk of the district court shall stand for retention in office, in the county of the clerk's office, upon the petition signed by eligible electors residing in the county equal in number to at least ten percent of all registered voters in the county to the state commissioner of elections, at the judicial election in 1988 and every four years thereafter, under sections 46.17 through 46.24. The petition shall be filed in the office of the state commissioner not later than one hundred twenty days before the general election. A clerk who is not retained in office is ineligible to serve as clerk, in the county in which the clerk was not retained, for the four years following the retention vote.

83 Acts, ch 186, §1215, 10201; 89 Acts, ch 136, §74; 2001 Acts, ch 56, §37

Referred to in §46.20

602.1217 Chief juvenile court officer.

1. The director of juvenile court services shall appoint a chief juvenile court officer for each judicial district after consultation with the judges of the judicial district, and may remove a chief juvenile court officer for cause.

2. The chief juvenile court officer is subject to the immediate supervision and direction of the director of juvenile court services.

3. The chief juvenile court officer, in addition to performing the duties of a juvenile court

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officer, shall supervise juvenile court officers and administer juvenile court services within the judicial district in a uniform manner, under the supervision and direction of the director of juvenile court services, in accordance with law and with the rules, directives, and procedures of the judicial branch and the judicial district.

4. The chief juvenile court officer shall assist the state court administrator and the director of juvenile court services in implementing the rules, directives, and procedures of the judicial branch and the judicial district.

5. A chief juvenile court officer shall have other duties as prescribed by the supreme court or by the director of juvenile court services.

83 Acts, ch 186, §1216, 10201; 98 Acts, ch 1047, §43; 2006 Acts, ch 1118, §1; 2025 Acts, ch 86, §43

Referred to in §232.2, 602.1101

602.1218 Removal for cause.

Inefficiency, insubordination, incompetence, failure to perform assigned duties, inadequacy in performance of assigned duties, narcotics addiction, dishonesty, unrehabilitated alcoholism, negligence, conduct which adversely affects the performance of the individual or of the judicial branch, conduct unbecoming a public employee, misconduct, or any other just and good cause constitutes cause for removal.

83 Acts, ch 186, §1217, 10201; 98 Acts, ch 1047, §44

PART 3

BUDGETING AND FUNDING

602.1301 Budget and fiscal procedures.

1. The supreme court shall prepare an annual operating budget for the judicial branch, and shall submit a budget request to the general assembly for the fiscal period for which the general assembly is appropriating funds.

2. *a.* As early as possible, but not later than December 1, the supreme court shall submit to the legislative services agency the annual budget request and detailed supporting information for the judicial branch. The submission shall be designed to assist the legislative services agency in its preparation for legislative consideration of the budget request. The information submitted shall contain and be arranged in a format substantially similar to the format specified by the director of the department of management and used by all departments and establishments in transmitting to the director estimates of their expenditure requirements pursuant to section 8.23. The supreme court shall also make use of the department of management's automated budget system when submitting information to the director of the department of management to assist the director in the transmittal of information as required under section 8.35A. The supreme court shall budget and track expenditures by the following separate organization codes:

(1) Iowa court information system.
(2) Appellate courts.
(3) Central administration.
(4) District court administration.
(5) Judges and magistrates.
(6) Court reporters.
(7) Juvenile court officers.
(8) District court clerks.
(9) Jury and witness fees.

b. Before December 1, the supreme court shall submit to the director of the department of management an estimate of the total expenditure requirements of the judicial branch. The director of the department of management shall submit this estimate received from the supreme court to the governor. The estimate shall also be submitted to the chairpersons of the committees on appropriations.

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3. The state court administrator shall prescribe the procedures to be used by the operating components of the judicial branch with respect to the following:

a. The preparation, submission, review, and revision of budget requests.

b. The allocation and disbursement of funds appropriated to the judicial branch.

c. The purchase of forms, supplies, equipment, and other property.

d. Other matters relating to fiscal administration.

4. The state court administrator shall prescribe practices and procedures for the accounting and internal auditing of funds of the judicial branch, including uniform practices and procedures to be used by judicial officers and court employees with respect to all funds, regardless of source.

83 Acts, ch 186, §1301, 10201; 85 Acts, ch 262, §7; 86 Acts, ch 1245, §121; 88 Acts, ch 1271, §10; 89 Acts, ch 316, §19; 90 Acts, ch 1268, §10; 91 Acts, ch 267, §414; 98 Acts, ch 1047, §45; 2003 Acts, ch 35, §45, 49; 2015 Acts, ch 29, §114; 2019 Acts, ch 89, §34; 2022 Acts, ch 1145, §9

602.1302 State funding.

1. Except as otherwise provided by sections 602.1303 and 602.8108 or other applicable law, the expenses of operating and maintaining the judicial branch shall be paid out of the general fund of the state from funds appropriated by the general assembly for the judicial branch. State funding shall be phased in as provided in section 602.11101.

2. The supreme court may accept federal funds to be used in the operation of the judicial branch, but shall not expend any of these funds except pursuant to appropriation of the funds by the general assembly.

3. A revolving fund is created in the state treasury for the payment of jury and witness fees, mileage, costs related to summoning jurors by the judicial branch, costs and fees related to the management and payment of interpreters and translators in judicial branch legal proceedings and court-ordered programs, and attorney fees paid by the state public defender for counsel appointed pursuant to section 600A.6A. The judicial branch shall deposit any reimbursements to the state for the payment of jury and witness fees, mileage fees, and interpreter or translator fees in the revolving fund. In each calendar quarter the judicial branch shall reimburse the state public defender for attorney fees paid pursuant to section 600A.6B. Notwithstanding section 8.33, unencumbered and unobligated receipts in the revolving fund at the end of a fiscal year do not revert to the general fund of the state. The judicial branch shall on or before February 1 file a financial accounting of the moneys in the revolving fund with the legislative services agency. The accounting shall include an estimate of disbursements from the revolving fund for the remainder of the fiscal year and for the next fiscal year.

4. The judicial branch shall reimburse counties for the costs of witness and mileage fees and for attorney fees paid pursuant to section 232.141, subsection 1.

83 Acts, ch 186, §1302, 10201; 85 Acts, ch 197, §11; 87 Acts, ch 152, §2; 95 Acts, ch 207, §23; 98 Acts, ch 1047, §46; 2002 Acts, ch 1175, §43; 2003 Acts, ch 35, §45, 49; 2005 Acts, ch 107, §6, 14; 2005 Acts, ch 165, §2; 2014 Acts, ch 1141, §15; 2020 Acts, ch 1074, §23, 93; 2025 Acts, ch 158, §8

Referred to in §622A.3, 815.11

Local court property devoted for use of judicial branch; §602.11107

602.1303 Local funding.

1. A county or city shall provide the district court for the county with physical facilities, including heat, water, electricity, maintenance, and custodial services, as follows:

a. A county shall provide courtrooms, offices, and other physical facilities which in the judgment of the board of supervisors are suitable for the district court, and for judicial officers of the district court, the clerk of the district court, juvenile court officers, and other court employees.

b. The counties within the judicial districts shall provide suitable offices and other physical facilities for the district court administrator and staff at locations within the judicial districts determined by the chief judge of the respective judicial districts. The county auditor of the host county shall apportion the costs of providing the offices and other physical facilities

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among the counties within the judicial district in the proportion that the population of each county in the judicial district is to the total population of all counties in the district.

c. If court is held in a city other than the county seat, the city shall provide courtrooms and other physical facilities which in the judgment of the city council are suitable.

d. A county shall provide furnishings for the use of judicial officers, referees, and their staff.

2. The counties comprising the judicial election district shall pay the expenses of the members of the judicial election district magistrate appointing commission based on the county of residence of the member, as provided in section 602.6501.

3. A county shall provide the district court with bailiff and other law enforcement services upon the request of a judicial officer of the district court.

4. A county shall pay the costs incurred in connection with the administration of juvenile justice under section 232.141.

5. A county shall pay the costs and expenses incurred in connection with grand juries.

6. A county or city shall pay the costs of its depositions and transcripts in criminal actions prosecuted by that county or city and shall pay the court fees and costs provided by law in criminal actions prosecuted by that county or city under county or city ordinance. A county or city shall pay witness fees and mileage in trials of criminal actions prosecuted by the county or city under county or city ordinance.

7. A county shall pay the fees and expenses allowed under sections 815.2 and 815.3.

8. If a county board of supervisors, with the approval of the supreme court, elects not to maintain space for the district court, the county may enter into an agreement with a contiguous county in the same judicial district to share the costs under subsections 1 through 7. For the purposes of this subsection, two counties are contiguous if they share a common boundary, including a corner.

83 Acts, ch 186, §1303, 10201; 84 Acts, ch 1301, §14; 85 Acts, ch 197, §12; 86 Acts, ch 1108, §6; 87 Acts, ch 192, §1; 92 Acts, ch 1164, §2; 2017 Acts, ch 133, §5; 2025 Acts, ch 167, §16; 2026 Acts, ch 1063, §6, 25

Referred to in §331.361, 602.1302, 602.6105, 602.11101, 719.1
Certain bailiffs employed as court attendants; §602.11113
2026 amendment to subsection 2 effective November 1, 2026; 2026 Acts, ch 1063, §25
Subsection 2 amended

602.1304 Revenues — enhanced court collections fund.

Except as provided in article 8, all fees and other revenues collected by judicial officers and court employees shall be paid into the general fund of the state.

83 Acts, ch 186, §1304, 10201; 95 Acts, ch 207, §24; 96 Acts, ch 1034, §55; 96 Acts, ch 1216, §29; 97 Acts, ch 205, §23; 98 Acts, ch 1047, §47; 2003 Acts, ch 145, §286; 2005 Acts, ch 165, §3; 2005 Acts, ch 179, §137; 2006 Acts, ch 1030, §74; 2006 Acts, ch 1166, §4; 2007 Acts, ch 215, §64; 2020 Acts, ch 1074, §24, 25, 93

602.1305 Distribution of revenues of the district court.

All fees, costs, forfeited bail, and other court revenues collected by the district court shall be distributed as provided in article 8.

83 Acts, ch 186, §1305, 10201

602.1306 Federal grants and loans — notification of general assembly.

Within thirty days of applying for or receiving a federal grant or loan of five million dollars or more, or a federal grant or loan requiring state matching moneys, the judicial branch shall notify by electronic mail the chairpersons and ranking members of the standing committees on appropriations of the senate and house of representatives, the chairperson and ranking member of the house of representatives appropriations subcommittee on federal and other funds, and the legislative services agency.

2026 Acts, ch 1200, §84

NEW section

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PART 4

PERSONNEL

602.1401 Personnel system.

1. The supreme court shall establish, and may amend, a personnel system and a pay and benefits plan for judicial officers, the state court administrator, and court employees. The personnel system shall include a designation by position title, classification, and function of each position or class of positions within the judicial branch. Reasonable efforts shall be made to accommodate the individual staffing and management practices of the respective clerks of the district court. The personnel system, in the employment of court employees, shall not discriminate on the basis of race, creed, color, sex, national origin, religion, physical disability, or political party preference. The supreme court, in establishing the personnel system, shall implement the comparable worth directives issued by the state court administrator under section 602.1204, subsection 2. The personnel system shall include the prohibitions against sexual harassment of full-time, part-time, and temporary employees set out in section 19B.12, and shall include a grievance procedure for discriminatory harassment. The personnel system shall develop and distribute at the time of hiring or orientation, a guide that describes the applicable sexual harassment prohibitions and grievance, violation, and disposition procedures. This subsection does not supersede the remedies provided under chapter 216.

2. The supreme court shall compile and publish all documents that establish the personnel system, and shall distribute a copy of the compilation and all amendments to each operating component of the judicial branch.

3. *a.* The state court administrator is the public employer of judicial branch employees for purposes of chapter 20, relating to public employment relations.

b. For purposes of chapter 20, the certified representative, which on July 1, 1983, represents employees who become judicial branch employees as a result of 1983 Iowa Acts, ch. 186, shall remain the certified representative when the employees become judicial branch employees and thereafter, unless the public employee organization is not retained and recertified or is decertified in an election held under section 20.15 or amended or absorbed into another certified organization pursuant to chapter 20. Collective bargaining negotiations shall be conducted on a statewide basis and the certified employee organizations which engage in bargaining shall negotiate on a statewide basis, although bargaining units shall be organized by judicial district. The employment appeal board shall adopt rules pursuant to chapter 17A to implement this subsection.

4. The supreme court may establish reasonable classes of employees and a pay and benefits plan for the classes of employees as necessary to accomplish the purposes of the personnel system.

5. The pay and benefits plan shall set the compensation and benefits of judicial officers, the state court administrator, and court employees within the funds appropriated by the general assembly.

6. The benefits plan established by the supreme court may provide for benefits to court employees not covered under a collective bargaining agreement entered into pursuant to chapter 20, notwithstanding any contrary provision of section 70A.1 or 70A.23, consistent with benefits provided to court employees covered under a collective bargaining agreement entered into with the state court administrator pursuant to chapter 20.

83 Acts, ch 186, §1401, 10201; 85 Acts, ch 117, §1; 91 Acts, ch 116, §6; 92 Acts, ch 1086, §4; 98 Acts, ch 1047, §48; 2000 Acts, ch 1057, §6 – 9; 2013 Acts, ch 30, §261; 2017 Acts, ch 2, §24, 26, 27; 2024 Acts, ch 1170, §349; 2026 Acts, ch 1200, §65, 75

Referred to in §602.6808, 602.9104, 602.9204, 602.9303

Salary range of state court administrator, see §8A.461

2026 amendment to subsections 1 and 5 effective June 19, 2026; 2026 Acts, ch 1200, §75

Subsections 1 and 5 amended

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602.1402 Personnel control.

The employment of court employees within an operating component of the judicial branch is subject to prior authorization by the supreme court, and to approval by the state court administrator under section 602.1209.

83 Acts, ch 186, §1402, 10201; 98 Acts, ch 1047, §49

Referred to in §602.8101

PART 5

COMPENSATION OF JUDICIAL OFFICERS AND COURT EMPLOYEES

602.1501 Judicial salaries. Repealed by 2026 Acts, ch 1200, §73, 75. See §602.1401.

2026 repeal effective June 19, 2026; 2026 Acts, ch 1200, §75

602.1502 Court reporter compensation.

1. Court reporters who are employed on an emergency basis in the district court shall be paid not more than their usual and customary fees, while employed by the court. Payments shall be made at least once each month.

2. Court reporters shall be paid compensation for transcribing their notes as provided in section 602.3202, but shall not work on outside depositions during the hours for which they are compensated as a court employee.

83 Acts, ch 186, §1502, 10201; 91 Acts, ch 116, §7; 98 Acts, ch 1047, §50; 2026 Acts, ch 1200, §66, 75

2026 strike of subsection 1 effective June 19, 2026; 2026 Acts, ch 1200, §75

Subsection 1 stricken and former subsections 2 and 3 renumbered as 1 and 2

602.1503 through 602.1507 Reserved.

602.1508 Compensation of referees.

Referees and other persons referred to in section 602.6602 shall receive a salary or other compensation as set by the supreme court.

83 Acts, ch 186, §1508, 10201

602.1509 Expenses.

1. When a judicial officer, court employee, or other person providing professional services to the courts is required to travel in the discharge of official duties, the person shall be paid actual and necessary expenses incurred in the performance of duties, not to exceed a maximum amount established by the supreme court. The supreme court shall prescribe procedures to establish the maximum amount, terms, and conditions for reimbursement of the expenses.

2. The supreme court may authorize juvenile court officers to receive a monthly allowance for use of an automobile in the discharge of official duties in lieu of receiving an expense reimbursement based on mileage.

83 Acts, ch 186, §1509, 10201

Referred to in §602.1511, 602.1512, 602.4305, 602.5205, 602.9206, 622.69

See annual Iowa Acts for provisions relating to judicial officer reimbursement waiver for travel outside of the judicial officer's county of residence for official judicial business

602.1510 Bond expense.

The cost of a bond that is required of a judicial officer or court employee in the discharge of duties shall be paid by the judicial branch.

83 Acts, ch 186, §1510, 10201; 98 Acts, ch 1047, §51

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602.1511 Board of examiners for shorthand reporters.

Members of the board of examiners for certified shorthand reporters appointed under article 3 shall receive actual and necessary expenses pursuant to section 602.1509 and per diem compensation for each day actually engaged in the discharge of duties.

83 Acts, ch 186, §1511, 10201
Referred to in §602.1513

602.1512 Commission on judicial qualifications.

The members of the commission on judicial qualifications established under section 602.2102, other than the judicial member, shall receive per diem compensation for each day that they are actually engaged in the performance of duties. All of the members shall be reimbursed for actual and necessary expenses pursuant to section 602.1509.

83 Acts, ch 186, §1512, 10201
Referred to in §602.1513

602.1513 Per diem compensation.

The supreme court shall set the per diem compensation under sections 602.1511 and 602.1512 at a rate per day not exceeding the rate specified in section 7E.6.

83 Acts, ch 186, §1513, 10201; 90 Acts, ch 1256, §53

602.1514 Judicial compensation commission. Repealed by 2008 Acts, ch 1156, §53, 58.

PART 6

GENERAL PROVISIONS

602.1601 Judicial proceedings public.

All judicial proceedings shall be public, unless otherwise specially provided by statute or agreed to by the parties.

83 Acts, ch 186, §1601, 10201
Referred to in §22A.2

602.1602 Sunday — permissible acts.

A court shall not be opened on Sunday and judicial business shall not be transacted on Sunday, except to:

1. Give instructions to a jury then deliberating on its verdict.
2. Receive a verdict or discharge a jury.
3. Exercise the powers of a magistrate in a criminal proceeding.
4. Perform other acts as provided by law.

83 Acts, ch 186, §1602, 10201
Analogous or related provisions, §626.6, 639.5, 643.3, and 667.3

602.1603 Judge to be attorney.

A person is not eligible for, and shall not hold the office of supreme court justice, court of appeals judge, district judge, or district associate judge unless admitted to the practice of law in this state.

83 Acts, ch 186, §1603, 10201

602.1604 Judges shall not practice law.

While holding office, a supreme court justice, court of appeals judge, district judge, or district associate judge shall not practice as an attorney or counselor or give advice in relation to any action pending or about to be brought in any of the courts of the state.

83 Acts, ch 186, §1604, 10201; 2003 Acts, ch 151, §31

602.1605 Special conditions for magistrates.

1. A magistrate shall not accept any compensation, fee, or reward from or on behalf of

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anyone for services rendered in the conduct of official business except the compensation provided by law.

2. If a magistrate who practices law appears as counsel for a client in a matter that is within the jurisdiction of a magistrate, that matter shall be heard only by a district judge or a district associate judge. A disqualification under this section shall be had upon motion of the magistrate or of any party, either orally or in writing, and the clerk of the district court shall reassign the matter to a proper judicial officer.

83 Acts, ch 186, §1605, 10201

602.1606 Judicial officer disqualified.

1. A judicial officer is disqualified from acting in a proceeding, except upon the consent of all of the parties, if any of the following circumstances exists:

a. The judicial officer has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding.

b. The judicial officer served as a lawyer in the matter in controversy, or a lawyer with whom the judicial officer previously practiced law served during that association as a lawyer concerning the matter, or the judicial officer or such lawyer has been a material witness concerning the matter.

c. The judicial officer knows that the officer, individually or as a fiduciary, or the officer's spouse or a person related to either of them by consanguinity or affinity within the third degree or the spouse of such a person has a financial interest in the subject matter in controversy or in a party to the proceeding, or has any other interest that could be substantially affected by the outcome of the proceeding.

d. The judicial officer or the officer's spouse, or a person related to either of them by consanguinity or affinity within the third degree or the spouse of such a person, is a party to the proceeding, or an officer, director, or trustee of a party, or is acting as a lawyer in the proceeding, or is known by the judicial officer to have an interest that could be substantially affected by the outcome of the proceeding, or is, to the judicial officer's knowledge, likely to be a material witness in the proceeding.

2. A judicial officer shall disclose to all parties in a proceeding any existing circumstances in subsection 1, paragraphs "*a*" through "*d*", before the parties consent to the judicial officer's presiding in the proceeding.

83 Acts, ch 186, §1606, 10201; 2013 Acts, ch 30, §183

Referred to in §602.6808

602.1607 Court employees shall not practice law.

A full-time court employee shall not practice as an attorney or counselor of law.

83 Acts, ch 186, §1607, 10201

602.1608 Salaries exclusive.

Court employees shall not accept any compensation, fee, or reward for services rendered in connection with duties of court employment except the compensation provided by law.

83 Acts, ch 186, §1608, 10201

602.1609 Compliance with ethics law.

Judicial officers and court employees shall comply with rules prescribed by the supreme court with respect to ethical conduct including the acceptance and receipt of gifts and honoraria, interests in public contracts, services against the state, and financial disclosure. In prescribing rules, the supreme court shall include any appropriate provisions and limitations contained in chapter 68B. Violations are subject to the imposition of criminal and civil penalties in the manner provided by law.

83 Acts, ch 186, §1609, 10201; 92 Acts, ch 1228, §30

602.1610 Mandatory retirement.

1. Judicial officers shall cease to hold office upon reaching the mandatory retirement age.

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a. The mandatory retirement age is seventy-eight years for all justices of the supreme court, judges of the court of appeals, and district judges.

b. The mandatory retirement age is seventy-eight years for all district associate judges, associate juvenile judges, associate probate judges, and judicial magistrates.

c. Notwithstanding paragraph *"b"*, a judicial magistrate who attains the age of seventy-eight years and has less than fifty percent of the magistrate's current term of appointment left to serve shall have the right to elect to serve the remainder of the magistrate's current term but shall not be eligible for reappointment.

2. The mandatory retirement age for employees of the judicial branch is as provided in section 97B.46.

83 Acts, ch 186, §1610, 10201; 96 Acts, ch 1153, §5; 98 Acts, ch 1047, §52; 2018 Acts, ch 1026, §166; 2025 Acts, ch 101, §8, 15; 2026 Acts, ch 1063, §27

Referred to in §46.16

2025 amendment to subsection 1 applies to judicial officers retiring on or after July 1, 2025; 2025 Acts, ch 101, §15

Subsection 1, NEW paragraph c

602.1611 Judicial retirement programs.

1. Judges of the supreme court and court of appeals, district judges, and district associate judges are members of the judicial retirement system established in article 9, part 1, and are not members of the public employees' retirement system established in chapter 97B, except as provided in paragraphs *"a"* and *"b"*.

a. District associate judges who exercised the election under section 602.11115, subsection 1, are members of the public employees' retirement system and are not members of the judicial retirement system. District associate judges who exercised the election under section 602.11115, subsection 2, are members of the judicial retirement system and are inactive members of the public employees' retirement system.

b. District associate judges appointed after June 30, 1984, judges of the supreme court and court of appeals, and district judges, who were vested members of the public employees' retirement system at the time they became members of the judicial retirement system, and whose contributions in the public employees' retirement system were not refunded to them prior to the repeal of section 97B.69, are members of the judicial retirement system and are inactive vested members of the public employees' retirement system until they become qualified to receive retirement benefits from the judicial retirement system and become retired members of the public employees' retirement system or voluntarily withdraw their contributions from the public employees' retirement system.

2. Magistrates shall be members of the Iowa public employees' retirement system unless the magistrate elects out of coverage under the Iowa public employees' retirement system as provided in section 97B.42A.

3. Commencing July 1, 1998, associate juvenile judges and associate probate judges, who are appointed on a full-time basis, are members of the judicial retirement system established in article 9, part 1, and are not members of the public employees' retirement system established in chapter 97B, except as provided in section 602.11116.

83 Acts, ch 186, §1611, 10201; 84 Acts, ch 1285, §26; 86 Acts, ch 1243, §34; 98 Acts, ch 1183, §72, 100, 104; 2003 Acts, ch 151, §32

602.1612 Temporary service by retired judges.

1. Justices of the supreme court, judges of the court of appeals, district judges, and district associate judges who are retired by reason of age or who are drawing benefits under section 602.9106, and senior judges who have retired under section 602.9207 or who have relinquished senior judgeship under section 602.9208, subsection 1, may with their consent be assigned by the supreme court to temporary judicial duties on a court in this state if the assignment is deemed necessary by the supreme court to expedite the administration of justice.

2. A retired justice or judge shall not engage in the practice of law unless the justice or judge files an election to practice law with the clerk of the supreme court. Upon electing to practice law, the justice or judge is ineligible for assignment to temporary judicial duties at any time.

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3. While serving under temporary assignment, a retired justice or judge shall be paid the compensation and expense reimbursement provided by law for justices or judges on the court to which assigned, but shall not receive annuity payments under the judicial retirement system and a district associate judge covered under chapter 97B shall receive monthly benefits under that chapter only if the district associate judge has attained the age of seventy years.

4. An order of assignment shall be filed in the office of the clerk of the court on which the justice or judge is to serve.

83 Acts, ch 186, §1612, 10201; 90 Acts, ch 1271, §1511; 2025 Acts, ch 101, §16
Referred to in §4.1, 46.16, 602.1101, 602.9206, 602.9208, 602.11114

602.1613 Court employee retirement.

Court employees are members of the Iowa public employees' retirement system under chapter 97B, except as otherwise provided in chapter 97B or this chapter.

83 Acts, ch 186, §1613, 10201; 84 Acts, ch 1285, §27

602.1614 Acceptance, distribution, and retention of electronic records by the judicial branch.

1. As used in this section, *"governmental agencies"* means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the federal government or of a state or of a county, municipality, or other political subdivision of a state.

2. Notwithstanding section 554D.120, the supreme court may prescribe by rule whether and to what extent the judicial branch will accept, process, distribute, and retain electronic records and electronic signatures from litigants, governmental agencies, and other persons, and to what extent the judicial branch will create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.

3. If the supreme court prescribes rules relating to electronic records and electronic signatures under subsection 2, the rules may include but are not limited to the following:

a. Defining terms.

b. The manner and format in which an electronic record is created, generated, sent, communicated, received, filed, recorded, and stored.

c. Establishing the information process system to create, generate, send, communicate, receive, file, record, and store an electronic record.

d. How a traditional written signature will relate to an electronic signature.

e. The criteria establishing when an electronic document must be electronically signed.

f. The type of electronic signature required.

g. The manner and format in which an electronic signature is associated with an electronic record.

h. Who can create an electronic signature.

i. The criteria and procedures to follow when filing an electronic document, including who is allowed to file electronically, how notice is given, and electronic service of process.

j. Establishing processes and procedures to ensure adequate preservation, integrity, security, disposition, and audit worthiness of the electronic records.

k. Establishing the criteria for the retention of paper documents when deemed necessary to promote the integrity of electronic records.

l. Establishing the appropriate level of public access to differing classes of electronic records and other court records to ensure the confidentiality of any records that are required by law to be confidential.

m. Establishing processes and procedures for an application and for the issuance of a search warrant under chapter 808 by electronic means.

n. Establishing any other process or procedures attributable to creating, generating, communicating, storing, processing, and using electronic records and electronic signatures, and how these electronic records and electronic signatures will relate to nonelectronic court records.

4. Rules prescribed pursuant to this section shall prevail over any other laws or court rules

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that specify the method, manner, or format for sending, receiving, retaining, or creating paper records relating to the courts. The supreme court may limit the applicability and scope of any rules prescribed pursuant to this section to single offices, courts, judicial election districts, or by specific case types for the purpose of testing and implementing an electronic information processing system. Temporary rules prescribed pursuant to this section for the purpose of testing an electronic information processing system are not subject to the requirements of section 602.4202.

5. An electronic record that complies with the rules prescribed under this section shall prevail over any law that requires a written record, and an electronic signature that complies with the rules prescribed under this section shall prevail over any law that requires a written signature. An electronic record or signature that complies with rules prescribed under this section shall not be denied legal effect or enforceability based solely because of the record's or signature's electronic form. The determination of an electronic record's or signature's legal consequence is determined by this chapter, applicable law, and court rules.

2006 Acts, ch 1174, §5; 2017 Acts, ch 37, §1, 9

ARTICLE 2

DISCIPLINE AND REMOVAL OF JUDICIAL OFFICERS

Referred to in §602.1209, 602.6808, 602.11101

PART 1

SUPREME COURT ACTION

Referred to in §602.9113, 602.9207, 602.9208, 602.9306

602.2101 Authority.

The supreme court may retire, discipline, or remove a judicial officer from office or may discipline or remove an employee of the judicial branch for cause as provided in this part.

83 Acts, ch 186, §3101, 10201; 92 Acts, ch 1228, §31; 98 Acts, ch 1047, §53

602.2102 Commission on judicial qualifications.

1. A seven-member "Commission on Judicial Qualifications" is established. The commission consists of one district judge and two members who are practicing attorneys in Iowa and who do not belong to the same political party, to be appointed by the chief justice; and four electors of the state who are not attorneys, no more than two of whom belong to the same political party, to be appointed by the governor, subject to confirmation by the senate. The commission members shall serve for six-year terms, are ineligible for a second term, and except for the judicial member shall not hold any other office of and shall not be employed by the United States or the state of Iowa or its political subdivisions. Members appointed by the chief justice shall serve terms beginning January 1 of the year for which the appointments are made and members appointed by the governor shall serve staggered terms beginning and ending as provided by section 69.19. Vacancies shall be filled by appointment by the chief justice or governor as provided in this subsection, for the unexpired portion of the term.

2. If the judicial member is the subject of a charge before the commission, the chief justice shall appoint a district judge of another judicial district to act as the judicial member of the commission until the person charged is exonerated, or for the unexpired portion of the term if the person charged is not exonerated. If the judicial member is a resident judge of the same judicial district as the judicial officer who is the subject of a charge before the commission, the chief justice shall appoint a district judge of another judicial district to act as the judicial member during that proceeding.

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3. The commission shall elect its own chairperson, and the state court administrator or a designee of the state court administrator is the executive secretary of the commission.

83 Acts, ch 186, §3102, 10201
Referred to in §602.1512
Confirmation, see §2.32

602.2103 Operation of commission.

A quorum of the commission is four members. Only those commission members that are present at commission meetings or hearings may vote. An application by the commission to the supreme court to retire, discipline, or remove a judicial officer, or discipline or remove an employee of the judicial branch, or an action by the commission which affects the final disposition of a complaint, requires the affirmative vote of at least four commission members. Notwithstanding chapter 21 and chapter 22, all records, papers, proceedings, meetings, and hearings of the commission are confidential, but if the commission applies to the supreme court to retire, discipline, or remove a judicial officer, or to discipline or remove an employee of the judicial branch, the application and all of the records and papers in that proceeding are public documents.

83 Acts, ch 186, §3103, 10201; 92 Acts, ch 1228, §32; 98 Acts, ch 1047, §54

602.2104 Procedure before commission.

1. Charges before the commission shall be in writing but may be simple and informal. The commission shall investigate each charge as indicated by its gravity. If the charge is groundless, it shall be dismissed by the commission. If the charge appears to be substantiated but does not warrant application to the supreme court, the commission may dispose of it informally by conference with or communication to the judicial officer or employee of the judicial branch involved. If the charge appears to be substantiated and if proved would warrant application to the supreme court, notice shall be given to the judicial officer and a hearing shall be held before the commission. The commission may employ investigative personnel, in addition to the executive secretary, as it deems necessary. The commission may also employ or contract for the employment of legal counsel.

2. In case of a hearing before the commission, written notice of the charge and of the time and place of hearing shall be mailed to a judicial officer or an employee of the judicial branch at the person's residence at least twenty days prior to the time set for hearing. Hearing shall be held in the county where the judicial officer or employee of the judicial branch resides unless the commission and the judicial officer or employee of the judicial branch agree to a different location. The judicial officer shall continue to perform judicial duties during the pendency of the charge and the employee shall continue to perform the employee's assigned duties, unless otherwise ordered by the commission. The attorney general shall prosecute the charge before the commission on behalf of the state. A judicial officer or employee of the judicial branch may defend and has the right to participate in person and by counsel, to cross-examine, to be confronted by the witnesses, and to present evidence in accordance with the rules of civil procedure. A complete record shall be made of the evidence by a court reporter. In accordance with its findings on the evidence, the commission shall dismiss the charge or make application to the supreme court to retire, discipline, or remove the judicial officer or to discipline or remove an employee of the judicial branch.

3. The commission has subpoena power, which may be used in conducting investigations and during the hearing process. A person who disobeys the commission's subpoena or who refuses to testify or produce documents as required by a commission subpoena may be punished for contempt in the district court for the county in which the hearing is being held or the investigation is being conducted. Costs related to investigations and to the appearance of witnesses subpoenaed by the designated prosecutor shall be paid by the commission. Commission subpoenas may be issued as follows:

a. During an investigation, subpoenas shall be issued by the commission, at the request of the person designated to conduct the investigation, to compel the appearance of persons or the production of documents before the person who is designated to conduct the

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investigation. The person designated to conduct the investigation shall administer the required oath.

b. During the hearing process, subpoenas shall be issued by the commission at the request of the designated prosecutor or the judicial officer or employee of the judicial branch.

83 Acts, ch 186, §3104, 10201; 92 Acts, ch 1228, §33; 93 Acts, ch 85, §1, 2; 98 Acts, ch 1047, §55

602.2105 Rules.

The commission shall prescribe rules for its operation and procedure.

83 Acts, ch 186, §3105, 10201

See Iowa Ct.R., ch 52

602.2106 Procedure before supreme court.

1. If the commission submits an application to the supreme court to retire, discipline, or remove a judicial officer or to discipline or remove an employee of the judicial branch, the commission shall promptly file in the supreme court a transcript of the hearing before the commission. The statutes and rules relative to proceedings in appeals of equity suits apply.

2. The attorney general shall prosecute the proceedings in the supreme court on behalf of the state, and the judicial officer or employee of the judicial branch may defend in person and by counsel.

3. Upon application by the commission, the supreme court may do any of the following:

a. Retire the judicial officer for permanent physical or mental disability which substantially interferes with the performance of judicial duties.

b. Discipline or remove the judicial officer for persistent failure to perform duties, habitual intemperance, willful misconduct in office, conduct which brings judicial office into disrepute, or substantial violation of the canons of judicial ethics. Discipline may include suspension without pay for a definite period of time not to exceed twelve months.

c. Discipline or remove an employee of the judicial branch for conduct which violates the code of ethics prescribed by the supreme court for court employees.

4. If the supreme court finds that the application should be granted in whole or in part, it shall render the decree that it deems appropriate.

83 Acts, ch 186, §3106, 10201; 92 Acts, ch 1228, §34; 98 Acts, ch 1047, §56

Referred to in §602.9207, 602.9208, 602.9306

602.2107 Civil immunity.

The making of charges before the commission, the giving of evidence or information before the commission or to an investigator or legal counsel employed by the commission, and the presentation of transcripts, extensions of evidence, briefs, and arguments in the supreme court are privileged in actions for defamation.

83 Acts, ch 186, §3107, 10201; 92 Acts, ch 1228, §35

PART 2

OTHER PROCEEDINGS

602.2201 Impeachment.

Judicial officers may be removed from office by impeachment pursuant to chapter 68.

83 Acts, ch 186, §3201, 10201

Referred to in §602.6808

PART 3

APPOINTMENTS — DELAY

602.2301 Judicial officer appointment — delay.

1. Notwithstanding section 46.12, the chief justice may order the state commissioner of

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elections to delay, for budgetary reasons, the sending of a notification to the proper judicial nominating commission that a vacancy in the supreme court, court of appeals, or district court has occurred or will occur.

2. Notwithstanding sections 602.6304, 602.7103B, and 633.20B, the chief justice may order the state commissioner of elections to delay, for budgetary reasons, the sending of a notification to the governor that a vacancy in the office of district associate judge, associate juvenile judge, or associate probate judge has occurred or will occur.

3. Notwithstanding section 602.6403, subsection 3, if a magistrate position is vacant due to a death, resignation, retirement, increase in the number of positions authorized, or removal of a magistrate, the chief justice may order any judicial election district magistrate appointing commission to delay, for budgetary reasons, the appointment of a magistrate to serve the remainder of an unexpired term.

4. Any delay authorized by the chief justice pursuant to this section shall not exceed one year in duration, and not more than eight delays authorized by the chief justice shall be in effect at any one time.

2011 Acts, ch 78, §2; 2022 Acts, ch 1033, §3; 2026 Acts, ch 1063, §8, 25
2026 amendment to subsection 3 effective November 1, 2026; 2026 Acts, ch 1063, §25
Subsection 3 amended

ARTICLE 3

CERTIFICATION AND REGULATION OF SHORTHAND REPORTERS

Referred to in §272C.1, 602.1209, 602.1511, 602.6603, 602.11101

PART 1

CERTIFICATION

602.3101 Board of examiners.

1. A five-member board of examiners of shorthand reporters is established, consisting of three certified shorthand reporters and two persons who are not certified shorthand reporters and who shall represent the general public. Members shall be appointed by the supreme court. A certified member shall be actively engaged in the practice of certified shorthand reporting and shall have been so engaged for five years preceding appointment, the last two of which shall have been in Iowa. Professional associations or societies composed of certified shorthand reporters may recommend the names of potential board members to the supreme court, but the supreme court is not bound by the recommendations. A board member shall not be required to be a member of a professional association or society composed of certified shorthand reporters.

2. The supreme court shall appoint the administrator of the board.

3. The supreme court shall supervise the board and may review, approve, modify, or reject any board action, procedure, or decision. The supreme court may adopt rules to implement this subsection.

83 Acts, ch 186, §4101, 10201; 2006 Acts, ch 1129, §4; 2010 Acts, ch 1159, §8; 2017 Acts, ch 133, §6

602.3102 Terms of office.

Appointments shall be for three-year terms and each term shall commence on July 1 of the year in which the appointment is made. Vacancies shall be filled for the unexpired term by appointment by the supreme court. Members shall serve a maximum of three terms or nine years, whichever is less.

83 Acts, ch 186, §4102, 10201

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602.3103 Public members.

The public members of the board may participate in administrative, clerical, or ministerial functions incident to giving the examination, but shall not determine the content of the examination or determine the correctness of the answers.

83 Acts, ch 186, §4103, 10201

602.3104 Meetings.

The board of examiners shall fix stated times for the examination of the candidates and shall hold at least one meeting each year at the seat of government. A majority of the members of the board constitutes a quorum.

83 Acts, ch 186, §4104, 10201

602.3105 Applications.

Applications for certification shall be on forms prescribed and furnished by the board and the board shall not require that the application contain a photograph of the applicant. An applicant shall not be denied certification because of age, citizenship, sex, race, religion, marital status, or national origin although the application may require citizenship information. Character references may be required, but shall not be obtained from certified shorthand reporters.

83 Acts, ch 186, §4105, 10201; 89 Acts, ch 296, §80; 2015 Acts, ch 84, §1

602.3106 Fees — appropriation.

1. The supreme court shall set the fee for certification examinations. The fee shall be based on the annual cost of administering the examinations and upon the administrative costs of sustaining the board, which shall include but shall not be limited to the cost for per diem, expenses, and travel for board members, and office facilities, supplies, and equipment.

2. The fees collected are appropriated to the judicial branch and shall be used to offset the expenses of the board, including the costs of administering the examination.

83 Acts, ch 186, §4106, 10201; 93 Acts, ch 85, §3; 2013 Acts, ch 45, §1

602.3107 Examinations.

The board may administer as many examinations per year as necessary, but shall administer at least one examination per year. The scope of the examinations and the methods of procedure shall be prescribed by the board. A written examination may be conducted by representatives of the board. Examinations in theory shall be in writing and the identity of the person taking the examination shall be concealed until after the examination papers have been graded. For examinations in practice, the identity of the person taking the examination also shall be concealed as far as possible. Applicants who fail the examination once may take the examination at the next scheduled time. Thereafter, the applicant may be allowed to take the examination at the discretion of the board. An applicant who has failed the examination may request in writing information from the board concerning the examination grade and subject areas or questions which the applicant failed to answer correctly, and the board shall provide the information. However, if the board administers a uniform, standardized examination, the board is only required to provide the examination grade and other information concerning the applicant's examination results that is available to the board.

83 Acts, ch 186, §4107, 10201

602.3108 Certification.

The board may issue a certificate to a person of good moral character and fitness who makes application on a form prescribed and furnished by the board and who satisfies the education, experience, and examination requirements of this article and rules prescribed by the supreme court pursuant to this article. The board may consider the applicant's past record of any felony conviction and the applicant's past record of disciplinary action with respect to certification as a shorthand reporter in any jurisdiction. The board may deny certification if

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the board finds the applicant has committed any of the acts listed in section 602.3203 or has made a false statement of material fact on the application for certification.

2015 Acts, ch 84, §2

PART 2

REGULATION

602.3201 Requirement of certification — use of title.

A person shall not engage in the profession of shorthand reporting unless the person is certified pursuant to this chapter, or otherwise exempted pursuant to section 602.6603, subsection 3. Only a person who is certified by the board may assume the title of certified shorthand reporter, or use the abbreviation C.S.R., or any words, letters, or figures to indicate that the person is a certified shorthand reporter.

83 Acts, ch 186, §4201, 10201; 89 Acts, ch 296, §81; 2025 Acts, ch 101, §17

602.3202 Transcript fee.

Certified shorthand reporters are entitled to receive compensation for transcribing their official notes as set by rule of the supreme court, to be paid for in all cases by the party ordering the transcription.

83 Acts, ch 186, §4202, 10201

Referred to in §602.1502

Fees; see R.App.P. 6.803(4), (5)

602.3203 Revocation or suspension.

A certification may be revoked or suspended if the person is guilty of any of the following acts or offenses:

1. Fraud in procuring a license.
2. Professional incompetency.
3. Knowingly making misleading, deceptive, untrue, or fraudulent representations in the practice of shorthand reporting, or engaging in unethical conduct or in a practice that is harmful or detrimental to the public. Proof of actual injury need not be established.
4. Habitual intoxication or addiction to the use of drugs.
5. Conviction of a felony. A copy of the record of conviction or plea of guilty is conclusive evidence.
6. Fraud in representations relating to skill or ability.
7. Use of untruthful or improbable statements in advertisements.
8. Noncompliance with section 602.3204.

83 Acts, ch 186, §4203, 10201; 89 Acts, ch 296, §82; 2015 Acts, ch 84, §3

Referred to in §272C.3, 272C.4, 602.3108, 602.3205

602.3204 Transcript integrity.

A certified shorthand reporter taking a deposition, or any other person with whom the certified shorthand reporter has a principal-agent or employer-employee relationship, shall not enter into an agreement for reporting services that requires the certified shorthand reporter to relinquish control of an original deposition transcript and copies of the transcript before it is certified and delivered to the custodial attorney.

2015 Acts, ch 84, §4

Referred to in §602.3203

602.3205 Audio and video recordings.

1. Except as provided in subsection 2 or 3, a certified shorthand reporter's audio and video recordings used solely for the purpose of providing a verbatim written transcript of a court proceeding or a proceeding conducted in anticipation of use in a court proceeding shall be considered the personal property and private work product of the certified shorthand reporter.
2. An audio or video recording of a certified shorthand reporter appointed under section

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602.6603 shall be provided to the presiding judge or chief judge for an in camera review upon court order for good cause shown.

3. *a.* An audio or video recording of a certified shorthand reporter shall be provided to the board upon request by the board if a disciplinary proceeding is pending regarding the certified shorthand reporter who is a respondent under the provisions of section 602.3203 or the rules of the board of examiners of shorthand reporters, Iowa court rules, ch. 46.

b. The audio and video recordings provided to the board pursuant to this subsection shall be kept confidential by the board in a manner as provided in section 272C.6, subsection 4.

2015 Acts, ch 84, §5; 2015 Acts, ch 138, §47, 161, 162; 2023 Acts, ch 114, §7

602.3206 Exempt status.

If a person's certification as a shorthand reporter is placed in exempt status, the person may transcribe or certify a proceeding the person reported while certified as an active shorthand reporter. A person transcribing or certifying a proceeding pursuant to this section shall remain subject to the jurisdiction of the board of examiners of shorthand reporters.

2017 Acts, ch 133, §7

PART 3

PENAL PROVISIONS

602.3301 Misuse of confidential information — penalty.

1. A member of the board shall not disclose information relating to the following:

a. Criminal history or prior misconduct of the applicant.

b. The contents of the examination.

c. Examination results other than final scores except for information about the results of an examination which is given to the person who took the examination.

2. A member of the board who willfully communicates or seeks to communicate information referred to in subsection 1, or a person who willfully requests, obtains, or seeks to obtain information referred to in subsection 1, is guilty of a simple misdemeanor.

83 Acts, ch 186, §4301, 10201

602.3302 Violations punished.

A person who violates any provision of this article is guilty of a simple misdemeanor.

83 Acts, ch 186, §4302, 10201

ARTICLE 4

SUPREME COURT

Referred to in §602.5110, 602.11101

PART 1

GENERAL PROVISIONS

602.4101 Justices — quorum.

1. The supreme court consists of seven justices. A majority of the justices sitting constitutes a quorum, but fewer than three justices is not a quorum.

2. Justices of the supreme court shall be nominated and appointed and shall stand for retention in office as provided in chapter 46. Justices of the supreme court shall qualify for office as provided in chapter 63.

83 Acts, ch 186, §5101, 10201; 98 Acts, ch 1184, §1, 4

602.4102 Jurisdiction.

1. The supreme court has appellate jurisdiction only in cases in chancery, and constitutes

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a court for the correction of errors at law. The jurisdiction of the supreme court is coextensive with the state.

2. A civil or criminal action or special proceeding filed with the supreme court for appeal or review may be transferred by the supreme court to the court of appeals by issuing an order of transfer. The jurisdiction of the supreme court in the matter ceases upon the filing of that order by the clerk of the supreme court. A matter which has been transferred to the court of appeals pursuant to order of the supreme court is not thereafter subject to the jurisdiction of the supreme court, except as provided in subsection 4.

3. The supreme court shall prescribe rules for the transfer of matters to the court of appeals. These rules may provide for the selective transfer of individual cases and may provide for the transfer of cases according to subject matter or other general criteria. A rule shall not provide for the transfer of a matter other than by an order of transfer under subsection 2.

4. A party to an appeal decided by the court of appeals may, as a matter of right, file an application with the supreme court for further review.

a. An application for further review in an appeal from a child in need of assistance or termination of parental rights proceeding shall not be granted by the supreme court unless filed within ten days following the filing of the decision of the court of appeals.

b. In all other cases, an application for further review shall not be granted by the supreme court unless the application was filed within twenty days following the filing of the decision of the court of appeals.

5. The court of appeals shall extend the time for filing of an application if the court of appeals determines that a failure to timely file an application was due to the failure of the clerk of the court of appeals to notify the prospective applicant of the filing of the decision.

6. The supreme court shall prescribe rules of appellate procedure which shall govern further review by the supreme court of decisions of the court of appeals. These rules shall contain, but need not be limited to, a specification of the grounds upon which further review may, in the discretion of the supreme court, be granted.

83 Acts, ch 186, §5102, 10201; 98 Acts, ch 1115, §7, 21; 2003 Acts, ch 25, §2; 2006 Acts, ch 1129, §5

Referred to in §602.5103, 602.5106

602.4103 Chief justice.

1. At the first meeting in each odd-numbered year, the justices of the supreme court by majority vote shall designate one justice as chief justice, to serve for a two-year term. A vacancy in the office of chief justice shall be filled for the remainder of the unexpired term by majority vote of the justices of the supreme court, after any vacancy on the court has been filled.

2. If the chief justice desires to be relieved of the duties of chief justice while retaining the status of justice of the supreme court, the chief justice shall notify the governor and the other justices of the supreme court. The office of chief justice shall be deemed vacant, and shall be filled as provided in this section.

3. The chief justice is eligible for reselection.

4. The chief justice shall appoint one of the other justices to act during the absence or inability of the chief justice to act, and when so acting the appointee has all the rights, duties, and powers of the chief justice.

83 Acts, ch 186, §5103, 10201; 2019 Acts, ch 89, §61

Referred to in §602.1101

602.4103A Transition provisions. Repealed by its own terms; 2019 Acts, ch 89, §62.

602.4104 Divisions — full court.

1. The supreme court may be divided into divisions of three or more justices in the manner it prescribes by rule. The divisions may hold open court separately and cases may be submitted to each division separately, in accordance with these rules.

2. The supreme court shall prescribe rules for the submission of a case or petition for rehearing whenever differences arise between members of divisions or whenever the chief

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justice orders or directs the submission of the question or petition for rehearing by the whole court.

3. The supreme court shall prescribe rules to provide for the submission of cases to the entire bench or to the separate divisions.

83 Acts, ch 186, §5104, 10201; 85 Acts, ch 197, §13

602.4105 Time and place court meets.

The supreme court shall hold court at the seat of state government and elsewhere as the court orders, and at the times the court orders.

83 Acts, ch 186, §5105, 10201

602.4106 Opinions — reports.

1. The decisions of the court on all questions passed upon by it, including motions and points of practice, shall be specifically stated, and shall be accompanied with an opinion upon those which are deemed of sufficient importance, together with any dissents, which dissents may be stated with or without an opinion. All decisions and opinions shall be in writing and filed with the clerk, except that rulings upon motions may be entered upon the announcement book.

2. The records and reports for each case shall show whether a decision was made by a full bench, and whether any, and if so which, of the judges dissented from the decision.

3. The supreme court may publish reports of its official opinions, or it may direct that publication of the opinions by a private publisher shall be considered the official reports.

4. If the decision, in the judgment of the court, is not of sufficient general importance to be published, it shall be so designated, in which case it shall not be included in the reports, and no case shall be reported except by order of the full bench.

83 Acts, ch 186, §5106, 10201
Referred to in §602.5111

602.4107 Divided court.

When the supreme court is equally divided in opinion, the judgment of the court below shall stand affirmed, but the decision of the supreme court is of no further force or authority. Opinions may be filed in these cases.

83 Acts, ch 186, §5107, 10201

602.4108 Attendance of sheriff of Polk county.

The court may require the attendance and services of the sheriff of Polk county at any time.

83 Acts, ch 186, §5108, 10201

PART 2

RULES OF PROCEDURE

602.4201 Rules governing actions and proceedings.

1. The supreme court may prescribe all rules of pleading, practice, evidence, and procedure, and the forms of process, writs, and notices, for all proceedings in all courts of this state, for the purposes of simplifying the proceedings and promoting the speedy determination of litigation upon its merits.

2. Rules of appellate procedure relating to appeals to and review by the supreme court, discretionary review by the courts of small claims actions, review by the supreme court by writ of certiorari to inferior courts, appeal to or review by the court of appeals of a matter transferred to that court by the supreme court, and further review by the supreme court of decisions of the court of appeals, shall be known as "Rules of Appellate Procedure", and shall be published as provided in section 2B.5B.

3. The following rules are subject to section 602.4202:

a. Rules of civil procedure.

b. Rules of criminal procedure.

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c. Rules of evidence.
d. Rules of appellate procedure 6.101 through 6.105, 6.601 through 6.603, and 6.907.
e. Rules of probate procedure.
f. Juvenile procedure.
g. Involuntary hospitalization of mentally ill.
h. Involuntary commitment or treatment of persons with a substance use disorder.

83 Acts, ch 186, §5201, 10201; 92 Acts, ch 1163, §110; 98 Acts, ch 1115, §8, 21; 2009 Acts, ch 41, §165; 2011 Acts, ch 121, §60, 62; 2012 Acts, ch 1023, §83, 158; 2015 Acts, ch 29, §104; 2023 Acts, ch 19, §1264

Referred to in §125.94, 229.40, 232.7A, 602.4202, 633.18

602.4202 Rulemaking procedure.

1. The supreme court shall submit a rule or form prescribed by the supreme court under section 602.4201, subsection 3, or pursuant to any other rulemaking authority specifically made subject to this section to the legislative council and shall at the same time report the rule or form to the chairpersons and ranking members of the senate and house committees on judiciary. The legislative services agency shall make recommendations to the supreme court on the proper style and format of rules and forms required to be submitted to the legislative council under this subsection.

2. A rule or form submitted as required under subsection 1 takes effect sixty days after submission to the legislative council, or at a later date specified by the supreme court, unless the legislative council, within sixty days after submission and by a majority vote of its members, delays the effective date of the rule or form to a date as provided in subsection 3.

3. The effective date of a rule or form submitted during the period of time beginning February 15 and ending February 14 of the next calendar year may be delayed by the legislative council until May 1 of that next calendar year.

4. If the general assembly enacts a bill changing a rule or form, the general assembly's enactment supersedes a conflicting provision in the rule or form as submitted by the supreme court.

83 Acts, ch 186, §5202, 10201; 85 Acts, ch 197, §14; 98 Acts, ch 1115, §9, 21; 2003 Acts, ch 35, §44, 49

Referred to in §2.42, 2A.4, 232.8, 602.1614, 602.4201, 813.4
Exception for electronic information system temporary rulemaking procedure, see §602.1614

PART 3

ADMINISTRATION

602.4301 Clerk of supreme court.

1. The supreme court shall appoint a clerk of the supreme court and may remove the clerk for cause.

2. The clerk of the supreme court shall have an office at the seat of government, shall keep a complete record of the proceedings of the court, and shall not allow an opinion filed in the office to be removed. Opinions shall be open to examination and, upon request, may be copied and certified. The clerk promptly shall announce by ordinary or electronic mail to one of the attorneys on each side any ruling made or decision rendered, shall record every opinion rendered as soon as filed, shall send by ordinary or electronic mail a copy of each opinion rendered to each attorney of record and to each party not represented by counsel, and shall perform all other duties pertaining to the office of clerk.

3. The clerk of the supreme court shall collect and account to the state court administrator for all fees received by the supreme court.

4. The clerk of the supreme court shall give bond as provided in chapter 64.

83 Acts, ch 186, §5301, 10201; 2007 Acts, ch 33, §2

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602.4302 Deputy clerk — staff.

1. The clerk of the supreme court may appoint a deputy clerk of the supreme court. In the absence or disability of the clerk, the deputy shall perform the duties of the clerk.

2. The clerk of the supreme court may employ necessary staff, as authorized by the supreme court.

83 Acts, ch 186, §5302, 10201

602.4303 Supreme court fees.

1. The supreme court shall by rule prescribe fees for the services of the court and clerk of the supreme court.

2. If any of the fees are not paid in advance, execution may issue for them, except for fees payable by the county or the state.

83 Acts, ch 186, §5303, 10201; 98 Acts, ch 1115, §10, 21

Fee schedule, R.App.P. 6.703

602.4304 Supreme court staff.

1. The supreme court may appoint attorneys or graduates of a reputable law school to act as legal assistants to the justices of the supreme court.

2. The supreme court may employ other professional and clerical staff as necessary to accomplish the judicial duties of the court.

83 Acts, ch 186, §5304, 10201; 98 Acts, ch 1115, §11

602.4305 Limitation on expenses.

A justice of the supreme court may choose whether to reside at the seat of government or elsewhere. The court administrator may approve necessary travel and actual expenses, incurred by a justice of the supreme court for attendance at oral arguments and judicial conferences, not to exceed the maximum amount established by the supreme court pursuant to section 602.1509.

83 Acts, ch 186, §5305, 10201

ARTICLE 5

COURT OF APPEALS

Referred to in §602.11101

PART 1

GENERAL PROVISIONS

602.5101 Court of appeals.

The Iowa court of appeals is established as an intermediate court of appeals. The court of appeals is a court of record.

83 Acts, ch 186, §6101, 10201

602.5102 Judges — quorum.

1. The court of appeals consists of nine judges; three judges of the court of appeals constitute a quorum.

2. Judges of the court of appeals shall be nominated and appointed and shall stand for retention in office as provided in chapter 46. Judges of the court of appeals shall qualify for office as provided in chapter 63.

3. A person appointed as a judge of the court of appeals must satisfy all requirements for a justice of the supreme court.

4. The court of appeals may be divided into divisions of three or more judges in a manner as it may prescribe by rule. The divisions may hold open court separately and cases may be submitted to each division separately in accordance with rules the court may prescribe. The

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rules shall provide for submitting a case or petition for rehearing or hearing en banc at the direction of the chief judge or at the request of a specified number of judges designated in the rules. The court of appeals shall prescribe all rules necessary to provide for the submission of cases to the whole court or to a division.

83 Acts, ch 186, §6102, 10201; 83 Acts, ch 204, §11, 12; 98 Acts, ch 1184, §2, 4

602.5103 Jurisdiction.

1. The jurisdiction of the court of appeals is coextensive with the state. The court of appeals has appellate jurisdiction only in cases in chancery, and constitutes a court for the correction of errors at law.

2. The court of appeals has subject matter jurisdiction to review the following matters:

a. Civil actions and special civil proceedings, whether at law or in equity.

b. Criminal actions.

c. Postconviction remedy proceedings.

d. A judgment of a district judge in a small claims action.

3. The jurisdiction of the court of appeals with respect to actions and parties is limited to those matters for which an appeal or review proceeding properly has been brought before the supreme court, and for which the supreme court pursuant to section 602.4102 has entered an order transferring the matter to the court of appeals.

4. The court of appeals and judges of the court may issue writs and other process necessary for the exercise and enforcement of the court's jurisdiction, but a writ, order, or other process issued in a matter that is not before the court pursuant to an order of transfer issued by the supreme court is void.

83 Acts, ch 186, §6103, 10201

602.5104 Sessions — location.

The court of appeals shall meet at the seat of state government and elsewhere as the court orders, and at the times specified by order of the court.

83 Acts, ch 186, §6104, 10201; 99 Acts, ch 144, §6

602.5105 Chief judge.

1. At the first meeting in each odd-numbered year the judges of the court of appeals by majority vote shall designate one judge as chief judge, to serve for a two-year term. A vacancy in the office of chief judge shall be filled for the remainder of the unexpired term by majority vote of the judges of the court of appeals, after any vacancy on the court has been filled.

2. The chief judge shall supervise the business of the court and shall preside when present at a session of the court.

3. If the chief judge desires to be relieved of the duties of chief judge while retaining the status of judge of the court of appeals, the chief judge shall notify the chief justice and the other judges of the court of appeals. The office of chief judge shall be deemed vacant, and shall be filled as provided in this section.

4. In the absence of the chief judge, the duties of the chief judge shall be exercised by the judge next in precedence. Judges of the court of appeals other than the chief judge have precedence according to the length of time served on that court. Of several judges having equal periods of time served, the eldest has precedence.

83 Acts, ch 186, §6105, 10201

602.5106 Decisions of the court — finality.

1. The court of appeals may affirm, modify, vacate, set aside, or reverse any judgment, order, or decree of the district court or other tribunal which is under the jurisdiction of the court, and may remand the cause and direct the entry of an appropriate judgment, order, or decree, or require further proceedings to be had as is just. If the judges are equally divided on the ultimate decision, the judgment, order, or decree shall be affirmed.

2. A decision of the court of appeals is final and shall not be reviewed by any other court except upon the granting by the supreme court of an application for further review as

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provided in section 602.4102. Upon the filing of the application, the judgment and mandate of the court of appeals is stayed pending action of the supreme court.

83 Acts, ch 186, §6106, 10201; 2006 Acts, ch 1129, §6
Referred to in §602.5108

602.5107 Rules.

The court of appeals, subject to the approval of the supreme court, may prescribe rules for the conduct of business of the court of appeals. Rules prescribed shall not abridge, enlarge, or modify a substantive right.

83 Acts, ch 186, §6107, 10201

602.5108 When decisions effective.

A decision of the court of appeals shall be in writing, and shall be effective, except as provided in section 602.5106, subsection 2, when the decision of the court is filed with the clerk of the supreme court.

83 Acts, ch 186, §6108, 10201

602.5109 Process — style — seal.

1. Process of the court of appeals shall be styled: "In the Court of Appeals of Iowa".

2. The supreme court may adopt a seal for the court of appeals. Upon adoption, the clerk of the supreme court shall file a facsimile and description of the design in the office of the secretary of state. Judicial notice shall be taken of the official seal of the court of appeals.

83 Acts, ch 186, §6109, 10201

602.5110 Records.

The records of the court of appeals shall be kept by the clerk of the supreme court, and at the same place as, but segregated from the records of the supreme court. Records of the court of appeals shall be maintained in the same manner as records of the supreme court under article 4.

83 Acts, ch 186, §6110, 10201

602.5111 Publication of opinions.

The state court administrator shall cause the publication of opinions of the judges of the court of appeals in accordance with rules prescribed by the supreme court. Section 602.4106 applies to decisions of the court of appeals. The state court administrator shall cause the publication of abstracts of all decisions for which written opinions are not published.

83 Acts, ch 186, §6111, 10201

602.5112 Fees — costs.

Costs to be collected and awarded in the court of appeals shall be as prescribed from time to time by the supreme court. Fees and costs may be awarded to a party to the appeal in the discretion of the court of appeals. A fee shall not be charged for the docketing of a matter in the court of appeals upon transfer from the supreme court.

83 Acts, ch 186, §6112, 10201

PART 2

ADMINISTRATION

602.5201 Clerk of court.

1. The clerk of the supreme court or a deputy of that clerk shall act as clerk of the court of appeals. The clerk of the court of appeals shall keep a complete record of the proceedings of that court, shall collect the fees and costs prescribed by the supreme court, and shall account for all receipts and disbursements of the court of appeals.

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2. The clerk of the supreme court, subject to the approval of the supreme court, may employ additional staff for the performance of duties relating to the court of appeals.

83 Acts, ch 186, §6201, 10201

602.5202 Secretary to judge.

Each judge of the court of appeals may employ one personal secretary.

83 Acts, ch 186, §6202, 10201

602.5203 Law clerks.

The court of appeals may employ attorneys or graduates of a reputable law school to act as legal assistants to the court.

83 Acts, ch 186, §6203, 10201; 83 Acts, ch 204, §13; 97 Acts, ch 128, §1

602.5204 Physical facilities.

The state court administrator shall obtain suitable facilities for the court of appeals at the seat of state government. To the extent practicable, the court administrator shall utilize existing supreme court facilities.

83 Acts, ch 186, §6204, 10201

602.5205 Limitation on expenses.

1. Each judge of the court of appeals shall be provided personal office space and equipment, and facilities for a secretary and law clerk at the seat of state government only. Each judge may choose whether to reside at the seat of government or elsewhere. The court administrator may approve necessary travel and actual expenses, incurred by a judge of the court of appeals for attendance at oral arguments and judicial conferences, not to exceed the maximum amount established by the supreme court pursuant to section 602.1509.

2. Offices may be provided for court of appeals judges or employees at any place other than the seat of state government with the approval of the supreme court within the funds available to the judicial branch.

83 Acts, ch 186, §6205, 10201; 94 Acts, ch 1127, §1; 98 Acts, ch 1047, §57

ARTICLE 6

DISTRICT COURT

Referred to in §602.11101

PART 1

GENERAL PROVISIONS

602.6101 Unified trial court.

A unified trial court is established. This court is the "Iowa District Court". The district court has exclusive, general, and original jurisdiction of all actions, proceedings, and remedies, civil, criminal, probate, and juvenile, except in cases where exclusive or concurrent jurisdiction is conferred upon some other court, tribunal, or administrative body. The district court has all the power usually possessed and exercised by trial courts of general jurisdiction, and is a court of record.

83 Acts, ch 186, §7101, 10201

602.6102 Appeals and writs of error.

The district court has jurisdiction in appeals and writs of error taken in civil and criminal actions and special proceedings authorized to be taken from tribunals, boards, or officers under the laws of this state, and has general supervision thereof, in all matters, to prevent and correct abuses where no other remedy is provided.

83 Acts, ch 186, §7102, 10201

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602.6103 Court in continuous session.

The district court of each judicial district shall be in continuous session for all of the several counties comprising the district.

83 Acts, ch 186, §7103, 10201; 92 Acts, ch 1164, §3

602.6104 Judicial officers.

1. The jurisdiction of the Iowa district court shall be exercised by district judges, district associate judges, associate juvenile judges, associate probate judges, and magistrates.

2. Judicial officers of the district court shall not sit together in the trial of causes nor upon the hearings of motions for new trials. They may hold court in the same county at the same time.

83 Acts, ch 186, §7104, 10201; 99 Acts, ch 93, §6

602.6105 Places of holding court — magistrate schedules.

1. Courts shall be held at the places in each county maintaining space for the district court as designated by the chief judge of the judicial district, or held by remote means of communication, except that the determination of actions, special proceedings, and other matters not requiring a jury may be done at some other place in the district with the consent of the parties. For the purposes of this subsection, contiguous counties which have entered into an agreement to share costs pursuant to section 331.381, subsection 16, paragraph "*b*", shall be considered as one unit for the purpose of conducting all matters except as otherwise provided in this subsection.

2. In any county having two county seats, court shall be held at each county seat.

3. *a.* The chief judge of a judicial district shall designate times and places for magistrates to hold court to ensure accessibility of magistrates at all times throughout the district. The schedule of times and places of availability of magistrates and any schedule changes shall be disseminated by the chief judge to the peace officers within the district.

b. (1) The chief judge of a judicial district shall schedule a magistrate to hold court in a city other than the county seat if all of the following apply:

(a) Magistrate court was regularly scheduled in the city on or after July 1, 2001.

(b) The population of the city is at least two times greater than the population of the county seat or the population of the city is at least thirty thousand.

(c) The city requests the chief judge to schedule magistrate court.

(2) In addition to paying the costs in section 602.1303, subsection 1, the city requesting the magistrate court shall pay any other costs for holding magistrate court in the city which would not otherwise have been incurred by the judicial branch.

83 Acts, ch 186, §7105, 10201; 92 Acts, ch 1164, §4; 2003 Acts, ch 151, §33; 2013 Acts, ch 30, §261; 2015 Acts, ch 138, §70, 161, 162; 2025 Acts, ch 101, §18

602.6106 Sessions not at county seats — effect — duty of clerk.

When court is held at a place that is not the county seat, all of the provisions of the Code relating to district courts are applicable, except as follows: All proceedings in the court have, within the territory over which the court has jurisdiction, the same force and effect as though ordered in the court at the county seat, but transcripts of judgments and decrees, levies of writs of attachment upon real estate, mechanics' liens, lis pendens, sales of real estate, redemption, satisfaction of judgments and mechanics' liens, and dismissals or decrees in lis pendens, together with all other matters affecting titles to real estate, shall be certified by the clerk's designee to the clerk of district court at the county seat who shall immediately enter them upon the records at the county seat.

83 Acts, ch 186, §7106, 10201; 90 Acts, ch 1233, §36

Referred to in §602.8102(87)

602.6107 Reorganization of judicial districts and judicial election districts.

1. The supreme court shall, beginning January 1, 2012, and at least every ten years thereafter, review the division of the state into judicial districts and judicial election districts in order to determine whether the composition or the total number of the judicial districts

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and judicial election districts is the most efficient and effective administration of the district court and the judicial branch.

2. If the supreme court determines that the administration of the district court and the judicial branch would be made more efficient and effective by reorganizing the judicial districts and judicial election districts, which may include expanding or contracting the total number of judicial districts and judicial election districts, the supreme court shall develop and submit to the general assembly by November 15 a plan that reorganizes the judicial districts and judicial election districts. The legislative services agency shall draft a bill embodying the plan for submission by the supreme court to the general assembly. The general assembly shall bring the bill to a vote in either the senate or the house of representatives within thirty days of the bill's submission by the supreme court to the general assembly, under a procedure or rule permitting no amendments by either house except those of a purely corrective nature. If both houses pass the bill, the bill shall be presented as any other bill to the governor for approval. The bill shall take effect upon the general assembly passing legislation, which is approved by the governor including an effective date for the reorganization of the judicial districts and judicial election districts.

3. The composition of the judicial districts in section 602.6107, Code 2003, and judicial election districts in section 602.6109, Code 2003, shall remain in effect until a new division of the state into judicial districts and judicial election districts is enacted.

4. It is the intent of the general assembly that the supreme court prior to developing a plan pursuant to this section consult with and receive input from members of the general public, court employees, judges, members of the general assembly, the judicial departments of correctional services, county officers, officials from other interested political subdivisions, and attorneys. In submitting a plan pursuant to this section, the supreme court shall also submit to the general assembly a report stating the reasons for developing the plan and describing in detail the process used in developing the plan.

5. Nothing in this section or other provision of the Code shall be construed to preclude the general assembly or the judicial branch from proposing or considering a plan reorganizing the judicial districts and judicial election districts at any time.

83 Acts, ch 186, §7107, 10201; 2003 Acts, ch 35, §46, 49; 2003 Acts, ch 151, §34
Referred to in §602.6109

602.6108 Reassignment of personnel.

The chief justice of the supreme court shall assign judicial officers and court employees from one judicial district to another, on a continuing basis if need be, in order to handle the judicial business in all districts promptly and efficiently at all times.

83 Acts, ch 186, §7108, 10201
Referred to in §602.6201, 602.6305, 602.6404, 602.7103C, 633.20C

602.6109 Judicial election districts and judgeships.

1. The reorganized judicial election districts established pursuant to section 602.6107 shall be used solely for purposes of nomination, appointment, and retention of judges of the district court.

2. If the judicial election districts are reorganized under section 602.6107, the state court administrator shall reapportion the number of judgeships to which each judicial election district is entitled. The reapportionment shall be determined according to section 602.6201, subsection 3.

83 Acts, ch 186, §7109, 10201; 2003 Acts, ch 151, §35

602.6110 Peer review court.

1. A peer review court may be established in each judicial district to divert certain juvenile offenders from the criminal or juvenile justice systems. The court shall consist of a qualified adult to act as judge while the duties of prosecutor, defense counsel, court attendant, clerk, and jury shall be performed by persons twelve through seventeen years of age.

2. The jurisdiction of the peer review court extends to those persons ten through seventeen years of age who have committed misdemeanor offenses, or delinquent acts which would be misdemeanor offenses if committed by an adult, who have admitted involvement in

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the misdemeanor or delinquent act, and who meet the criteria established for entering into an informal adjustment agreement for those offenses. Those persons may elect to appear before the peer review court for a determination of the terms and conditions of the informal adjustment or may elect to proceed with the informal or formal procedures established in chapter 232.

3. The peer review court shall not determine guilt or innocence and any statements or admissions made by the person before the peer review court are not admissible in any formal proceedings involving the same person. The peer review court shall only determine the terms and conditions of the informal adjustment for the offense. The terms and conditions may consist of fines, restrictions for damages, attendance at treatment programs, or community service work or any combination of these penalties as appropriate to the offense or delinquent act committed. A person appearing before the peer review court may also be required to serve as a juror on the court as a part of the person's sentence.

4. The chief judge of each judicial district which establishes a peer review court shall appoint a peer review court advisory board. The advisory board shall adopt rules for the peer review court advisory program, shall appoint persons to serve on the peer review court, and shall supervise the expenditure of funds appropriated to the program. Rules adopted shall include procedures which are designed to eliminate the influence of prejudice and racial and economic discrimination in the procedures and decisions of the peer review court.

89 Acts, ch 262, §1; 97 Acts, ch 126, §44; 98 Acts, ch 1100, §77

602.6111 Identification information filed with the clerk.

1. Any party, other than the state or a political subdivision of the state, filing a petition or complaint, answer, appearance, first motion, or any document filed with the clerk of the district court which brings a new party into a proceeding shall provide the clerk of the district court with the following information when applicable:

a. An employer identification number if a number has been assigned.

b. The birth date of the party.

c. The social security number of the party.

2. Any party, except child support services, filing a petition, complaint, answer, appearance, first motion, or any document with the clerk of the district court to establish or modify an order for child support under chapter 236, 252A, 252K, 598, or 600B shall provide the clerk of the district court with the date of birth and social security number of the child.

3. A party shall provide the information pursuant to this section in the manner required by rules or directives prescribed by the supreme court. The clerk of the district court shall keep a social security number provided pursuant to this section confidential in accordance with the rules and directives prescribed by the supreme court.

93 Acts, ch 171, §18; 94 Acts, ch 1171, §49; 98 Acts, ch 1170, §17; 2003 Acts, ch 151, §36; 2023 Acts, ch 19, §1265

Referred to in §252B.24

602.6112 Regional litigation centers — prohibition.

The judicial branch shall not establish regional litigation centers.

2003 Acts, ch 151, §37

602.6113 Apportionment of certain judicial officers — substantial disparity.

Notwithstanding section 602.6201, 602.6301, 602.6304, 602.7103B, or 633.20B, if a vacancy occurs in the office of a district judge, district associate judge, associate juvenile judge, or associate probate judge, and the chief justice of the supreme court makes a finding that a substantial disparity exists in the allocation of such judgeships and judicial workload between judicial election districts, the chief justice may apportion the vacant office from the judicial election district where the vacancy occurs to another judicial election district based upon the substantial disparity finding. However, such a judgeship shall not be apportioned pursuant to this section unless a majority of the judicial council approves the apportionment. This section does not apply to a district associate judge office authorized by section 602.6302 or 602.6307.

2011 Acts, ch 78, §3

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PART 2

DISTRICT JUDGES

602.6201 Office of district judge — apportionment.

1. District judges shall be nominated and appointed and shall stand for retention in office as provided in chapter 46. District judges shall qualify for office as provided in chapter 63.

2. A district judge must be a resident of the judicial election district or a resident of a county contiguous with the judicial election district in which appointed before assuming office and during the entire term of office. Subject to the provision for reassignment of judges under section 602.6108, a district judge shall serve in the district of the judge's appointment while in office, regardless of the number of judgeships to which the district is entitled under the formula prescribed by the supreme court in subsection 3.

3. The supreme court shall prescribe, subject to the restrictions of this section, a formula to determine the number of district judges who will serve in each judicial election district. The formula shall be based upon a model that measures and applies an estimated case-related workload formula of judicial officers, and shall account for administrative duties, travel time, and other judicial duties not related to a specific case.

4. For purposes of this section, a vacancy means the death, resignation, retirement, or removal of a district judge, or the failure of a district judge to be retained in office at the judicial election, or an increase in judgeships under the formula prescribed in subsection 3.

5. In those judicial election districts having more district judges than the number of judgeships specified by the formula prescribed in subsection 3, vacancies shall not be filled.

6. In those judicial election districts having fewer or the same number of district judges as the number of judgeships specified by the formula prescribed in subsection 3, vacancies in the number of district judges shall be filled as they occur.

7. In those judicial districts that contain more than one judicial election district, a vacancy in a judicial election district shall not be filled if the total number of district judges in all judicial election districts within the judicial district equals or exceeds the aggregate number of judgeships to which all of the judicial election districts of the judicial district are authorized by the formula in subsection 3.

8. An incumbent district judge shall not be removed from office because of a reduction in the number of authorized judgeships specified by the formula prescribed in subsection 3.

9. During February of each year, and at other times as appropriate, the state court administrator shall make the determinations specified by the formula prescribed in subsection 3, and shall notify the appropriate nominating commissions and the governor of appointments that are required.

10. Notwithstanding the formula for determining the number of district judges prescribed in subsection 3, the number of district judges shall not exceed one hundred sixteen during the period commencing July 1, 1999.

83 Acts, ch 186, §7201, 10201; 86 Acts, ch 1012, §1; 86 Acts, ch 1148, §1, 2; 90 Acts, ch 1055, §1, 2; 95 Acts, ch 207, §25; 96 Acts, ch 1216, §30; 97 Acts, ch 130, §1; 97 Acts, ch 205, §24; 99 Acts, ch 202, §22; 2003 Acts, ch 151, §38, 39; 2007 Acts, ch 86, §4 – 7; 2022 Acts, ch 1033, §4; 2025 Acts, ch 101, §1

Referred to in §602.6109, 602.6113

602.6202 Jurisdiction.

District judges have the full jurisdiction of the district court, including the respective jurisdictions of district associate judges and magistrates. While exercising the jurisdiction of magistrates, district judges shall employ magistrates' practice and procedure.

83 Acts, ch 186, §7202, 10201

Referred to in §657A.11

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PART 3

DISTRICT ASSOCIATE JUDGES

602.6301 Number and apportionment of district associate judges.

1. The supreme court shall prescribe, subject to the restrictions of this section, a formula to determine the number of district associate judges who will serve in each judicial election district. The formula shall be based upon a model that measures and applies an estimated case-related workload formula of judicial officers, and shall account for administrative duties, travel time, and other judicial duties not related to a specific case. A district associate judge appointed pursuant to section 602.6302 or 602.6307 shall not be counted for purposes of this section and the reduction of a district associate judge pursuant to section 602.6303 also shall not be counted for purposes of this section.

2. For purposes of this section, "*vacancy*" means the death, resignation, retirement, or removal of a district associate judge, or the failure of a district associate judge to be retained in office at the judicial election, or an increase in judgeships under the formula prescribed in subsection 1.

3. In those judicial election districts having more district associate judges than the number of judgeships specified by the formula prescribed in subsection 1, vacancies shall not be filled.

4. In those judicial election districts having fewer or the same number of district associate judges as the number of judgeships specified by the formula prescribed in subsection 1, vacancies shall be filled as the vacancies occur.

5. In those judicial districts that contain more than one judicial election district, a vacancy in a judicial election district shall not be filled if the total number of district associate judges in all judicial election districts within the judicial district equals or exceeds the aggregate number of judgeships to which all of the judicial election districts of the judicial district are authorized by the formula in subsection 1.

6. An incumbent district associate judge shall not be removed from office because of a reduction in the number of authorized judgeships specified by the formula prescribed in subsection 1.

83 Acts, ch 186, §7301, 10201; 94 Acts, ch 1127, §2; 96 Acts, ch 1068, §1; 98 Acts, ch 1047, §58; 98 Acts, ch 1115, §12; 2003 Acts, ch 151, §40; 2006 Acts, ch 1060, §1; 2023 Acts, ch 114, §6

Referred to in §602.6113, 602.6304

602.6302 Appointment of district associate judge in lieu of magistrates.

1. The chief judge of the judicial district may designate by order of substitution that a district associate judge be appointed pursuant to this section in lieu of magistrates appointed under section 602.6403, subject to the following limitations:

a. The substitution must be approved by the supreme court.

b. A majority of district judges in that judicial election district, or in the case of an appointment involving more than one judicial election district in the same judicial district, a majority of the district judges in each judicial election district, must vote in favor of the substitution and find that the substitution will provide more timely and efficient performance of judicial business within that judicial election district.

2. An order of substitution shall not take effect unless a copy of the order is received by the chairperson of the judicial election district magistrate appointing commission or commissions and the governor no later than May 31 of the year in which the substitution is to take effect. A copy of the order shall also be sent to the state court administrator.

3. For a judicial election district in which a substitution order is in effect, the number of magistrates appointed pursuant to section 602.6403 shall be reduced for each district associate judge substituted under this section.

4. If a majority of the district judges in the judicial election district or districts determines that a substitution is no longer desirable, then the substituted office shall be terminated. However, a reversion pursuant to this subsection, irrespective of cause, shall not take effect until the substitute district associate judge fails to be retained in office at a judicial election or

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otherwise leaves office, whether voluntarily or involuntarily. Upon the termination of office of that district associate judge, appointments shall be made pursuant to section 602.6403 as necessary to reestablish terms of office as provided in section 602.6403, subsection 4.

83 Acts, ch 186, §7302, 10201; 86 Acts, ch 1015, §1 – 3; 89 Acts, ch 114, §1; 2022 Acts, ch 1033, §5; 2026 Acts, ch 1063, §9, 25

Referred to in §602.6113, 602.6301, 602.6304, 602.6403
2026 amendment effective November 1, 2026; 2026 Acts, ch 1063, §25
Section amended

602.6303 Appointment of magistrates in lieu of district associate judge.

1. The chief judge of the judicial district may designate by order of substitution that magistrates be appointed pursuant to this section in lieu of the appointment of a district associate judge under section 602.6304, subject to the following limitations:

a. The substitution shall not result in the judicial district receiving more magistrates than are authorized under the magistrate formula in section 602.6401.

b. The substitution shall be approved by the supreme court.

c. A majority of district judges in that judicial election district, or in the case of an appointment involving more than one judicial election district in the same judicial district, a majority of the district judges in each judicial election district, must vote in favor of the substitution and find that the substitution will provide more timely and efficient performance of judicial business within that judicial election district.

2. An order of substitution shall not take effect unless a copy of the order is received by the chairperson of the judicial election district magistrate appointing commission or commissions and the governor no later than May 31 of the year in which the substitution is to take effect. A copy of the order shall also be sent to the state court administrator.

3. Except as provided in subsections 1 and 2, a substitution shall not increase or decrease the number of district associate judges authorized by this article.

4. If a majority of the district judges in a judicial election district determines that a substitution is no longer desirable, then the associated substituted magistrate positions shall be terminated. However, a reversion pursuant to this subsection shall not take effect until the terms of the magistrates expire. Upon the termination of the magistrate positions created under this section, an appointment shall be made to reestablish the term of office for a district associate judge as provided in sections 602.6304 and 602.6305.

2006 Acts, ch 1060, §2; 2022 Acts, ch 1033, §6; 2026 Acts, ch 1063, §10 – 12, 25

Referred to in §602.6301, 602.6403
2026 amendments effective November 1, 2026; 2026 Acts, ch 1063, §25
Subsection 1, unnumbered paragraph 1 amended
Subsection 2 amended
Subsection 3 stricken
Former subsections 4 and 5 amended and renumbered as 3 and 4

602.6304 Appointment and resignation of district associate judges.

1. The district associate judges authorized by sections 602.6301 and 602.6302 shall be appointed by the governor from persons nominated by the district judicial nominating commission in the same manner as district judges under chapter 46.

2. A district associate judge who seeks to resign from the office of district associate judge shall notify in writing the governor, the chief judge of the judicial district, and the state commissioner of elections as to the district associate judge's intention to resign and the effective date of the resignation.

3. When a vacancy occurs or will occur within one hundred twenty days in the office of the district associate judge, the state commissioner of elections shall forthwith so notify the governor. The governor shall call a meeting of the commission within ten days after such notice. If the governor fails to do so, the chief justice shall call such meeting.

83 Acts, ch 186, §7304, 10201; 86 Acts, ch 1015, §4; 98 Acts, ch 1115, §13; 2003 Acts, ch 151, §41, 64; 2022 Acts, ch 1033, §7

Referred to in §602.2301, 602.6113, 602.6303

602.6305 Term, retention, qualifications.

1. District associate judges shall serve initial terms and shall stand for retention in office

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within the judicial election districts of their appointment at the judicial election under sections 46.16 through 46.24.

2. A person does not qualify for appointment to the office of district associate judge unless the person is at the time of appointment licensed to practice law in Iowa and will be able, measured by the person's age at the time of appointment, to complete the initial term of office prior to reaching age seventy-eight. A nominee to the office of district associate judge must reside in the judicial election district to which the nominee is nominated or in a contiguous county to the judicial election district to which the nominee is nominated.

3. A district associate judge must be a resident of the judicial election district or a resident of a county contiguous with the judicial election district in which the office is held before assuming office and during the entire term of office. A district associate judge shall serve within the judicial district in which appointed, as directed by the chief judge, and is subject to reassignment under section 602.6108.

4. District associate judges shall qualify for office as provided in chapter 63 for district judges.

83 Acts, ch 186, §7305, 10201; 86 Acts, ch 1015, §5; 89 Acts, ch 114, §2; 89 Acts, ch 212, §2; 89 Acts, ch 296, §83; 2003 Acts, ch 151, §42; 2004 Acts, ch 1101, §83, 99, 102; 2011 Acts, ch 78, §4; 2022 Acts, ch 1033, §8; 2025 Acts, ch 101, §2, 9, 15

Referred to in §602.6303

2025 amendment to subsection 2 applies to judicial officers retiring on or after July 1, 2025; 2025 Acts, ch 101, §15

602.6306 Jurisdiction, procedure, appeals.

1. District associate judges have the jurisdiction provided in section 602.6405 for magistrates, and when exercising that jurisdiction shall employ magistrates' practice and procedure.

2. District associate judges also have jurisdiction in civil actions for money judgment where the amount in controversy does not exceed ten thousand dollars; jurisdiction over involuntary commitment, treatment, or hospitalization proceedings under chapters 125 and 229; jurisdiction of indictable misdemeanors, class "D" felony violations, and other felony arraignments; jurisdiction to enter a temporary or emergency order of protection under chapter 235F or 236, and to make court appointments and set hearings in criminal matters; jurisdiction to enter orders in probate which do not require notice and hearing and to set hearings in actions under chapter 633 or 633A; and the jurisdiction provided in section 232.3A, 600B.41A, or 602.7101 when designated as a judge of the juvenile court. While presiding in these subject matters a district associate judge shall employ district judges' practice and procedure.

3. When a district judge is unable to serve as a result of temporary incapacity, a district associate judge may, by order of the chief judge of the judicial district enrolled in the records of the clerk of the district court, temporarily exercise any judicial authority within the jurisdiction of a district judge during the time of incapacity with respect to the matters or classes of matters specified in that order.

4. Appeals from judgments or orders of district associate judges while exercising the jurisdiction of magistrates shall be governed by the laws relating to appeals from judgments and orders of magistrates. Appeals from judgments or orders of district associate judges while exercising any other jurisdiction shall be governed by the laws relating to appeals from judgments or orders of district judges.

83 Acts, ch 186, §7306, 10201; 86 Acts, ch 1012, §2; 91 Acts, ch 108, §7; 94 Acts, ch 1122, §1; 96 Acts, ch 1131, §2; 2002 Acts, ch 1110, §1; 2006 Acts, ch 1030, §75; 2014 Acts, ch 1107, §20; 2023 Acts, ch 123, §13; 2024 Acts, ch 1043, §108

Referred to in §331.307, 364.22

602.6307 Appointment of district associate judge in lieu of full-time associate juvenile judge.

1. The chief judge of a judicial district may designate by order of substitution that a district associate judge be appointed pursuant to this section in lieu of a full-time associate juvenile judge appointed under section 602.7103B, subject to the following limitations:

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a. An existing full-time juvenile court judgeship has become vacant or is anticipated to become vacant within one hundred twenty days of an order of substitution.

b. The supreme court approves the substitution upon a determination that the substitution will provide a more timely and efficient performance of judicial business within that judicial election district without diminishing the efficiency and performance of the juvenile court.

2. If a district associate judge is substituted for a full-time associate juvenile judge pursuant to this section, the judicial district shall make every effort to grant the juvenile court docket priority over other dockets including granting the highest scheduling priority to juvenile court proceedings involving child custody, termination of parental rights, and child in need of assistance cases.

3. If the chief judge determines the substitution order is no longer desirable, then the order shall be terminated. However, a reversion pursuant to this subsection, irrespective of cause, shall not take effect until the substitute district associate judge fails to be retained in office at a judicial election or otherwise leaves office, whether voluntarily or involuntarily, and the office becomes vacant.

2006 Acts, ch 1060, §3
Referred to in §602.6113, 602.6301

PART 4

MAGISTRATES

Referred to in §4.1, 602.1101

602.6401 Number and apportionment.

1. The supreme court shall prescribe a formula for the state court administrator to determine the number of magistrates who will serve in each judicial election district, pursuant to subsection 2. The formula must be based on a model that measures and applies an estimated case-related workload formula of magistrates, and must account for travel time and other judicial duties not related to a specific case.

2. By February of each year in which magistrates' terms expire, the state court administrator shall apply the formula prescribed pursuant to subsection 1 to calculate the number of magistrates and apportion magistrates among the judicial districts.

3. By March 31 of each year in which magistrates' terms expire, the state court administrator shall give notice to the clerks of the district court, district court administrators, and chief judges of the judicial districts of the number of magistrates to which each judicial election district is entitled. If the state court administrator does not give the notice as required in this subsection by March 31 of each year in which magistrates' terms expire, the existing magistrate apportionment in effect shall remain in effect through the succeeding magistrates' terms, and any apportionment performed pursuant to subsection 2 is void until such succeeding terms expire.

83 Acts, ch 186, §7401, 10201; 2000 Acts, ch 1057, §10, 11; 2005 Acts, ch 171, §3; 2006 Acts, ch 1060, §4; 2006 Acts, ch 1129, §7; 2009 Acts, ch 179, §221, 222; 2026 Acts, ch 1063, §13, 25
Referred to in §602.6303, 602.6403
2026 amendment effective November 1, 2026; 2026 Acts, ch 1063, §25
Section amended

602.6402 Additional magistrate allowed. Repealed by 2026 Acts, ch 1063, §24, 25.
2026 repeal effective November 1, 2026; 2026 Acts, ch 1063, §25

602.6403 Appointment, qualification, and resignation of magistrates.

1. By June 1 of each year in which magistrates' terms expire, the judicial election district magistrate appointing commission shall appoint, except as otherwise provided in section 602.6302, the number of magistrates apportioned to the judicial election district by the state court administrator under section 602.6401 and the number of magistrates required pursuant to substitution orders in effect under section 602.6303.

2. The supreme court shall prescribe the contents of an application for an appointment pursuant to this section. The commission shall accept applications for a minimum of fifteen

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days prior to making an appointment, and shall make available during that period of time any printed application forms the commission provides based on the supreme court's prescribed application contents.

3. Within thirty days following receipt of notification of a vacancy in the office of magistrate, the commission shall appoint a person to the office to serve the remainder of the unexpired term. For purposes of this section, "*vacancy*" means a death, resignation, retirement, or removal of a magistrate, or an increase in the number of positions authorized.

4. The term of office of a magistrate is four years, commencing August 1, 2027. However, the terms of all magistrates in a judicial election district are deemed to expire if a substitution under section 602.6302 or the allocation under section 602.6401 results in a reduction in the number of magistrates in a judicial election district where the magistrates hold office.

5. The commission shall promptly certify the names and addresses of appointees to the district court administrator and to the chief judge of the judicial district. The district court administrator shall certify to the state court administrator the names and addresses of these appointees.

6. Before assuming office, a magistrate shall subscribe and file in the office of the state court administrator the oath of office specified in section 63.6.

7. Before the commencement of the term of a magistrate, the members of the judicial election district magistrate appointing commission may reconsider the appointment. Written notification of the reasons for reconsideration and time and place for the meeting must be sent to the magistrate appointee and the district court administrator. The commission may reconvene and decertify the magistrate appointee for good cause. Notice of the decertification and a statement of the reasons justifying the decertification shall be promptly sent to the district court administrator, the chief judge of the judicial district, and the state court administrator.

8. Annually, the state court administrator shall cause a school of instruction to be conducted for magistrates, and each magistrate shall attend prior to the time of taking office unless excused by the chief justice for good cause. A magistrate appointed to fill a vacancy shall attend the first school of instruction that is held following the appointment, unless excused by the chief justice for good cause.

9. A magistrate who seeks to resign from the office of magistrate shall notify in writing the chief judge of the judicial district as to the magistrate's intention to resign and the effective date of the resignation. The chief judge of the judicial district, upon receipt of the notice, shall notify the judicial election district magistrate appointing commission and the state court administrator of the vacancy in the office of magistrate due to resignation.

10. *a.* Notwithstanding section 602.6401, subsection 3, if a vacancy occurs as described in subsection 3 of this section, that cannot be filled, the chief judge of the judicial district may assign one or more magistrates serving in the judicial district to serve the remainder of the term in the county with the vacancy. A magistrate shall serve the county with the vacancy to which the magistrate is assigned in addition to the county to which the magistrate is appointed if the combined weighted workload does not exceed thirty-three percent of one full-time position.

b. This subsection is repealed August 1, 2027.

11. *a.* For the magistrate term commencing August 1, 2027, the judicial election district magistrate appointing commission shall give priority to an applicant who served or is serving as a magistrate for the term immediately preceding August 1, 2027.

(1) If the number of vacancies in the judicial election district equals or exceeds the number of prioritized applicants, the commission shall appoint all prioritized applicants.

(2) If the number of vacancies in the judicial election district is less than the number of prioritized applicants, the commission shall appoint only prioritized applicants.

b. This subsection is repealed July 31, 2031.

83 Acts, ch 186, §7403, 10201; 89 Acts, ch 114, §3, 4; 89 Acts, ch 212, §3, 4; 90 Acts, ch 1168, §59; 98 Acts, ch 1115, §14, 15; 2003 Acts, ch 151, §43, 64; 2006 Acts, ch 1060, §5; 2026 Acts, ch 1063, §14, 15, 25

Referred to in §602.1214, 602.2301, 602.6302

2026 amendment to subsections 1, 2, 3, 4, 5, 7, and 9 effective November 1, 2026; 2026 Acts, ch 1063, §25

Subsection 11 effective November 1, 2026; 2026 Acts, ch 1063, §25

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Subsections 1, 2, 3, 4, 5, 7, and 9 amended
NEW subsections 10 and 11

602.6404 Qualifications.

1. A magistrate shall be a resident of the judicial election district or a resident of a county contiguous to the judicial election district in which appointed during the magistrate's term of office. A magistrate shall serve within the judicial district in which appointed, as directed by the chief judge, provided that the chief judge may assign a magistrate to hold court outside of the county or counties of appointment for the orderly administration of justice. A magistrate is subject to reassignment under section 602.6108.

2. A person is not qualified for appointment as a magistrate unless the person files a certified application form, to be provided by the supreme court, with the chairperson of the judicial election district magistrate appointing commission. A person is not qualified for appointment as a magistrate if at the time of appointment the person has reached age seventy-eight.

3. A magistrate shall be an attorney licensed to practice law in this state. However, a magistrate not admitted to the practice of law in this state and who is holding office on April 1, 2009, shall be eligible to be reappointed as a magistrate in the same county for a term commencing August 1, 2009, and for subsequent successive terms.

83 Acts, ch 186, §7404, 10201; 87 Acts, ch 115, §76; 89 Acts, ch 114, §5; 89 Acts, ch 212, §5; 96 Acts, ch 1153, §6; 2009 Acts, ch 179, §145; 2011 Acts, ch 78, §5; 2018 Acts, ch 1026, §167; 2021 Acts, ch 168, §7; 2025 Acts, ch 101, §3, 10, 15; 2026 Acts, ch 1063, §16, 25
2025 amendment to subsection 2 applies to judicial officers retiring on or after July 1, 2025; 2025 Acts, ch 101, §15
2026 amendment to subsection 2 effective November 1, 2026; 2026 Acts, ch 1063, §25
Subsection 2 amended

602.6405 Jurisdiction — procedure.

1. Magistrates have jurisdiction of simple misdemeanors regardless of the amount of the fine, including traffic and ordinance violations, and preliminary hearings, search warrant proceedings, county and municipal infractions, and small claims. Magistrates have jurisdiction to determine the disposition of livestock or another animal, as provided in sections 717.5 and 717B.4, if the magistrate determines the value of the livestock or animal is less than ten thousand dollars. Magistrates have jurisdiction to exercise the powers specified in sections 556F.2 and 556F.12, and to hear complaints or preliminary informations, issue warrants, order arrests, make commitments, and take bail. Magistrates have jurisdiction over violations of section 123.49, subsection 2, paragraph "*h*". Magistrates who are admitted to the practice of law in this state have jurisdiction over all proceedings for the involuntary commitment, treatment, or hospitalization of individuals under chapters 125 and 229, except as otherwise provided under section 229.6A; nonlawyer magistrates have jurisdiction over emergency detention and hospitalization proceedings under sections 125.91 and 229.22. Magistrates have jurisdiction to conduct hearings authorized under section 809.4.

2. *a.* Magistrates shall hear and determine violations of and penalties for violations of section 453A.2, subsection 2.

b. Magistrates shall forward copies of citations issued for violations of section 453A.2, subsection 2, and of their dispositions to the clerk of the district court. The clerk of the district court shall maintain records of citations issued and the dispositions of citations, and shall forward a copy of the records to the department of health and human services.

3. The criminal procedure before magistrates is as provided in chapters 804, 806, 808, 811, 820 and 821 and rules of criminal procedure 2.1, 2.2, 2.5, 2.7, 2.8, and 2.51 to 2.75. The civil procedure before magistrates shall be as provided in chapters 631 and 648.

4. Trials and contested hearings within a magistrate's jurisdiction shall be electronically recorded, unless a party provides a certified court reporter at the party's expense. The electronic recordings shall be securely maintained consistent with the practices and procedures prescribed by the state court administrator and shall be retained for one year after entry of a final judgment in the trial court or until thirty days after final disposition, whichever is later. Transcripts from electronic recordings required for appeals shall be

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produced and paid for in a manner consistent with practices and procedures prescribed by the state court administrator.

83 Acts, ch 186, §7405, 10201; 84 Acts, ch 1275, §7; 87 Acts, ch 99, §7; 88 Acts, ch 1092, §1; 90 Acts, ch 1251, §54; 91 Acts, ch 108, §8; 92 Acts, ch 1231, §53; 94 Acts, ch 1103, §5; 96 Acts, ch 1133, §46; 2000 Acts, ch 1105, §8; 2010 Acts, ch 1140, §23; 2016 Acts, ch 1022, §2; 2023 Acts, ch 19, §1266

Referred to in §602.1209, 602.6306

PART 5

MAGISTRATE APPOINTING COMMISSIONS

602.6501 Composition of judicial election district magistrate appointing commissions.

1. A magistrate appointing commission is established in each judicial election district. The commission shall be composed of the following members:

a. A district judge designated by the chief judge of the judicial district to serve until a successor is designated.

b. One person from each county in the judicial election district, appointed by the board of supervisors of the county.

c. A number of attorneys elected by the attorneys in the judicial election district and the counties contiguous with the judicial election district equal to one fewer than the number of persons appointed pursuant to paragraph *"b"*. If there are an insufficient number of attorneys to serve on the commission, the number of persons appointed pursuant to paragraph *"b"* shall not be increased or decreased.

2. The district court administrator or the administrator's designee shall maintain a permanent record of the name, address, and term of office of each commissioner.

3. A member of a magistrate appointing commission shall be reimbursed for actual and necessary expenses reasonably incurred in the performance of official duties. Reimbursements are payable by the county in which the member resides, upon certification of the expenses to the county auditor by the clerk of the district court. The district judges of each judicial district may prescribe rules for the administration of this subsection.

83 Acts, ch 186, §7501, 10201; 84 Acts, ch 1219, §36; 2026 Acts, ch 1063, §17, 25

Referred to in §331.424, 602.1214, 602.1303, 602.6504

2026 amendment effective November 1, 2026; 2026 Acts, ch 1063, §25

Section amended

602.6502 Prohibitions to appointment.

A member of a judicial election district magistrate appointing commission shall not be appointed to the office of magistrate. A member of the commission shall not be eligible to vote for the appointment or nomination of a family member, current law partner, or current business partner. For purposes of this section, *"family member"* means a spouse, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, father, mother, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

83 Acts, ch 186, §7502, 10201; 2007 Acts, ch 86, §8; 2022 Acts, ch 1033, §9; 2026 Acts, ch 1063, §18, 25

2026 amendment effective November 1, 2026; 2026 Acts, ch 1063, §25

Section amended

602.6503 Commissioners appointed by a county.

1. The board of supervisors of each county in the judicial election district shall appoint one person from the county to the magistrate appointing commission for the judicial election district for six-year terms beginning January 1, 2027, and each sixth year thereafter.

2. The board of supervisors shall not appoint an attorney or an active law enforcement officer to serve as a commissioner.

3. The county auditor shall certify to the district court administrator the name, address,

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and expiration date of term for the person appointed to the commission by the board of supervisors.

83 Acts, ch 186, §7503, 10201; 2026 Acts, ch 1063, §19, 25
Referred to in §331.321, 331.502
2026 amendment to subsections 1 and 3 effective November 1, 2026; 2026 Acts, ch 1063, §25
Subsections 1 and 3 amended

602.6504 Commissioners elected by attorneys.

1. The attorneys of each judicial election district and the counties contiguous with the judicial election district shall elect a number of attorneys equal to one fewer than the number of persons appointed pursuant to section 602.6501, subsection 1, paragraph "*b*", to the magistrate appointing commission for six-year terms beginning on January 1, 2027, and each sixth year thereafter. An election shall be held in December preceding the commencement of new terms. If there are an insufficient number of attorneys who are qualified and willing to serve, the attorneys of each judicial election district and the counties contiguous with the judicial election district may elect a number of attorneys that is less than the maximum number authorized in this subsection.

2. A county attorney shall not be elected to the commission.

3. An attorney is eligible to vote in elections of magistrate appointing commissioners within a judicial election district or the counties contiguous with the judicial election district if eligible to vote under sections 46.7 and 46.8, and if a resident of the judicial election district or a county contiguous with the judicial election district.

4. In order to be placed on the ballot for a judicial election district magistrate appointing commission, an eligible attorney elector shall file a nomination petition in the office of a clerk of court in the district on or before November 30 of the year in which the election for attorney positions is to occur. This subsection does not preclude write-in votes at the time of the election.

5. When an election of magistrate appointing commissioners is to be held, the clerk of the district court for each county in the judicial election district and a county contiguous with the judicial election district shall cause to be mailed to each eligible attorney a ballot that is in substantially the following form:

BALLOT

Judicial Election District Magistrate Appointing Commission

To be cast by the resident members of the bar of judicial election district ..... or a county contiguous with the judicial election district.

Vote for (state number) for ..... judicial election district magistrate appointing commissioner(s) for term commencing .....

.....

.....

To be counted, this ballot must be completed and mailed or delivered to a clerk of the district court in the judicial election district, ..., or a county contiguous with the judicial election district, no later than December 31, ... (year) (or the appropriate date in case of an election to fill a vacancy).

83 Acts, ch 186, §7504, 10201; 86 Acts, ch 1119, §3; 2000 Acts, ch 1058, §64; 2026 Acts, ch 1063, §20, 25
2026 amendment to subsections 1, 3, 4, and 5 effective November 1, 2026; 2026 Acts, ch 1063, §25
Subsections 1, 3, 4, and 5 amended

602.6505 Vacancy.

A vacancy in the office of magistrate appointing commissioner shall be filled for the unexpired term in the same manner as the original appointment was made.

83 Acts, ch 186, §7505, 10201

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PART 6

DISTRICT COURT ADMINISTRATION

602.6601 Court attendants.

1. The district court administrator of each judicial district shall employ and supervise court attendants as authorized by the chief judge.

2. A court attendant shall assist judicial officers during proceedings in court and shall perform other duties as prescribed by the supreme court or by the chief judge of the judicial district.

83 Acts, ch 186, §7601, 10201
Referred to in §602.11101, 602.11113
Certain bailiffs employed as court attendants; §602.11101, 602.11113

602.6602 Referees and special masters.

A person who is appointed as a referee or special master, or who otherwise is appointed by a court pursuant to law or court rule to exercise a judicial function, is subject to the supervision of the judicial officer making the appointment.

83 Acts, ch 186, §7602, 10201
Referred to in §602.1508

602.6603 Court reporters.

1. *a.* The chief judge of a judicial district or the chief judge's designee shall have the authority to supervise, schedule, and assign duties to all court reporters in the judicial district.

b. Notwithstanding paragraph *"a"*, a judge presiding over a proceeding that must be reported shall have the authority to supervise the work of a court reporter while the court reporter is actively engaged in reporting that proceeding.

c. The chief judge of a judicial district may delegate the authority set forth in paragraph *"a"* to the district court administrator or the district court administrator's designee.

2. The judges of a judicial district shall appoint a court reporter, subject to approval of the chief judge of the judicial district or the chief judge's designee. A court reporter may be assigned to a district judge or the district associate judge subject to subsection 1. A court reporter shall, upon the request of a party in a civil or criminal case, report the evidence and proceedings in the case, and perform all duties as provided by law.

3. If a regularly appointed court reporter becomes disabled, or if a vacancy occurs in a regularly appointed court reporter position, the chief judge or the chief judge's designee may appoint a competent, uncertified shorthand reporter for a period of time of up to one year, upon verification by the chief judge that a diligent but unsuccessful search has been conducted to appoint a certified shorthand reporter to the position and, in a disability case, that the regularly appointed court reporter is disabled. An uncertified shorthand reporter shall not be reappointed to the position unless the reporter becomes a certified shorthand reporter within the period of appointment under this subsection.

4. Except as provided in subsection 3, a person shall not be appointed to the position of court reporter of the district court unless the person has been certified as a shorthand reporter by the board of examiners under article 3.

5. Each court reporter shall take an oath faithfully to perform the duties of office, which shall be filed in the office of the clerk of district court.

6. A court reporter may be removed for cause with due process by the judges making the appointment, subject to the approval of the chief judge or the chief judge's designee.

7. If a judge dies, resigns, retires, is removed from office, becomes disabled, or fails to be retained in office and the judicial vacancy is eligible to be filled, the court reporter appointed by the judge shall serve as a court reporter, as directed by the chief judge or the chief judge's designee.

83 Acts, ch 186, §7603, 10201; 85 Acts, ch 197, §15, 16; 89 Acts, ch 110, §1; 2000 Acts, ch 1057, §12; 2021 Acts, ch 66, §2; 2025 Acts, ch 101, §19
Referred to in §602.3201, 602.3205

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602.6604 Dockets.

1. The clerk of the district court shall furnish a magistrate, district associate judge, or district judge acting as a magistrate, with a docket in which the officer shall enter all proceedings except small claims. The docket shall be indexed and shall contain for each case the title and nature of the action, the place of hearing, appearances, and notations of the documents filed with the judicial officer, the proceedings in the case and orders made, the verdict and judgment including costs, any satisfaction of the judgment, whether the judgment was certified to the clerk of the district court, whether an appeal was taken, and the amount of any appeal bond.

2. The chief judge of a judicial district may order that criminal proceedings which are within the jurisdictions of magistrates and district associate judges be combined into centralized dockets for the county if the chief judge determines that administration could be improved by this procedure. When so ordered, a centralized docket shall be maintained in lieu of individual dockets, and the clerk of the district court shall compile a centralized docket in the manner prescribed for an individual docket. The chief judge may assign actions and proceedings on centralized dockets to judicial officers having jurisdiction as the chief judge deems necessary.

83 Acts, ch 186, §7604, 10201
Referred to in §602.8102(90)

602.6605 and 602.6606 Repealed by 2006 Acts, ch 1129, §15.

602.6607 Control of records — vacancies.

Whenever a magistrate, or a district associate judge or district judge acting as a magistrate, leaves office, all funds, dockets, and records relating to the vacated office shall be delivered by the judicial officer to the clerk who issued the docket.

83 Acts, ch 186, §7607, 10201

602.6608 Child support referee.

1. The chief judge may appoint and may remove for cause with due process a referee to preside over child support proceedings.

2. Qualifications for a referee appointed under this section include, at a minimum, all of the following:

a. The referee shall be an attorney currently licensed to practice law in the state.

b. The referee shall have at least five years of experience in the practice of law.

c. The referee shall have at least two years of experience in the practice of family law, including experience in the area of child support, in the state of Iowa.

3. Duties of the referee are limited to presiding over child and medical support proceedings which are delegated to the referee by the chief judge or jointly by the chief judges of the affected judicial districts if the referee is authorized to preside over proceedings in more than one judicial district.

4. The compensation of the referee shall be established by the court.

93 Acts, ch 79, §30

PART 7

SPECIAL PROVISIONS

602.6701 Circuit court records.

1. The district court shall succeed to and have jurisdiction over the records of the circuit court, and may enforce all judgments, decrees, and orders of the circuit court in the same manner and to the same extent as it exercises jurisdiction over its own records, and, for the purposes of the issuance of process and any other acts necessary to the enforcement of the orders, judgments, and decrees of the circuit court, the records of the circuit court shall be deemed records of the district court.

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2. Transcripts and process from the judgments, decrees, and records of the circuit court shall be issued by the clerk of the district court, and under the seal of the clerk's office.

83 Acts, ch 186, §7701, 10201

602.6702 Counties bordering on Missouri river.

The jurisdiction of the courts of the state in all civil and criminal actions and proceedings, shall extend in counties bordering on the Missouri river to the boundary of the state as provided in the compact with the state of Nebraska, and to all lands and territory lying along the river which have been adjudged by the United States supreme court or the supreme court of this state to be within the state of Iowa, and to the other lands and territory along the river over which the courts of this state have exercised jurisdiction.

83 Acts, ch 186, §7702, 10201

602.6703 Declaratory judgment to adjudicate constitutional nexus issues regarding taxation.

1. District courts have original jurisdiction over civil actions seeking declaratory judgment when both of the following apply:

a. The party seeking declaratory relief is a business that is any of the following:

(1) Organized under the laws of this state.

(2) A sole proprietorship owned by a domiciliary of this state.

(3) Authorized to do business in this state.

b. The responding party is a government official of another state, or political subdivision of another state, who asserts that the business in question is obliged to collect sales or use taxes for such state or political subdivision based upon conduct of the business that occurs wholly or partially within that state or political subdivision.

2. A business meeting the requirements and facing the circumstances described in subsection 1 shall be entitled to declaratory relief on the issue of whether the requirement of another state, or political subdivision of another state, that the business collect and remit sales or use taxes to that state, or political subdivision, in the factual circumstances of the business' operations giving rise to the demand, constitutes an undue burden on interstate commerce within the meaning of the Constitution of the United States.

2005 Acts, ch 140, §68

PART 8

BUSINESS COURT

602.6801 Establishment of business court.

The supreme court shall establish and maintain a business court as authorized by the general assembly in this part.

2026 Acts, ch 1133, §1, 16

Judicial branch report on business court by January 1, 2029; 2026 Acts, ch 1133, §15

Section effective September 1, 2026; 2026 Acts, ch 1133, §16

NEW section

602.6802 Purpose.

The purpose of the business court is to expeditiously resolve complex commercial and business litigation through the court system.

2026 Acts, ch 1133, §2, 16

Section effective September 1, 2026; 2026 Acts, ch 1133, §16

NEW section

602.6803 Jurisdiction.

1. The business court shall have jurisdiction, concurrent with the district court, over cases where compensatory damages totaling two hundred thousand dollars or more are alleged, and cases that involve claims seeking primarily injunctive or declaratory relief, that meet at least one of the following conditions:

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a. Arise from technology licensing agreements, including software and biotechnology licensing agreements, or any agreement involving the licensing of any intellectual property right, including patent rights.

b. Relate to the internal affairs of business entities, including corporations created under chapter 490 or 504, limited liability companies created under chapter 489, general partnerships created under chapter 486A, limited partnerships created under chapter 488, sole proprietorships, professional associations, real estate investment trusts, and joint ventures, including the rights or obligations between or among business participants, or the liability or indemnity of business participants, officers, directors, managers, trustees, or partners, among themselves or to the business entity.

c. Involve claims of breach of contract, fraud, misrepresentation, or statutory violations between businesses arising out of business transactions or relationships.

d. Is a shareholder derivative action or commercial class action.

e. Arise from commercial bank transactions.

f. Relate to trade secrets, or noncompete, nonsolicitation, or confidentiality agreements.

g. Involve commercial real property disputes other than residential landlord-tenant disputes and foreclosures.

h. Is a trade secret, antitrust, or securities-related action.

i. Involve business tort claims between or among two or more business entities or individuals as to their business or investment activities relating to contracts, transactions, or relationships between or among them.

2. The business court shall not have jurisdiction over any of the following:

a. A civil action brought by or against a governmental entity, unless the governmental entity invokes or consents to the jurisdiction of the business court.

b. Any claim in which a party seeks recovery of monetary damages for personal injury or death or any claim arising under section 714.16, chapter 633, or chapter 633A, unless all parties and a judge of the business court agree that the claim may proceed in the business court.

c. Actions arising out of professional negligence unless the underlying claim alleges negligence in a transaction within the jurisdiction of the business court under this section.

2026 Acts, ch 1133, §3, 16
Referred to in §602.6804, 602.6814
Section effective September 1, 2026; 2026 Acts, ch 1133, §16
NEW section

602.6804 Initial filing — removal and remand — transfer and dismissal.

1. An action authorized in section 602.6803 may be filed in the business court. If the business court does not have subject matter jurisdiction over the action, or part of the action, the court shall, at the option of the party filing the action, do one of the following:

a. Transfer the action or part of the action to an appropriate district court.

b. Dismiss the action or part of the action without prejudice to the parties' rights.

c. Retain jurisdiction of the action not subject to the jurisdiction of the business court if the court has jurisdiction of a portion of the action.

2. A party to an action filed in a district court that is within the subject matter jurisdiction of the business court may file a motion to transfer the action to the business court in the district court where the action was initially filed. The motion to transfer shall be assigned to a business court judge to determine if the business court has subject matter jurisdiction. If the business court does not have jurisdiction of the action or part of the action, the action or part of the action shall remain in the district court where it was initially filed.

3. Removal of an action to the business court is not subject to rule of civil procedure 1.441.

2026 Acts, ch 1133, §4, 16
Section effective September 1, 2026; 2026 Acts, ch 1133, §16
NEW section

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602.6805 Appeals.

The procedure governing an appeal or original proceeding from the business court is the same as the procedure for an appeal or original proceeding from a district court.

2026 Acts, ch 1133, §5, 16
Section effective September 1, 2026; 2026 Acts, ch 1133, §16
NEW section

602.6806 Composition of business court.

1. The business court shall consist of two judges.

2. *a.* On September 1, 2026, the supreme court shall determine from among the judges then serving in the existing business specialty court two judges to serve exclusively as full-time judges of the business court.

b. If fewer than two judges from the existing business specialty court seek appointment to serve as full-time judges of the business court, the remaining vacancy or vacancies shall be nominated and appointed as provided in chapter 46.

3. After the initial appointments under subsection 2, any vacancy on the business court shall be nominated and appointed as provided in chapter 46.

4. In addition to the judges appointed or designated under this section, the supreme court may assign as visiting judges of the business court district court judges and senior judges.

2026 Acts, ch 1133, §6, 16
Section effective September 1, 2026; 2026 Acts, ch 1133, §16
NEW section

602.6807 Business court judge assigned to facilitate settlement conference.

The state court administrator or the administrator's designee shall assign one business court judge or visiting judge to preside over every action filed or transferred to the business court and a second business court judge or visiting judge to serve as a settlement conference judge.

2026 Acts, ch 1133, §7, 16
Section effective September 1, 2026; 2026 Acts, ch 1133, §16
NEW section

602.6808 Salary — conditions of office.

1. A judge of the business court shall receive the annual salary set for a district judge under section 602.1401.

2. A judge of the business court shall be subject to retention election under chapter 46.

3. A judge of the business court shall be subject to disqualification under section 602.1606.

4. A judge of the business court shall be subject to the authority of the supreme court and the commission on judicial qualifications under article 2.

5. A judge of the business court shall be subject to impeachment under section 602.2201.

6. A judge of the business court shall be subject to the Iowa code of judicial conduct.

7. A judge of the business court may be assigned to the civil docket of a district court when the business court caseload permits, as determined by the supreme court.

2026 Acts, ch 1133, §8, 16; 2026 Acts, ch 1200, §67, 75
Section effective September 1, 2026; 2026 Acts, ch 1133, §16
NEW section

602.6809 Jury practice and procedure.

1. A jury trial of the business court shall be held in a county in which venue is proper under the Iowa rules of civil procedure.

2. Subject to subsection 1, a jury trial in an action removed to the business court shall be held in the county in which the action was originally filed.

3. Subject to subsection 1, a jury trial in an action filed initially in the business court shall be held in any county, as chosen by the plaintiff, in which the action could have been filed under the Iowa rules of civil procedure.

4. The parties and the judge of the business court may agree to hold the jury trial in any other county. However, a party shall not be required to agree to hold the jury trial in a different county.

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5. The drawing of jury panels, selection of jurors, and other jury practice and procedure in the business court shall follow the standards for juries provided in chapter 607A.

6. Practice, procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials, hearings, and other business in the business court are governed by the laws and rules prescribed for district courts, unless otherwise provided under this part.

2026 Acts, ch 1133, §9, 16
Section effective September 1, 2026; 2026 Acts, ch 1133, §16
NEW section

602.6810 Written opinions.

To facilitate the establishment of a coherent body of law, a judge of the business court shall issue a written opinion when deciding issues of law by order or judgment, unless any of the following apply:

1. The court has a well-developed body of law on the issue.
2. The court is applying the precedent on the issue.
3. Another opinion on the issue will not significantly contribute to the development of the law.

2026 Acts, ch 1133, §10, 16
Section effective September 1, 2026; 2026 Acts, ch 1133, §16
NEW section

602.6811 Business court staff.

The state court administrator or the administrator's designee may appoint personnel necessary for the operation of the business court.

2026 Acts, ch 1133, §11, 16
Section effective September 1, 2026; 2026 Acts, ch 1133, §16
NEW section

602.6812 Seal.

The seal of the business court is the same as that provided by law for a district court except the seal must contain the phrase "The Business Court of Iowa".

2026 Acts, ch 1133, §12, 16
Section effective September 1, 2026; 2026 Acts, ch 1133, §16
NEW section

602.6813 Rules.

Subject to the provisions of this part, the supreme court shall promulgate rules for the jurisdiction and operation of the business court as the supreme court determines necessary, including rules providing for any of the following:

1. The timely and efficient transfer and remand of cases to and from the business court.
2. The assignment of cases to judges of the business court.

2026 Acts, ch 1133, §13, 16
Section effective September 1, 2026; 2026 Acts, ch 1133, §16
NEW section

602.6814 Transition provision.

This part applies to civil actions described under section 602.6803 filed on or after September 1, 2026. If an action described under section 602.6803 was pending in a district court before September 1, 2026, the parties may agree to have the civil action transferred or removed to the business court in accordance with this part.

2026 Acts, ch 1133, §14, 16
Section effective September 1, 2026; 2026 Acts, ch 1133, §16
NEW section

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ARTICLE 7
JUVENILE COURT

Referred to in §602.8102(42), 602.11101

PART 1
THE COURT

602.7101 Juvenile court.

1. A juvenile court is established in each county. The juvenile court is within the district court and has the jurisdiction provided in chapters 232 and 232D.
2. The jurisdiction of the juvenile court may be exercised by any district judge, and by any district associate judge who is designated by the chief judge as a judge of the juvenile court.
3. The chief judge shall designate one or more of the district judges and district associate judges to act as judges of the juvenile court for a county. The chief judge may designate a juvenile court judge to preside in more than one county.
4. The designation of a judicial officer as a juvenile court judge does not deprive the officer of other judicial functions. Any district judge may act as a juvenile court judge during the absence or inability to act, or upon the request, of the designated juvenile court judge.
5. The juvenile court is always open for the transaction of business, but the hearing of a matter that requires notice shall be had at a time and place fixed by the juvenile court judge.

83 Acts, ch 186, §8101, 10201; 2019 Acts, ch 56, §34, 44, 45
Referred to in §232.2, 232D.102, 600A.2, 602.6306

602.7102 Court records.

1. The juvenile court is a court of record, and its proceedings, orders, findings, and decisions shall be entered in books that are kept for that purpose and that are identified as juvenile court records.
2. The clerk of the district court is the clerk of the juvenile court for the county.
3. The clerk shall, if practicable, notify a convenient juvenile court officer in advance when a child is to be brought before the court.

83 Acts, ch 186, §8102, 10201

602.7103 Associate juvenile judge — jurisdiction — appeals.

1. An associate juvenile judge shall have the same jurisdiction to conduct juvenile court proceedings, to issue warrants, nontestimonial identification orders, and contempt arrest warrants for adults in juvenile court proceedings, and to issue orders, findings, and decisions as the judge of the juvenile court. However, the chief judge may limit the exercise of juvenile court jurisdiction by the associate juvenile judge.
2. The parties to a proceeding heard by an associate juvenile judge are entitled to appeal the order, finding, or decision of an associate juvenile judge, in the manner of an appeal from orders, findings, or decisions of district court judges. An appeal does not automatically stay the order, finding, or decision of an associate juvenile judge.

83 Acts, ch 186, §8103, 10201; 88 Acts, ch 1095, §1; 89 Acts, ch 296, §84; 92 Acts, ch 1124, §4; 94 Acts, ch 1172, §39; 96 Acts, ch 1134, §5; 99 Acts, ch 93, §7; 99 Acts, ch 208, §60

602.7103A Part-time associate juvenile judge — appointment — removal — qualifications.

The chief judge may appoint and may remove for cause with due process a part-time associate juvenile judge. The part-time associate juvenile judge shall be an attorney admitted to practice law in this state, and shall be qualified for duties by training and experience.

99 Acts, ch 93, §8

602.7103B Appointment and resignation of full-time associate juvenile judges.

1. Full-time associate juvenile judges shall be appointed by the governor from persons

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nominated by the district judicial nominating commission in the same manner as district judges under chapter 46.

2. A full-time associate juvenile judge who seeks to resign from the office of full-time associate juvenile judge shall notify in writing the governor, the chief judge of the judicial district, and the state commissioner of elections as to the full-time associate judge's intention to resign and the effective date of the resignation.

3. When a vacancy occurs or will occur within one hundred twenty days in the office of a full-time associate juvenile judge, the state commissioner of elections shall forthwith so notify the governor. The governor shall call a meeting of the commission within ten days after such notice. If the governor fails to do so, the chief justice shall call such meeting.

99 Acts, ch 93, §9, 15; 99 Acts, ch 208, §61; 2003 Acts, ch 151, §44, 64; 2022 Acts, ch 1033, §10

Referred to in §602.2301, 602.6113, 602.6307

602.7103C Full-time associate juvenile judges — term, retention, qualifications.

1. Full-time associate juvenile judges shall serve terms and shall stand for retention in office within the judicial election districts of their appointment as provided under sections 46.16 through 46.24.

2. A person does not qualify for appointment to the office of full-time associate juvenile judge unless the person is at the time of appointment licensed to practice law in Iowa and will be able, measured by the person's age at the time of appointment, to complete the initial term of office prior to reaching age seventy-eight. A nominee to the office of full-time associate juvenile judge must reside in the judicial election district to which the nominee is nominated or in a contiguous county to the judicial election district to which the nominee is nominated.

3. A full-time associate juvenile judge must be a resident of the judicial election district or a resident of a county contiguous with the judicial election district in which the office is held before assuming office and during the entire term of office. A full-time associate juvenile judge shall serve within the judicial district in which appointed, as directed by the chief judge, and is subject to reassignment under section 602.6108.

4. Full-time associate juvenile judges shall qualify for office as provided in chapter 63 for district judges.

99 Acts, ch 93, §10, 15; 2022 Acts, ch 1033, §11; 2025 Acts, ch 101, §4, 11, 15

2025 amendment to subsection 2 applies to judicial officers retiring on or after July 1, 2025; 2025 Acts, ch 101, §15

602.7104 Physicians and nurses.

1. In a county having a population of one hundred twenty-five thousand or more, the judges of the juvenile court may appoint a physician and a nurse, prescribe their duties, and remove them.

2. Appointees shall receive salaries and shall be reimbursed for expenses incurred in the performance of duties, as prescribed by the supreme court.

83 Acts, ch 186, §8104, 10201

PART 2

PROBATION AND COURT SERVICES

602.7201 Administration and supervision.

1. Probation and other juvenile court services within a judicial district shall be administered and supervised by the chief juvenile court officer.

2. The juvenile court officers and other personnel employed in juvenile court service offices are subject to the supervision of the chief juvenile court officer. The chief juvenile court officer is subject to the supervision and direction of the director of juvenile court services.

3. The chief juvenile court officer may employ, shall supervise, and may remove for cause

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with due process secretarial, clerical, and other staff within juvenile court service offices as authorized by the director of juvenile court services.

83 Acts, ch 186, §8201, 10201; 2025 Acts, ch 86, §44

602.7202 Juvenile court officers.

1. Subject to the approval of the director of juvenile court services, the chief juvenile court officer shall appoint juvenile court officers to serve the juvenile court. Juvenile court officers may be required to serve in two or more counties within the judicial district.

2. Juvenile court officers shall be selected, appointed, and removed in accordance with rules, standards, and qualifications prescribed by the supreme court.

3. Juvenile court officers have the duties prescribed in chapter 232, subject to the direction of the judges of the juvenile court. A judge of the juvenile court shall not attempt to direct or influence a juvenile court officer in the performance of the officer's duties.

4. A juvenile court officer has the powers of a peace officer while engaged in the discharge of duties.

83 Acts, ch 186, §8202, 10201; 2025 Acts, ch 86, §45

Referred to in §232.2, 801.4

602.7203 Juvenile victim restitution.

The judicial branch shall administer the juvenile victim restitution program created in chapter 232A.

90 Acts, ch 1247, §19; 98 Acts, ch 1047, §59

ARTICLE 8

CLERK OF DISTRICT COURT

Referred to in §602.1215, 602.1304, 602.1305, 602.11101

602.8101 Office of the clerk of the district court.

1. The office of clerk of the district court is an appointive office, as provided in section 602.1215.

2. A person appointed to the office of clerk shall qualify by taking the oath of office as provided in section 63.10 and giving bond as provided in chapter 64.

3. The clerk may employ staff when authorized under section 602.1402 and when authorized by the chief judge of the judicial district. The clerk is responsible for the acts of these employees. The clerk shall designate one or more employees who shall give bond as provided in chapter 64.

83 Acts, ch 186, §9101, 10201; 2004 Acts, ch 1120, §3

602.8102 General duties.

The clerk shall:

1. Keep the office of the clerk at the county seat.

2. Attend sessions of the district court.

3. Keep the records, papers, and seal, and record the proceedings of the district court as provided by law under the direction of the chief judge of the judicial district.

4. Upon the death of a judge or magistrate of the district court, give written notice to the department of management and the department of administrative services of the date of death. The clerk shall also give written notice of the death of a justice of the supreme court, a judge of the court of appeals, or a judge or magistrate of the district court who resides in the clerk's county to the state commissioner of elections, as provided in section 46.12.

5. When money in the amount of five hundred dollars or more is paid to the clerk to be paid to another person and the money is not disbursed within thirty days, notify the person who is entitled to the money or for whose account the money is paid or the attorney of record of the person. The notice shall be given by certified mail within forty days of the receipt of the money to the last known address of the person or the person's attorney and a memorandum of the notice shall be made in the proper record. If the notice is not given, the clerk and the

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clerk's sureties are liable for interest at the rate specified in section 535.2, subsection 1, on the money from the date of receipt to the date that the money is paid to the person entitled to it or the person's attorney.

6. On each process issued, indicate the date that it is issued, the clerk's name who issued it, and the seal of the court.

7. Upon return of an original notice to the clerk's office, enter in the appearance or combination docket information to show which parties have been served the notice and the manner and time of service.

8. When entering a lien or indexing an action affecting real estate in the clerk's office, enter the year, month, day, hour, and minute when the entry is made. The clerk shall mail a copy of a mechanic's lien to the owner of the building, land, or improvement which is charged with the lien as provided in section 572.8.

9. Enter in the appearance docket a memorandum of the date of filing of all petitions, demurrers, answers, motions, or papers of any other description in the cause. A pleading of any description is considered filed when the clerk entered the date the pleading was received on the pleading. The memorandum shall be made within two business days of a new petition or order being filed, and as soon as practicable for all other pleadings. Thereafter, when a demurrer or motion is sustained or overruled, a pleading is made or amended, or the trial of the cause, rendition of the verdict, entry of judgment, issuance of execution, or any other act is done in the progress of the cause, a similar memorandum shall be made of the action, including the date of action and the number of the book and page of the record where the entry is made. The appearance docket is an index of each suit from its commencement to its conclusion.

10. When title to real estate is finally established in a person by a judgment or decree of the district court or by decision of an appellate court or when the title to real estate is changed by judgment, decree, will, proceeding, or order in probate, certify the final decree, judgment, or decision under seal of the court to the auditor of the county in which the real estate is located.

11. Refund amounts less than three dollars only upon written application.

12. At the order of a justice of the supreme court, docket without fee any civil or criminal case transferred from a military district under martial law as provided in section 29A.45.

13. Reserved.

14. Maintain a bar admission list as provided in section 46.8.

15. Monthly, notify the county commissioner of registration and the state registrar of voters of persons seventeen years of age and older who have been convicted of a felony during the preceding calendar month or persons who at any time during the preceding calendar month have been legally declared to be a person who is incompetent to vote as that term is defined in section 48A.2.

16. Reserved.

17. Reserved.

18. Reserved.

19. Keep a book of the record of official bonds and record the official bonds of magistrates as provided in section 64.24.

20. Carry out duties relating to proceedings for the removal of a public officer as provided in sections 66.4 and 66.17.

21. Reserved.

22. Reserved.

23. Carry out duties relating to enforcing orders of the employment appeal board as provided in section 88.9, subsection 2.

24. Certify the imposition of a mulct tax against property creating a public nuisance to the auditor as provided in section 99.28.

25. Carry out duties relating to the judicial review of orders of the elevator safety board as provided in section 89A.10, subsection 2.

26. With sufficient surety, approve an appeal bond for judicial review of an order or action of the department of natural resources relating to dams and spillways as provided in section 464A.8.

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27. Docket an appeal from the fence viewer's decision or order as provided in section 359A.23.

28. Certify to the recorder the fact that a judgment has been rendered upon an appeal of a fence viewer's order as provided in section 359A.24.

29. Reserved.

30. Approve bond sureties and enter in the lien index the undertakings of bonds for abatement relating to the illegal manufacture, sale, or consumption of alcoholic liquors as provided in sections 123.76, 123.79, and 123.80.

31. Destroy all records and files of a court proceeding maintained under section 135L.3 in accordance with section 135L.3, subsection 3, paragraph "*o*".

32. Reserved.

33. Furnish to the department of health and human services a certified copy of a judgment relating to the suspension or revocation of a professional license.

34. Reserved.

35. Send notice of the conviction, judgment, and sentence of a person violating the uniform controlled substances laws to the state board or officer who issued a license or registered the person to practice a profession or to conduct business as provided in section 124.412.

36. Reserved.

37. Reserved.

38. Reserved.

39. Refer persons applying for voluntary admission to a community mental health center accredited by the department of health and human services under section 225A.3, for a preliminary diagnostic evaluation.

40. Reserved.

41. Carry out duties relating to the involuntary commitment of persons with mental impairments as provided in chapter 229.

42. Serve as clerk of the juvenile court and carry out duties as provided in chapters 232 and 232D and article 7 of this chapter.

43. Submit to the director of health and human services a duplicate of the findings of the court related to adoptions as provided in section 235.3, subsection 7.

44. Reserved.

45. Reserved.

46. Carry out duties relating to reprieves, pardons, commutations, remission of fines and forfeitures, and restoration of citizenship as provided in sections 914.5 and 914.6.

47. Record support payments made pursuant to an order entered under chapter 252A, 252F, 598, or 600B, or under a comparable statute of another state or foreign country as defined in chapter 252K, and through setoff of a state or federal income tax refund or rebate, as if the payments were received and disbursed by the clerk; forward support payments received under section 252A.6 to the department of health and human services and furnish copies of orders and decrees awarding support to parties receiving public assistance as provided in section 252A.13.

47A. Accept a check, share draft, draft, or written order on a bank, savings and loan association, credit union, corporation, or person as payment of a support obligation which is payable to the clerk, in accordance with procedures established by the clerk to assure that such negotiable instruments will not be dishonored. The friend of court may perform the clerk's responsibilities under this subsection.

47B. Perform the duties relating to establishment and operation of a state case registry pursuant to section 252B.24.

47C. Perform duties relating to implementation and operation of requirements for the collection services center pursuant to section 252B.13A, subsection 2.

48. Reserved.

49. Enter a judgment based on the transcript of an appeal to the state board of education against the party liable for payment of costs as provided in section 290.4.

50. Certify the final order of the district court upon appeal of an assessment within a secondary road assessment district to the auditor as provided in section 311.24.

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50A. Assist the state department of transportation in suspending, pursuant to section 321.210A, the driver's licenses of persons who fail to timely pay criminal fines or penalties, surcharges, or court costs related to the violation of a law regulating the operation of a motor vehicle.

51. Forward to the state department of transportation a copy of the record of each conviction or forfeiture of bail of a person charged with the violation of the laws regulating the operation of vehicles on public roads as provided in sections 321J.2 and 321.491.

52. Reserved.

53. If a person fails to satisfy a judgment relating to motor vehicle financial responsibility within sixty days, forward to the director of transportation a certified copy of the judgment as provided in section 321A.12.

54. Approve a bond of a surety company or a bond with at least two individual sureties owning real estate in this state as proof of financial responsibility as provided in section 321A.24.

55. Carry out duties under the Iowa motor vehicle dealers licensing Act as provided in sections 322.10 and 322.24.

56. Carry out duties relating to the enforcement of motor fuel tax laws as provided in sections 452A.66 and 452A.67.

57. Reserved.

58. Upon order of the director of revenue, issue a commission for the taking of depositions as provided in section 421.17, subsection 8.

58A. Assist the department of revenue in setting off against debtors' income tax refunds or rebates under section 421.65, debts which are due, owing, and payable to the clerk of the district court as criminal fines, civil penalties, surcharges, or court costs.

59. Reserved.

60. With acceptable sureties, approve the bond of a petitioner for a tax appeal as provided in section 422.29, subsection 2.

61. Certify the final decision of the district court in an appeal of the tax assessments as provided in section 441.37B or 441.38. Costs of the appeal to be assessed against the board of review or a taxing district shall be certified to the treasurer as provided in section 441.40.

62. Certify a final order of the district court relating to the apportionment of tax receipts to the auditor as provided in section 449.7.

63. Carry out duties relating to the inheritance tax as provided in chapter 450 for deaths occurring before January 1, 2025.

64. Deposit funds held by the clerk in an approved depository as provided in section 12C.1.

65. Carry out duties relating to appeals and certification of costs relating to levee and drainage districts as provided in sections 468.86 through 468.95.

66. Carry out duties relating to the condemnation of land as provided in chapter 6B.

67. Forward civil penalties collected for violations relating to the siting of electric power generators to the treasurer of state as provided in section 476A.14, subsection 1.

68. Certify a copy of a decree of dissolution of a business corporation to the secretary of state as provided in section 490.1433.

69. With acceptable sureties, approve the bond of a petitioner filing an appeal for review of an order of the commissioner of insurance as provided in section 507A.7.

70. Certify a copy of a decree of dissolution of a nonprofit corporation to the secretary of state and the recorder in the county in which the corporation is located as provided in section 504.1434.

71. Carry out duties relating to the enforcement of decrees and orders of reciprocal states under the Iowa unauthorized insurers Act as provided in section 507A.11.

72. Reserved.

73. Certify copies of a decree dissolving a credit union as provided in section 533.503, subsection 5.

74. Refuse to accept the filing of papers to institute legal action under the Iowa consumer credit code, chapter 537, if proper venue is not adhered to as provided in section 537.5113.

75. Receive payment of money due to a person who is absent from the state if the address or location of the person is unknown as provided in section 538.5.

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76. Carry out duties relating to the appointment of the department of agriculture and land stewardship as receiver for agricultural commodities on behalf of a warehouse operator whose license is suspended or revoked as provided in section 203C.3.

77. Reserved.

78. Certify an acknowledgment of a written instrument relating to real estate as provided in section 9B.10 or 558.20.

79. Reserved.

80. With acceptable sureties, endorse a bond sufficient to settle a dispute between adjoining owners of a common wall as provided in section 563.11.

81. Carry out duties relating to cemeteries as provided in section 523I.602.

82. Carry out duties relating to liens as provided in chapters 249A, 574, 580, 582, and 584.

83. Reserved.

84. Carry out duties relating to the dissolution of a marriage as provided in chapter 598.

85. Carry out duties relating to the custody of children as provided in chapter 598B.

86. Carry out duties relating to adoptions as provided in chapter 600.

87. Enter upon the clerk's records actions taken by the court at a location which is not the county seat as provided in section 602.6106.

88. Reserved.

89. Reserved.

90. Furnish an individual or centralized docket for the magistrates of the judicial election district serving in the county as provided in section 602.6604.

91. Reserved.

92. Carry out duties relating to the identification and service of jurors as provided in chapter 607A.

93. Carry out duties relating to the revocation or suspension of an attorney's authority to practice law as provided in article 10 of this chapter.

94. File and index petitions and municipal infraction citations affecting real estate as provided in sections 617.10 through 617.15.

95. Designate the newspapers in which the notices pertaining to the clerk's office shall be published as provided in section 618.7.

96. With acceptable surety, approve a bond of the plaintiff in an action for the payment of costs which may be adjudged against the plaintiff as provided in section 621.1.

97. Issue subpoenas for witnesses as provided in section 622.63.

98. Carry out duties relating to trials and judgments as provided in sections 624.9 through 624.20 and 624.37.

99. Collect jury fees and court reporter fees as required by chapter 625.

100. Reserved.

101. Carry out duties relating to executions as provided in chapter 626.

102. Carry out duties relating to the redemption of property as provided in sections 628.13, 628.18, and 628.20.

103. Record statements of expenditures made by the holder of a sheriff's sale certificate in the encumbrance book and lien index as provided in section 629.3.

104. Carry out duties relating to small claim actions as provided in chapter 631.

105. Carry out duties of the clerk of the probate court as provided in chapter 633.

105A. Provide written notice to all duly appointed guardians and conservators of their liability as provided in sections 633.633A and 633.633B.

105B. Facilitate the collection of court debt pursuant to section 602.8107.

105C. Apply payments made to a civil claim for reimbursement judgment under section 356.7 to court debt, as defined in section 602.8107, in the priority order set out in section 602.8107, subsection 2, if the debtor has delinquent court debt.

106. Carry out duties relating to the administration of small estates as provided in chapter 635.

107. Carry out duties relating to the attachment of property as provided in chapter 639.

108. Carry out duties relating to garnishment as provided in chapter 642.

109. With acceptable surety, approve bonds of the plaintiff desiring immediate delivery of the property in an action of replevin as provided in sections 643.7 and 643.12.

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110. Carry out duties relating to the disposition of lost property as provided in chapter 556F.

111. Carry out duties relating to the recovery of real property as provided in section 646.23.

112. Endorse the court's approval of a restored record as provided in section 647.3.

113. Reserved.

114. Carry out duties relating to the issuance of a writ of habeas corpus as provided in sections 663.9, 663.43, and 663.44.

115. Accept and docket an application for postconviction review of a conviction as provided in section 822.3.

116. Report all fines, forfeited recognizances, penalties, and forfeitures as provided in section 602.8106, subsection 4, and section 666.6.

117. Issue a warrant for the seizure of a boat or raft as provided in section 667.2.

118. Carry out duties relating to the changing of a person's name as provided in chapter 674.

119. Notify the state registrar of vital statistics of a judgment determining the paternity of a child as provided in section 600B.36.

120. Enter a judgment made by confession and issue an execution of the judgment as provided in section 676.4.

121. With acceptable surety, approve the bond of a receiver as provided in section 680.3.

122. Carry out duties relating to the assignment of property for the benefit of creditors as provided in chapter 681A.

123. Carry out duties relating to the certification of surety companies and the investment of trust funds as provided in chapter 636.

124. Maintain a separate docket for petitions requesting that the record and evidence in a judicial review proceeding be closed as provided in section 692.5.

125. Furnish a disposition of each criminal complaint or information or juvenile delinquency petition, alleging a delinquent act which would be a serious or aggravated misdemeanor or felony if committed by an adult, filed in the district or juvenile court to the department of public safety as provided in section 692.15.

125A. Forward information that a person has been disqualified from possessing, shipping, transporting, or receiving a firearm pursuant to section 724.31 to the department of public safety.

126. Carry out duties relating to the issuance of warrants to persons who fail to appear to answer citations as provided in section 805.5.

126A. Upon the failure of a person charged to appear in person or by counsel to defend against the offense charged pursuant to a uniform citation and complaint as provided in section 805.6, enter a conviction and render a judgment in the amount of the appearance bond in satisfaction of the penalty plus court costs.

127. Provide for a traffic and scheduled violations office for the district court and service the locked collection boxes at weigh stations as provided in section 805.7.

128. Issue a summons to corporations to answer an indictment as provided in section 807.5.

129. Carry out duties relating to the disposition of seized property as provided in chapter 809.

130. Docket undertakings of bail as liens on real estate and enter them upon the lien index as provided in section 811.4.

131. Hold the amount of forfeiture and judgment of bail in the clerk's office for one hundred fifty days as provided in section 811.6.

132. Carry out duties relating to appeals from the district court as provided in chapter 814.

133. Reserved.

134. Notify the director of the Iowa department of corrections of the commitment of a convicted person as provided in section 901.7.

135. Carry out duties relating to deferred judgments, probations, and restitution as provided in sections 907.4 and 907.8, and chapter 910.

135A. Assess the surcharges provided by sections 911.1, 911.2A, 911.2B, and 911.5.

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135B. Reserved.

136. Carry out duties relating to the impaneling and proceedings of the grand jury as provided in rule of criminal procedure 2.3, Iowa court rules.

137. Issue subpoenas upon application of the prosecuting attorney and approval of the court as provided in rule of criminal procedure 2.5, Iowa court rules.

138. Issue summons or warrants to defendants as provided in rule of criminal procedure 2.7, Iowa court rules.

139. Carry out duties relating to the change of venue as provided in rule of criminal procedure 2.11, Iowa court rules.

140. Issue blank subpoenas for witnesses at the request of the defendant as provided in rule of criminal procedure 2.15, Iowa court rules.

141. Carry out duties relating to the entry of judgment as provided in rule of criminal procedure 2.23, Iowa court rules.

142. Carry out duties relating to the execution of a judgment as provided in rule of criminal procedure 2.26, Iowa court rules.

143. Carry out duties relating to the trial of simple misdemeanors as provided in rules of criminal procedure 2.51 through 2.75, Iowa court rules.

144. Serve notice of an order of judgment entered as provided in rule of civil procedure 1.442, Iowa court rules.

145. If a party is ordered or permitted to plead further by the court, serve notice to attorneys of record as provided in rule of civil procedure 1.444, Iowa court rules.

146. Maintain a motion calendar as provided in rule of civil procedure 1.431, Iowa court rules.

147. Provide notice of a judgment, order, or decree as provided in rule of civil procedure 1.453, Iowa court rules.

148. Issue subpoenas as provided in rules of civil procedure 1.715 and 1.1701, Iowa court rules.

149. Tax the costs of taking a deposition as provided in rule of civil procedure 1.716, Iowa court rules.

150. With acceptable sureties, approve a bond filed for change of venue under rule of civil procedure 1.801, Iowa court rules.

151. Transfer the papers relating to a case transferred to another court as provided in rule of civil procedure 1.807, Iowa court rules.

152. Reserved.

153. Reserved.

154. Carry out duties relating to the impaneling of jurors as provided in rules of civil procedure 1.915 through 1.918, Iowa court rules.

155. Furnish a referee, auditor, or examiner with a copy of the order of appointment as provided in rule of civil procedure 1.935, Iowa court rules.

156. Mail notice of the filing of the referee's, auditor's, or examiner's report to the attorneys of record as provided in rule of civil procedure 1.942, Iowa court rules.

157. Carry out duties relating to the entry of judgments as provided in rules of civil procedure 1.955, 1.958, 1.960, 1.961, and 1.962 Iowa court rules.

158. Carry out duties relating to defaults and judgments on defaults as provided in rules of civil procedure 1.972, 1.973, and 1.974, Iowa court rules.

159. Notify the attorney of record if exhibits used in a case are to be destroyed as provided in rule of civil procedure 1.1014, Iowa court rules.

160. Docket the request for a hearing on a sale of property as provided in rule of civil procedure 1.1221, Iowa court rules.

161. With acceptable surety, approve the bond of a citizen commencing an action of quo warranto as provided in rule of civil procedure 1.1302, Iowa court rules.

162. Carry out duties relating to the issuance of a writ of certiorari as provided in rules of civil procedure 1.1401 through 1.1412, Iowa court rules.

163. Carry out duties relating to the issuance of an injunction as provided in rules of civil procedure 1.1501 through 1.1511, Iowa court rules.

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164. Carry out other duties as provided by law.

83 Acts, ch 96, §159, 160; 83 Acts, ch 186, §9102, 10201; 85 Acts, ch 21, §45, 46; 85 Acts, ch 82, §2; 85 Acts, ch 178, §10, 11; 85 Acts, ch 195, §53; 85 Acts, ch 197, §17 – 19; 85 Acts, ch 201, §3; 86 Acts, ch 1108, §7; 86 Acts, ch 1112, §12; 86 Acts, ch 1140, §2; 86 Acts, ch 1220, §40; 87 Acts, ch 41, §1; 87 Acts, ch 115, §77, 78; 87 Acts, ch 157, §3; 88 Acts, ch 1134, §102 – 104; 88 Acts, ch 1158, §97; 89 Acts, ch 50, §13; 89 Acts, ch 83, §80; 89 Acts, ch 178, §6; 90 Acts, ch 1035, §2; 90 Acts, ch 1081, §3; 90 Acts, ch 1205, §61; 90 Acts, ch 1236, §52; 91 Acts, ch 86, §2; 91 Acts, ch 116, §8; 91 Acts, ch 267, §415; 92 Acts, ch 1163, §111 – 114; 93 Acts, ch 70, §8, 9; 93 Acts, ch 79, §52; 93 Acts, ch 110, §7; 93 Acts, ch 180, §51; 94 Acts, ch 1046, §25; 94 Acts, ch 1124, §1; 94 Acts, ch 1169, §62; 94 Acts, ch 1173, §39; 95 Acts, ch 67, §46; 95 Acts, ch 91, §3; 95 Acts, ch 124, §22, 26; 95 Acts, ch 143, §10; 95 Acts, ch 191, §26; 96 Acts, ch 1129, §103, 113; 97 Acts, ch 23, §75; 97 Acts, ch 126, §45; 97 Acts, ch 173, §16; 98 Acts, ch 1071, §1; 98 Acts, ch 1073, §10; 98 Acts, ch 1115, §16; 98 Acts, ch 1170, §14, 18; 98 Acts, ch 1185, §9; 99 Acts, ch 96, §49; 99 Acts, ch 103, §46; 99 Acts, ch 151, §84, 89; 2000 Acts, ch 1145, §23; 2001 Acts, ch 168, §1; 2002 Acts, ch 1119, §107; 2002 Acts, ch 1134, §112, 115; 2003 Acts, ch 44, §114; 2003 Acts, ch 82, §20; 2003 Acts, ch 145, §272, 286; 2003 Acts, ch 151, §45, 46; 2004 Acts, ch 1049, §189, 191, 192; 2004 Acts, ch 1052, §4; 2004 Acts, ch 1107, §28, 30; 2004 Acts, ch 1119, §2, 3; 2004 Acts, ch 1120, §4; 2005 Acts, ch 3, §102, 115, 118; 2005 Acts, ch 19, §117; 2005 Acts, ch 107, §7, 14; 2005 Acts, ch 128, §70; 2005 Acts, ch 167, §58, 66; 2006 Acts, ch 1129, §8, 9; 2006 Acts, ch 1132, §1, 16; 2006 Acts, ch 1185, §124; 2007 Acts, ch 134, §6, 28; 2007 Acts, ch 174, §97; 2008 Acts, ch 1088, §136; 2008 Acts, ch 1172, §24; 2010 Acts, ch 1050, §5; 2010 Acts, ch 1178, §3, 19; 2012 Acts, ch 1017, §26, 28; 2012 Acts, ch 1019, §137; 2012 Acts, ch 1050, §54, 60; 2012 Acts, ch 1105, §26 – 28; 2012 Acts, ch 1138, §13; 2013 Acts, ch 54, §1; 2013 Acts, ch 130, §33, 35; 2014 Acts, ch 1097, §2; 2015 Acts, ch 29, §114; 2015 Acts, ch 96, §13; 2015 Acts, ch 110, §117; 2017 Acts, ch 110, §63, 64; 2017 Acts, ch 133, §8, 9; 2017 Acts, ch 151, §24, 29; 2019 Acts, ch 56, §35, 44, 45; 2020 Acts, ch 1064, §23, 28; 2020 Acts, ch 1074, §5, 62, 64, 93; 2020 Acts, ch 1118, §73, 74; 2021 Acts, ch 64, §1; 2023 Acts, ch 19, §1267; 2024 Acts, ch 1161, §130, 137; 2025 Acts, ch 101, §20; 2025 Acts, ch 148, §37, 53, 54; 2026 Acts, ch 1063, §21, 22, 25; 2026 Acts, ch 1165, §30, 32; 2026 Acts, ch 1192, §23

Referred to in §598.22

2025 amendment to subsection 63 applies retroactively to January 1, 2025, to the estates of decedents dying on or after January 1, 2025; 2025 Acts, ch 148, §54

2026 strike of subsections 88 and 89 effective November 1, 2026; 2026 Acts, ch 1063, §25

2026 amendment to subsection 90 effective November 1, 2026; 2026 Acts, ch 1063, §25

2026 amendment to subsection 122 effective January 1, 2027; 2026 Acts, ch 1165, §32

Subsections 88 and 89 stricken

Subsections 90, 98, and 122 amended

602.8102A Notices returned for unknown address — resending.

Notwithstanding any other provision of the Code to the contrary, and subject to rules prescribed by the supreme court, if the clerk of the district court sends a mailing or notice to a person or party and the mailing or notice is returned by the postal service to the clerk of the district court as undeliverable, the clerk is not required to send a repeat or subsequent mailing or notice unless the clerk receives an updated mailing address.

2005 Acts, ch 171, §4

602.8103 General powers.

The clerk may:

1. Administer oaths and take affirmations as provided in section 63A.1.

2. Reproduce original records of the court by any reasonably permanent legible means including, but not limited to, reproduction by photographing, photostating, microfilming, computer cards, and electronic digital format. The reproduction shall include proper indexing. The reproduced record has the same authenticity as the original record. The supreme court shall adopt rules to provide for continued evaluation of the accessibility of records stored or reproduced in electronic digital format.

3. After the original record is reproduced and after approval of a majority of the judges of the district court by court order, destroy the original records including, but not limited to, dockets, journals, scrapbooks, files, and marriage license applications. The order shall state

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the specific records which are to be destroyed. An original court file shall not be destroyed until after the contents have been reproduced. As used in this subsection and subsection 4, "*destroy*" includes the transmission of the original records which are of general historical interest to any recognized historical society or association.

4. Destroy the following original records without prior court order or reproduction except as otherwise provided in this subsection:

a. Records including but not limited to journals, scrapbooks, and files, forty years after final disposition of the case. However, judgments, decrees, stipulations, records in criminal proceedings, probate records, and orders of court shall not be destroyed unless they have been reproduced as provided in subsection 2.

b. Administrative records, after five years, including but not limited to warrants, subpoenas, clerks' certificates, statements, praecipes, and depositions.

c. Records, dockets, and court files of civil and criminal actions heard in the municipal court which were transferred to the clerk, other than juvenile and adoption proceedings, or heard in justice of the peace proceedings, after a period of twenty years from the date of filing of the actions.

d. Original court files on dissolutions of marriage, one year after dismissal by the parties or under rule of civil procedure 1.943, Iowa court rules.

e. Small claims files, one year after dismissal with or without prejudice.

f. Uniform traffic citations in the magistrate court or traffic and scheduled violations office, one year after final disposition.

g. Court reporters' notes and certified transcripts of those notes in civil cases, ten years after final disposition of the case. For purposes of this section, "*final disposition*" means one year after dismissal of the case, after judgment or decree without appeal, or after procedendo or dismissal of appeal is filed in cases where appeal is taken.

h. Court reporters' notes and certified transcripts of those notes in criminal cases, ten years after dismissal of all charges, or ten years after the expiration of all sentences imposed or the date probation is granted, whichever later occurs. For purposes of this subsection "*sentences imposed*" includes all sentencing options pursuant to section 901.5.

i. Court files, as provided by rules prescribed by the supreme court, ten years after final disposition in civil cases, or ten years after expiration of all sentences in criminal cases. For purposes of this paragraph, "*purging*" means the removal and destruction of documents in the court file which have no legal, administrative, or historical value. Purging shall be done without reproduction of the removed documents. For purposes of this paragraph, "*civil cases*" does not include juvenile, mental health, probate, or adoption proceedings.

j. Court reporters' notes and certified transcripts of those notes in mental health hearings under section 229.12 and substance use disorder hearings under section 125.82, ninety days after the respondent has been discharged from involuntary custody.

k. Complaints, trial informations, and uniform citations and complaints relating to parking violations under sections 321.236, 321.239, 321.358, 321.360, and 321.361, one year after final disposition.

5. Invest money which is paid to the clerk to be paid to any other person in any of the following:

a. A savings account of a supervised financial organization as defined in section 537.1301, subsection 45, except a credit union operating pursuant to chapter 533. The provisions of chapter 12C relating to the deposit and investment of public funds apply to the deposit and investment of the money except that a supervised financial organization other than a credit union may be designated as a depository and the money shall be available upon demand. The interest earnings shall be paid into the general fund of the state, except as otherwise provided by law.

b. An open-end management investment company organized in trust form registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. §80a-1 et seq., and operated in accordance with 17 C.F.R. §270.2a-7, the portfolio of which is limited to obligations of the United States of America or agencies or instrumentalities of the United States of America and to repurchase agreements fully collateralized by obligations of the United States of America or an agency or instrumentality

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of the United States of America if the investment company takes delivery of the collateral either directly or through an authorized custodian.

6. Establish and maintain a procedure to set off against amounts held by the clerk of the district court and payable to the person any debt which is in the form of a liquidated sum due, owing and payable to the clerk. The procedure shall meet all of the following conditions:

a. Before setoff, the clerk shall provide written notice to the debtor of the clerk's claim to all or a portion of the amount held by the clerk for the debtor and the clerk's right to recover the amount of the claim through the setoff procedure, the opportunity to request in writing, that a jointly or commonly owned right to payment be divided among owners, and the opportunity to give written notice to the clerk of the district court of the person's intent to contest the amount of the claim. The debtor must file a notice of intent to contest the claim within fifteen days after the mailing of the notice of claim by the clerk or, if the notice of claim was provided by the clerk at the time the debtor appeared in the clerk's office to claim payment, within fifteen days of that date.

b. Upon the request of the debtor or the owner of a jointly or commonly owned right to payment, the clerk of the district court shall divide the payment. Unless otherwise stated in a judgment or court order, any jointly or commonly owned right to payment is presumed to be owned in equal portions by joint or common owners.

c. Upon timely filing of a notice of intent to contest the setoff, the matter shall be set for hearing before a judge or magistrate. The clerk shall notify the debtor in writing of the time and date of the hearing.

d. If the claim is not contested or upon final determination of a contested claim authorizing a setoff, the clerk shall set off the debt against any amount the clerk is holding for payment to the debtor and pay any balance of the amount to the debtor. The amount set off shall be applied by the clerk of the district court according to the order of priority set out in section 602.8107, subsection 2.

83 Acts, ch 186, §9103, 10201; 88 Acts, ch 1030, §1, 2; 89 Acts, ch 160, §1; 94 Acts, ch 1070, §1; 96 Acts, ch 1019, §2 – 4; 97 Acts, ch 128, §2; 99 Acts, ch 144, §7; 2002 Acts, ch 1119, §106; 2007 Acts, ch 71, §2; 2013 Acts, ch 90, §169; 2014 Acts, ch 1092, §193; 2023 Acts, ch 19, §1268

602.8103A Transmission of record on appeal.

1. *a.* The clerk of the district court shall be solely responsible for transmitting the record on appeal to the clerk of the supreme court in civil and criminal proceedings. The clerk of the district court shall only transmit the record to the clerk of the supreme court upon the request of the appellee, appellant, the attorney for the appellee or appellant, or the appellate court.

b. The requirements of paragraph *"a"* shall not be delegated to another party. The appellee, appellant, the attorney for the appellee or appellant, or any agent of the appellee or appellant shall not transmit any part of the appellate record to the clerk of the supreme court.

2. For purposes of this section, the record on appeal consists of the original documents and exhibits filed in district court, transcripts of the proceedings, and a certified copy of the docket and court calendar entries prepared by the clerk of the district court in the case under appeal. Exhibits of unusual size or bulk are not required to be transmitted by the clerk of the district court unless requested by the appellee, appellant, the attorney for the appellee or appellant, or the appellate court.

3. If a request is made pursuant to subsection 1, the clerk of the district court shall transmit any of the remaining record to the clerk of the supreme court within seven days of the filing of the final briefs in the appeal.

2013 Acts, ch 6, §1; 2014 Acts, ch 1092, §132

602.8104 Records and books.

1. The records of the court consist of the original papers filed in all proceedings.

2. The following books shall be kept by the clerk:

a. A record book which contains the entries of the proceedings of the court and which has an index referring to each proceeding in each cause under the names of the parties, both plaintiff and defendant, and under the name of each person named in either party.

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b. A judgment docket which contains an abstract of the judgments having separate columns for the names of the parties, the date of the judgment, the damages recovered, costs, the date of the issuance and return of executions, the entry of satisfaction, and other memoranda. The docket shall have an index containing the information specified in paragraph *"a"*.

c. A cash journal in which is listed in detail the costs and fees in each action or proceeding under the title of the action or proceeding. The cash journal shall also have an index containing the information specified in paragraph *"a"*.

d. An encumbrance book in which the sheriff shall enter a statement of the levy of each attachment on real estate.

e. An appearance docket in which the titles of all actions or special proceedings shall be entered. The actions or proceedings shall be numbered consecutively in the order in which they commence and shall include the full names of the parties, plaintiffs and defendants, as contained in the petition or as subsequently made parties by a pleading, proceeding, or order. The entries provided for in this paragraph and paragraphs *"b"* and *"c"* may be combined in one book, the combination docket, which shall also have an index containing the information specified in paragraph *"a"*.

f. A lien book in which an index of all liens in the court is kept.

g. A record of official bonds as provided in section 64.24.

h. A hospital lien docket as provided in section 582.4.

i. A book in which the deposits of funds, money, and securities kept by the clerk are recorded as provided in section 636.37.

j. A record book of certificates of deposit, not in the clerk's name, which are being held by the clerk on behalf of a conservatorship, trust, or estate pursuant to a court order as provided in section 636.37.

83 Acts, ch 186, §9104, 10201; 85 Acts, ch 67, §60; 91 Acts, ch 116, §9, 10; 97 Acts, ch 23, §76; 2004 Acts, ch 1120, §5; 2005 Acts, ch 128, §71; 2009 Acts, ch 21, §9, 10

Referred to in §631.2

602.8105 Fees for civil cases and other services — collection and disposition.

1. The clerk of the district court shall collect the following fees:

a. Except as otherwise provided in this subsection, for filing and docketing a petition, two hundred fifteen dollars.

b. For filing and docketing a petition for dissolution of marriage, which includes the docketing of any dissolution decree, two hundred eighty-five dollars.

c. For filing and docketing a petition pursuant to chapter 598 other than a dissolution of marriage petition, one hundred thirty dollars.

d. For filing and docketing an application for modification of a dissolution decree to which a written stipulation is attached at the time of filing containing the agreement of the parties to the terms of modification, one hundred thirty dollars.

e. For filing and docketing a petition for adoption pursuant to chapter 600, zero dollars.

f. For filing and docketing a small claims action, the amounts specified in section 631.6.

g. For an appeal from a judgment in small claims or for filing and docketing a writ of error, two hundred fifteen dollars.

h. For a motion to show cause in a civil case, eighty dollars.

i. For filing and docketing a transcript of the judgment in a civil case, eighty dollars.

j. For filing a tribal judgment, one hundred thirty dollars.

k. For a civil claim for reimbursement under section 356.7, zero dollars.

2. The clerk of the district court shall collect the following fees for miscellaneous services:

a. For filing and entering any other statutory lien, eighty dollars.

b. For a certificate and seal, fifty dollars. However, there shall be no charge for a certificate and seal to an application to procure a pension, bounty, or back pay for a member of the armed services or other person.

c. For certifying a change in title of real estate, eighty dollars.

d. For filing a praecipe to issue execution under chapter 626, fifty-five dollars. The fee shall be recoverable by the creditor from the debtor against whom the execution is issued. A

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fee payable by a political subdivision of the state under this paragraph shall be collected by the clerk of the district court as provided in section 602.8109. However, the fee shall be waived and shall not be collected from a political subdivision of the state if a county attorney or county attorney's designee is collecting a delinquent judgment pursuant to section 602.8107, subsection 4.

e. For filing a praecipe to issue execution under chapter 654, eighty dollars.

f. For filing a confession of judgment under chapter 676, eighty dollars if the judgment is five thousand dollars or less, and one hundred thirty dollars if the judgment exceeds five thousand dollars.

g. For filing a lis pendens, eighty dollars.

h. For applicable convictions under section 692A.110 on or after June 25, 2020,* a civil penalty of two hundred sixty dollars.

i. Other fees provided by law.

3. The clerk of the district court shall pay to the treasurer of state all fees which have come into the clerk's possession and which are unclaimed pursuant to section 556.8 accompanied by a form prescribed by the treasurer. Claims for payment of the moneys must be filed pursuant to chapter 556.

4. The clerk of the district court shall collect a civil penalty assessed against a retailer pursuant to section 126.23B. Any moneys collected from the civil penalty shall be distributed to the city or county that brought the enforcement action for a violation of section 126.23A.

83 Acts, ch 186, §9105, 10201; 83 Acts, ch 204, §14; 85 Acts, ch 175, §11; 85 Acts, ch 195, §54; 85 Acts, ch 197, §20 – 23; 86 Acts, ch 1011, §1; 86 Acts, ch 1238, §24; 87 Acts, ch 98, §5; 87 Acts, ch 234, §312; 88 Acts, ch 1258, §1; 89 Acts, ch 83, §81; 89 Acts, ch 207, §1; 89 Acts, ch 287, §7; 91 Acts, ch 48, §1; 91 Acts, ch 116, §11 – 13; 91 Acts, ch 218, §21 – 24; 91 Acts, ch 219, §15, 16; 92 Acts, ch 1240, §20; 94 Acts, ch 1074, §5; 95 Acts, ch 91, §4; 95 Acts, ch 124, §23, 26; 2000 Acts, ch 1188, §3; 2002 Acts, ch 1126, §1; 2003 Acts, ch 44, §102; 2004 Acts, ch 1127, §2; 2005 Acts, ch 15, §5, 14; 2005 Acts, ch 171, §5; 2006 Acts, ch 1052, §1; 2006 Acts, ch 1144, §7, 8; 2007 Acts, ch 71, §3; 2007 Acts, ch 196, §8; 2009 Acts, ch 119, §44; 2009 Acts, ch 179, §54 – 60, 72; 2010 Acts, ch 1159, §9; 2011 Acts, ch 34, §135; 2013 Acts, ch 90, §170; 2020 Acts, ch 1074, §28, 63, 64, 93; 2021 Acts, ch 145, §2, 11, 12; 2026 Acts, ch 1192, §24, 28

Referred to in §126.23B, 582.4, 602.8108, 602.9104A, 626A.5, 626C.6, 626D.3, 674.10, 692A.110

*2021 amendment to subsection 2, paragraph h applies retroactively to July 15, 2020; 2021 Acts, ch 145, §12

2026 amendment to subsections 1 and 2 applies to fees paid on and after July 1, 2026; 2026 Acts, ch 1192, §28

Subsections 1 and 2 amended

602.8106 Collection of fees in criminal cases and disposition of fees and fines.

1. The clerk of the district court shall collect the following fees:

a. Except as otherwise provided in paragraphs *"b"* and *"c"*, for filing and docketing a criminal case to be paid by the county or city which has the duty to prosecute the criminal action, payable as provided in section 602.8109, one hundred dollars. When judgment is rendered against the defendant, costs collected from the defendant shall be paid to the county or city which has the duty to prosecute the criminal action to the extent necessary for reimbursement for fees paid. However, the fees which are payable by the county to the clerk of the district court for services rendered in criminal actions prosecuted under state law and the court costs taxed in connection with the trial of those actions or appeals from the judgments in those actions are waived.

b. For filing and docketing of a complaint or information for a simple misdemeanor and a complaint or information for a nonscheduled simple misdemeanor under chapter 321, sixty dollars.

c. For filing and docketing a complaint or information or uniform citation and complaint for parking violations under sections 321.236, 321.239, 321.358, 321.360, and 321.361, eight dollars, effective January 1, 2004. The court costs in cases of parking meter and overtime parking violations which are contested, and charged and collected pursuant to section 321.236, subsection 1, or pursuant to a uniform citation and complaint, are eight dollars per information or complaint or per uniform citation and complaint effective January 1, 1991.

d. For court costs in scheduled violation cases where a court appearance is required, fifty-five dollars.

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e. For court costs in scheduled violation cases where a court appearance is not required, fifty-five dollars.

f. For an appeal of a simple misdemeanor to the district court, seventy-five dollars.

g. For a motion to show cause in a criminal case, the fee shall be the same amount as the fee for filing and docketing a complaint, information, or citation for the underlying criminal case from which the motion arises.

h. For a probation revocation, the fee shall be the same amount as the fee for filing and docketing a complaint, information, or citation for the underlying case from which the revocation arises.

2. The clerk of the district court shall remit eighty percent of all fines and forfeited bail to the city that was the plaintiff in any action, and shall provide that city with a statement showing the total number of cases, the total of all fines and forfeited bail collected, and the total of all cases dismissed. The remaining twenty percent shall be submitted to the state court administrator.

3. The clerk of the district court shall remit all fines and forfeited bail for violation of a county ordinance to the county treasurer of the county that was the plaintiff in the action, and shall provide that county with a statement showing the total number of cases, the total of all fines and forfeited bail collected, and the total of all cases dismissed, except all fines and forfeited bail for violation of a county ordinance relating to vehicle speed or weight restrictions shall be distributed pursuant to subsection 4, paragraph *"b"*. If a county ordinance provides a penalty for a violation which is also penalized under state law, the fines and forfeited bail collected for the violation shall be distributed pursuant to subsection 4, paragraph *"b"*.

4. *a.* Except as provided in paragraph *"b"*, the clerk of the district court shall submit all other fines, fees, costs, and forfeited bail received from a magistrate to the state court administrator.

b. The fine amount for a violation that occurred within the boundaries of the county shall be distributed as follows:

(1) Ninety-one percent to the state court administrator.

(2) Nine percent to the county treasurer for deposit in the county general fund where the violation occurred.

83 Acts, ch 186, §9106, 10201, 10204; 83 Acts, ch 204, §15, 16; 85 Acts, ch 195, §55, 56; 85 Acts, ch 197, §24, 25; 89 Acts, ch 293, §17; 90 Acts, ch 1170, §4; 91 Acts, ch 116, §14; 91 Acts, ch 218, §25; 91 Acts, ch 219, §17; 92 Acts, 2nd Ex, ch 1001, §502; 93 Acts, ch 47, §18; 94 Acts, ch 1074, §6; 95 Acts, ch 143, §11; 2003 Acts, ch 151, §47; 2004 Acts, ch 1120, §6; 2005 Acts, ch 165, §4; 2006 Acts, ch 1166, §5; 2007 Acts, ch 180, §2; 2009 Acts, ch 21, §11; 2009 Acts, ch 179, §61, 72; 2010 Acts, ch 1061, §75; 2020 Acts, ch 1074, §6, 7, 29, 93

Referred to in §321.236, 331.307, 356.7, 364.22, 453A.3, 602.8102(116), 602.8107, 602.8108, 602.9104A, 805.6, 805.11, 805.12

602.8107 Collection of court debt.

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

a. "Court debt" means all restitution as defined in section 910.1, fees, forfeited bail, and other debt paid to or collected by the clerk of the district court.

b. (1) *"Installment agreement"* means an agreement made for the payment of court debt in excess of one hundred dollars in installments.

(2) The judicial branch may establish a threshold amount that is lower than the threshold amount specified in subparagraph (1) by court rule.

c. "Installment payment" means the partial payment of court debt which is divided into portions that are made payable at different times.

2. *Clerk of the district court collection.* Court debt shall be owed and payable to the clerk of the district court. All amounts collected shall be distributed pursuant to sections 602.8106 and 602.8108 or as otherwise provided by this Code. The clerk may accept payment of an obligation or a portion thereof by credit card. Any fees charged to the clerk with respect to payment by credit card may be paid from receipts collected by credit card.

a. If the clerk receives payment from a person who is an inmate at a correctional institution or who is under the supervision of a judicial district department of correctional

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services, the payment shall be applied to the balance owed under the identified case number of the case which has resulted in the placement of the person at a correctional institution or under the supervision of the judicial district department of correctional services.

b. (1) Except as provided in subparagraph (2), if a case number is not identified, the clerk shall apply the payment to the balance owed in the criminal case with the oldest judgment against the person.

(2) The clerk shall apply payments to pecuniary damages in other criminal cases when no case number is identified in priority order from the oldest judgment to the most recent judgment before applying payments to any other court debt.

c. Payments received under this section shall be applied in the following priority order:

(1) Pecuniary damages as defined in section 910.1, subsection 6.

(2) Fines or penalties and the crime services surcharge.

(3) Crime victim compensation program reimbursement.

(4) Court costs, court-appointed attorney fees, or public defender expenses.

d. The court debt is deemed delinquent if it is not paid within thirty days after the date it is assessed. An amount which was ordered by the court to be paid on a date fixed in the future pursuant to section 909.3 is deemed delinquent if it is not received by the clerk within thirty days after the fixed future date set out in the court order. If an amount was ordered to be paid by installments, and an installment is not received within thirty days after the date it is due, the entire amount of the court debt is deemed delinquent.

3. *Collection by department of revenue.*

a. Thirty days after court debt has been assessed and full payment has not been received, or if an installment payment is not received within thirty days after the date it is due, the judicial branch shall assign a case to the department of revenue, unless the case has been assigned to the county attorney under paragraph *"d"*.

b. The department of revenue shall receive fifteen percent of each court debt payment collected on cases assigned to the department of revenue for collection to reflect the cost of processing and the remaining eighty-five percent of such court debt collected shall be paid to the clerk of the district court for distribution under section 602.8108. The department of revenue collection fee shall not include the amount of court debt collected for restitution involving pecuniary damages, the victim compensation fund, the crime services surcharge, the domestic and sexual abuse crimes surcharge, the agricultural theft surcharge, the sex offender civil penalty, or interpreter or translator fees.

c. The centralized debt collection facilities of the department of revenue established pursuant to section 421.17, subsection 27, shall collect court debt assigned to the department of revenue pursuant to this section.

d. Thirty days after court debt has been assessed and full payment has not been received, or if an installment payment is not received within thirty days after the date it is due, and if a county attorney has filed with the clerk of the district court a notice of full commitment to collect delinquent court debt pursuant to subsection 4, the case shall be assigned to the county attorney as provided in subsection 4. The judicial branch shall assign cases with delinquent court debt to a county attorney in the same format and with the same frequency as cases with delinquent court debt are assigned to the department of revenue under paragraph *"a"*, and a county attorney shall not be required to file an individual notice of full commitment to collect delinquent court debt for each assigned case. If the county attorney or the county attorney's designee, while collecting delinquent court debt pursuant to subsection 4, determines that a person owes additional court debt for which a case has not been assigned by the judicial branch, the county attorney or the county attorney's designee shall notify the clerk of the district court of the appropriate case numbers and the judicial branch shall assign these cases to the county attorney for collection if the additional court debt is delinquent.

4. *County attorney collection.* The county attorney or the county attorney's designee may collect court debt after the court debt is deemed delinquent pursuant to subsection 2. In order to receive a percentage of the amounts collected pursuant to this subsection, the county attorney must first file with the clerk of the district court on or before July 1 of the first year the county attorney collects court debt under this subsection, a notice of full commitment to collect delinquent court debt, and a memorandum of understanding with the state court

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administrator for all cases assigned to the county for collection by the court. The notice shall contain a list of procedures which will be initiated by the county attorney. For a county attorney filing a notice of full commitment for the first time, the cases involving delinquent court debt previously assigned to the department of revenue shall remain assigned to the department of revenue. Cases involving delinquent court debt assigned to the county attorney after the filing of a notice of full commitment by the county attorney shall remain assigned to the county attorney. A county attorney who chooses to discontinue collection of delinquent court debt shall file with the clerk of the district court on or before May 15 a notice of the intent to cease collection of delinquent court debt at the start of the next fiscal year. If a county attorney ceases collection efforts, or if the state court administrator deems that a county attorney collections program has become ineligible to collect as specified in paragraph *"f"*, all cases involving delinquent court debt assigned to the county attorney shall be transferred on July 1 to the department of revenue for collection, except that debt associated with any existing installment agreement shall remain assigned to the county for collection unless an installment payment becomes delinquent, after which the delinquent debt associated with the installment agreement shall be transferred promptly to the department of revenue for collection.

a. This subsection does not apply to amounts collected for restitution involving pecuniary damages, the victim compensation fund, the crime services surcharge, the domestic and sexual abuse crimes surcharge, the agricultural theft surcharge, the sex offender civil penalty, interpreter or translator fees, or under section 421.65.

b. Amounts collected by the county attorney or the county attorney's designee shall be distributed in accordance with paragraphs *"c"* and *"d"*.

c. (1) Twenty-eight percent of the amounts collected by the county attorney or the person procured or designated by the county attorney shall be deposited in the general fund of the county if the county attorney has filed the notice required by this subsection, unless the county attorney has discontinued collection efforts on a particular delinquent amount.

(2) The remaining seventy-two percent shall be paid to the clerk of the district court each fiscal year for distribution under section 602.8108. However, if such amount, when added to the amount deposited into the general fund of the county pursuant to subparagraph (1), exceeds the following applicable threshold amount, the excess shall be distributed as provided in paragraph *"d"*:

(a) For a county with a population greater than one hundred fifty thousand, an amount up to one million dollars.

(b) For a county with a population greater than one hundred thousand but not more than one hundred fifty thousand, an amount up to six hundred thousand dollars.

(c) For a county with a population greater than fifty thousand but not more than one hundred thousand, an amount up to three hundred thousand dollars.

(d) For a county with a population greater than twenty-six thousand but not more than fifty thousand, an amount up to one hundred thousand dollars.

(e) For a county with a population greater than fifteen thousand but not more than twenty-six thousand, an amount up to fifty thousand dollars.

(f) For a county with a population equal to or less than fifteen thousand, an amount up to twenty-five thousand dollars.

d. After the total collected by a county attorney exceeds the threshold amount set in paragraph *"c"*, and for the remainder of the fiscal year, five percent of the additional moneys collected shall be deposited with the office of the county attorney that collected the moneys; twenty-eight percent of the additional moneys collected shall be deposited in the general fund of the county where the moneys were collected; and the remaining sixty-seven percent of the additional moneys shall be paid to the clerk of the district court for distribution under section 602.8108 or the state court administrator may distribute the remainder under section 602.8108 if the additional moneys have already been received by the state court administrator.

e. (1) A county may enter into an agreement pursuant to chapter 28E with one or more other counties for the purpose of collecting delinquent court debt pursuant to this subsection.

(2) When a county enters into a chapter 28E agreement with another county or counties

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to collect delinquent court debt, the county or the county debt collection designee must collect an amount of delinquent court debt that originated in the county and that is equal to the applicable threshold amount under paragraph "*c*" in order for the county to qualify for distribution of moneys collected by county attorneys under paragraph "*d*".

f. Beginning July 1, 2017, within two years of beginning to collect delinquent court debt, a county attorney shall be required to collect one hundred percent of the applicable threshold amount specified in paragraph "*c*". If a county attorney collects more than eighty percent but less than one hundred percent of the applicable threshold amount, the state court administrator shall provide notice to the county attorney specifying that in order to remain eligible to participate in the county attorney collection program, the county attorney must collect at least one hundred twenty-five percent of the applicable threshold amount by the end of the next fiscal year. If a county attorney who has been given such a notice fails to collect one hundred twenty-five percent of the applicable threshold amount, the state court administrator shall provide notice to the county attorney that the county is ineligible to participate in the county attorney collection program for the next two fiscal years and all existing and future court cases with delinquent court debt shall be assigned to the department of revenue. The provisions of this paragraph apply to all counties, including those counties where delinquent court debt is collected pursuant to a chapter 28E agreement with one or more counties.

5. *Uncollectible debt.*

a. Court debt that has been assigned to the department of revenue for collection pursuant to subsection 3 may be charged off from active collection by the director of the department of revenue if either of the following conditions exist:

(1) The person owing the court debt is deceased and there are no assets in the person's estate or there are no assets available for the payment of court debt under section 633.425.

(2) The person owing the court debt cannot be located after diligent inquiry and the director of the department of revenue determines the department will not be able to locate the person.

b. Court debt for any of the following shall not be charged off until sixty-five years from the date of imposition:

(1) Pecuniary damages.
(2) Victim compensation.
(3) A criminal penalty surcharge.
(4) A sex offender civil penalty.
(5) A drug abuse resistance education surcharge.
(6) A law enforcement initiative surcharge.
(7) A county enforcement surcharge.
(8) Fees charged pursuant to section 356.7.
(9) A crime services surcharge.
(10) A domestic and sexual abuse crimes surcharge.
(11) An agricultural theft surcharge.

c. Debt that is charged off shall remain due and owing, but the judicial branch shall close the corresponding case file for the purposes of collection pursuant to this section.

6. *Reports.* The judicial branch shall prepare a report aging the court debt. In addition, the report shall include the amounts written off pursuant to subsection 5. The judicial branch shall provide the report to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system, the legislative services agency, and the department of management by December 15 of each year.

93 Acts, ch 110, §8; 94 Acts, ch 1023, §118; 94 Acts, ch 1142, §2, 3; 95 Acts, ch 169, §6 – 8, 10; 96 Acts, ch 1219, §72; 97 Acts, ch 128, §3; 98 Acts, ch 1047, §60; 98 Acts, ch 1116, §2; 2001 Acts, ch 168, §2; 2002 Acts, ch 1119, §96; 2003 Acts, ch 145, §273, 286; 2004 Acts, ch 1101, §84; 2004 Acts, ch 1119, §4; 2004 Acts, ch 1175, §199, 200; 2007 Acts, ch 196, §9 – 11; 2008 Acts, ch 1172, §25; 2009 Acts, ch 41, §263; 2009 Acts, ch 119, §45; 2010 Acts, ch 1146, §16 – 21; 2012 Acts, ch 1063, §4; 2013 Acts, ch 90, §171; 2015 Acts, ch 138, §92 – 96, 161, 162; 2016 Acts, ch 1119, §5, 6, 8; 2020 Acts, ch 1064, §24, 28; 2020 Acts, ch 1074, §8 – 10, 65 – 67, 83,

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87 – 93; 2020 Acts, ch 1118, §73, 74; 2021 Acts, ch 145, §3 – 6, 11; 2021 Acts, ch 174, §26, 35; 2025 Acts, ch 158, §9, 10

Referred to in §96.11, 321.11A, 321.40, 321.210A, 321.210B, 331.756(5)(d), 602.8102(105B), 602.8102(105C), 602.8103, 602.8105, 804.32, 901.5B, 907.7, 907.9

Surcharges, see chapter 911

Victim compensation fund, see §915.94

For future amendment to subsection 2, paragraph c, effective July 1, 2027, see 2026 Acts, ch 1079, §10, 15

602.8108 Distribution of court revenue — court technology and modernization fund.

1. The clerk of the district court shall establish an account and deposit in this account all revenue and other receipts. Not later than the fifteenth day of each month, the clerk shall distribute all revenues received during the preceding calendar month. Each distribution shall be accompanied by a statement disclosing the total amount of revenue received during the accounting period and any adjustments of gross revenue figures that are necessary to reflect changes in the balance of the account, including but not limited to reductions resulting from the dishonor of checks previously accepted by the clerk.

2. Except as otherwise provided, the clerk of the district court shall report and submit to the state court administrator, not later than the fifteenth day of each month, the fines and fees received during the preceding calendar month. Except as otherwise provided in this section, the state court administrator shall deposit the amounts received with the treasurer of state for deposit in the general fund of the state. The state court administrator shall report to the legislative services agency within thirty days of the beginning of each fiscal quarter the amount received during the previous quarter in the account established under this section.

3. The clerk of the district court shall remit to the state court administrator, not later than the fifteenth day of each month, all moneys collected from the surcharge provided in section 911.1 during the preceding calendar month. The state court administrator shall allocate and deposit each month forty-six percent in the juvenile detention home fund in section 232.142, thirty-two percent in the victim compensation fund established in section 915.94, twenty percent in the criminalistics laboratory fund established in section 691.9, and two percent in the drug abuse resistance education fund established in section 80E.4.

4. The clerk of the district court shall remit to the state court administrator, not later than the fifteenth day of each month, ninety-one percent of all moneys collected from county enforcement as provided in section 602.8106, subsection 4, paragraph *"b"*, subparagraph (1), during the preceding calendar month. Of the amount received from the clerk, the state court administrator shall allocate and deposit one and three-tenths percent in the emergency medical services fund in section 135.25, and shall allocate and deposit the remainder in the general fund of the state.

5. The clerk of the district court shall remit all moneys collected from the assessment of the human trafficking victim surcharge provided in section 911.2A to the state court administrator no later than the fifteenth day of each month for deposit in the human trafficking victim fund created in section 915.95.

6. The clerk of the district court shall remit all moneys collected from the assessment of the surcharge provided in section 911.2B to the state court administrator for deposit in the address confidentiality program revolving fund created in section 9.8.

7. *a.* A court technology and modernization fund is established as a separate fund in the state treasury. The state court administrator shall allocate seven million dollars of the moneys received under subsection 2 to be deposited in the fund, which shall be administered by the judicial branch.

b. The moneys in the fund shall be used to enhance the ability of the judicial branch to process cases more quickly and efficiently, to electronically transmit information to state government, local governments, law enforcement agencies, and the public, and to improve public access to the court system. The moneys in the fund may also be used for any of the following:

(1) The Iowa court information system.
(2) Records management, equipment, services, and projects.
(3) Other technological improvements approved by the judicial branch.
(4) Electronic legal research equipment, systems, and projects.

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(5) The study, development, and implementation of other innovations and projects that would improve the administration of justice.

(6) Capital improvements necessitated by the installation of or connection with the Iowa court information system, the Iowa communications network, or other like networks.

c. The fund shall be separate from the general fund of the state and the balance in the fund shall not be considered part of the balance of the general fund of the state. Notwithstanding section 8.33, moneys in the fund shall not revert to the general fund. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the court technology and modernization fund shall remain in the court technology and modernization fund and any interest and earnings shall be in addition to the maximum annual deposit amount.

8. The state court administrator shall allocate all of the fines and fees attributable to commercial vehicle violation citations issued by personnel of the department of public safety to the treasurer of state for deposit in the road use tax fund.

9. The state court administrator shall allocate fifty percent of all of the fines attributable to littering citations issued pursuant to sections 321.369, 321.370, and 461A.43 to the treasurer of state for deposit in the general fund of the state and such moneys are appropriated to the state department of transportation for purposes of the cleanup of litter and illegally discarded solid waste.

10. The clerk of the district court shall remit to the treasurer of state, not later than the fifteenth day of each month, all moneys collected from the sex offender civil penalty provided in section 692A.110 during the preceding calendar month. Of the amount received from the clerk, the treasurer of state shall allocate ten percent to be deposited in the court technology and modernization fund established in subsection 7. The treasurer of state shall deposit the remainder into the sex offender registry fund established in section 692A.119.

11. The clerk of the district court shall remit all moneys collected from the agricultural theft surcharge provided in section 911.5 to the state court administrator no later than the fifteenth day of each month for deposit in the general fund of the state, and the amount deposited is appropriated to the department of agriculture and land stewardship to support the Iowa emergency food purchase program fund established in section 190B.201.

12. *a.* The clerk of the district court shall remit to the state court administrator, not later than the fifteenth day of each month, all moneys collected from the filing and miscellaneous fees provided in section 602.8105, subsections 1 and 2, except moneys collected from the sex offender civil penalty in section 602.8105, subsection 2, paragraph *"h"*, shall be remitted and distributed pursuant to subsection 10. The clerk shall report to the state court administrator the total number of fees that were paid, and the number of filing fees that were paid for dissolution of marriage pursuant to section 602.8105, subsection 1, paragraph *"b"*.

b. The state court administrator shall total the number of fees reported pursuant to paragraph *"a"* each month and shall calculate the amount equal to twenty dollars multiplied by the number of fees that were paid statewide during that month. The state court administrator shall exclude from the number of fees, fees ordered pursuant to section 602.8105, subsection 2, paragraph *"h"*.

c. Of the amount calculated pursuant to paragraph *"b"*, the state court administrator shall deposit fifty percent into the indigent defense fund established in section 815.11.

d. The state court administrator shall deposit the remaining fifty percent of the amount calculated pursuant to paragraph *"b"* each fiscal year in the attorney loan repayment program trust fund established in section 256.232.

e. Following the deposits required in paragraphs *"c"* and *"d"*, the state court administrator shall deposit the remaining filing and miscellaneous fee moneys received under paragraph *"a"* in the general fund of the state; provided, however, that filing fees paid pursuant to section 602.8105, subsection 1, paragraph *"b"*, for the dissolution of marriage, be appropriated as follows:

(1) Through the close of the fiscal year beginning July 1, 2026, twenty percent of the moneys generated from these fees are appropriated and shall be used for sexual assault and domestic violence centers and eighty percent of the moneys generated from these fees shall be deposited in the general fund of the state.

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(2) For the fiscal year beginning July 1, 2027, and for each fiscal year thereafter, twenty percent of the moneys generated from these fees are appropriated and shall be used for the sexual assault forensic examination center grant program established in section 915.47 and eighty percent of the moneys generated from these fees shall be deposited in the general fund of the state.

83 Acts, ch 186, §9108, 10201; 91 Acts, ch 116, §15; 94 Acts, ch 1074, §7; 96 Acts, ch 1216, §31; 96 Acts, ch 1218, §38, 39, 71; 98 Acts, ch 1047, §61; 98 Acts, ch 1090, §73, 84; 98 Acts, ch 1212, §8; 2000 Acts, ch 1222, §15; 2001 Acts, ch 168, §3; 2001 Acts, ch 182, §10; 2002 Acts, ch 1175, §44; 2003 Acts, ch 35, §45, 49; 2004 Acts, ch 1111, §3; 2004 Acts, ch 1119, §5; 2005 Acts, ch 3, §103; 2005 Acts, ch 143, §1, 2; 2005 Acts, ch 165, §5, 6; 2005 Acts, ch 179, §138; 2006 Acts, ch 1030, §76; 2006 Acts, ch 1087, §2, 3; 2006 Acts, ch 1166, §6 – 8; 2006 Acts, ch 1182, §64; 2007 Acts, ch 215, §65; 2009 Acts, ch 119, §46, 47; 2014 Acts, ch 1097, §3, 4; 2015 Acts, ch 30, §176; 2015 Acts, ch 96, §14; 2016 Acts, ch 1073, §163; 2020 Acts, ch 1074, §11 – 14, 26, 93; 2021 Acts, ch 76, §141; 2023 Acts, ch 85, §22; 2026 Acts, ch 1192, §25, 28

Referred to in §9.8, 135.25, 190B.201, 232.142, 321.210B, 331.427, 364.3, 602.1302, 602.8107, 602.8108A, 602.11101, 625.8, 631.6, 633.20, 633.31, 692A.110, 907.14, 911.1, 911.2A, 911.2B, 911.5

Subsection 12 applies to fees paid on and after July 1, 2026; 2026 Acts, ch 1192, §28

NEW subsection 12

602.8108A Prison infrastructure fund.

1. The Iowa prison infrastructure fund is created and established as a separate and distinct fund in the state treasury. Notwithstanding any other provision of this chapter to the contrary, the first eight million dollars and, beginning July 1, 1997, the first nine million five hundred thousand dollars, of moneys remitted to the treasurer of state from fines, fees, costs, and forfeited bail collected by the clerks of the district court in criminal cases, including those collected for both scheduled and nonscheduled violations, collected in each fiscal year commencing with the fiscal year beginning July 1, 1995, shall be deposited in the fund. Beginning July 1, 2009, the treasurer of state shall certify to the judicial branch the annual amount of funds necessary to be remitted for deposit into the fund for that fiscal year and such moneys shall be remitted to the treasurer of state from fines, fees, costs, and forfeited bail collected by the clerks of the district court in criminal cases, including those collected for both scheduled and nonscheduled violations, for debt payments expected to be paid from the fund. Interest and other income earned by the fund shall be deposited in the fund. However, beginning with the fiscal year beginning July 1, 1998, all fines and fees attributable to commercial vehicle violation citations issued after July 1, 1998, shall be deposited as provided in section 602.8108, subsection 8. The moneys in the fund are appropriated and shall have priority and precedence for the purpose of paying the principal of, premium, if any, and interest on bonds issued by the Iowa finance authority under section 16.177. Any remaining moneys not otherwise appropriated for purposes of paying the principal, premium, and interest on the bonds issued by the Iowa finance authority pursuant to section 16.177 shall be available and appropriated to the treasurer of state pursuant to section 12.80. Except as otherwise provided in subsection 2, amounts in the funds shall not be subject to appropriation for any purpose by the general assembly, but shall be used only for the purposes set forth in this section. The treasurer of state shall act as custodian of the fund and disburse amounts contained in it as directed by the department of corrections including the automatic disbursement of funds pursuant to the terms of bond indentures and documents and security provisions to trustees and custodians. The treasurer of state is authorized to invest the funds deposited in the fund subject to any limitations contained in any applicable bond proceedings. Any amounts remaining in the fund at the end of each fiscal year shall be transferred to the general fund of the state.

2. If the treasurer of state determines that bonds cannot be issued pursuant to this section and sections 12.80 and 16.177 or if there are any remaining moneys at the end of a fiscal year after the appropriations are paid pursuant to sections 12.80 and 16.177, the treasurer of state shall deposit the moneys in the prison infrastructure fund into the general fund of the state.

94 Acts, ch 1196, §21; 95 Acts, ch 202, §12; 96 Acts, ch 1216, §32; 98 Acts, ch 1212, §9; 2008 Acts, ch 1179, §57

Referred to in §12.80, 16.177

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602.8109 Settlement of accounts of cities and counties.

1. A city or a county shall pay court costs and other fees payable to the clerk of the district court for services rendered upon receipt of a statement from the clerk disclosing the amount due.

2. The clerk of the district court shall deliver a statement to the county auditor no later than the fifteenth day of each month disclosing all of the following:

a. The specific amounts of statutory fees and costs that are payable by the county to the clerk for services rendered by the clerk or other state officers or employees during the preceding month in connection with each civil or criminal action, and the total of all of these fees and costs.

b. Any amounts collected by the clerk of the district court during the preceding month as costs in an action when these amounts are payable by law to the county as reimbursement for costs incurred by the county in connection with a civil or criminal action, and the total of all of these amounts.

3. If the amount owed by the county under subsection 2, paragraph *"a"* for a calendar month is greater than the amount due to the county under subsection 2, paragraph *"b"* for that month, the county shall remit the difference to the clerk of the district court no later than the last day of the month in which the statement under subsection 2 is received.

4. If the amount due to the county under subsection 2, paragraph *"b"* for a calendar month is greater than the amount owed by the county under subsection 2, paragraph *"a"* for that month, the clerk of the district court shall remit the difference to the county treasurer no later than the last day of the month in which the statement under subsection 2 is delivered.

5. The clerk of the district court shall deliver a statement to the city clerk no later than the fifteenth day of each month disclosing all of the following:

a. The specific amounts of statutory fees and costs that are payable by the city to the clerk of the district court for services rendered by the clerk or other state officers or employees during the preceding month in connection with each civil or criminal action, and the total of all such fees and costs.

b. Any amounts collected by the clerk of the district court during the preceding month as costs in an action when such amounts are payable by law to the city as reimbursement for costs incurred by the city in connection with a civil or criminal action, and the total of all such amounts.

6. If the amount owed by the city under subsection 5, paragraph *"a"*, for a calendar month is greater than the amount due to the city under subsection 5, paragraph *"b"*, for that month, the city shall remit the difference to the clerk of the district court no later than the last day of the month in which the statement under subsection 5 is received.

7. If the amount due the city under subsection 5, paragraph *"b"*, for a calendar month is greater than the amount owed by the city under subsection 5, paragraph *"a"*, for that month, the clerk of the district court shall remit the difference to the city clerk no later than the last day of the month in which the statement under subsection 5 is delivered.

8. Amounts not paid as required under subsection 3, 4, 6, or 7 shall bear interest for each day of delinquency at the rate in effect as of the day of delinquency for time deposits of public funds for eighty-nine days, as established under section 12C.6.

83 Acts, ch 186, §9109, 10201; 2007 Acts, ch 196, §12 – 14; 2011 Acts, ch 34, §136

Referred to in §331.506, 602.8105, 602.8106

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ARTICLE 9
JUDICIAL RETIREMENT

Referred to in §8F.2, 12B.10, 12B.10A, 12B.10B, 12B.10C, 509A.13A, 602.1209, 602.11101

PART 1
JUDICIAL RETIREMENT SYSTEM

Referred to in §602.1611, 602.11115, 602.11116

602.9101 System created.

A retirement system is hereby created and established to be known as the "Judicial Retirement System", hereinafter called the "system".

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §605A.1]
83 Acts, ch 186, §10202(2)
CS83, §602.9101

602.9102 Administered by court administrator.

1. The court administrator is authorized to administer the system and related reports and may promulgate rules therefor not inconsistent with this article.

2. The state court administrator shall advise the judicial council on all determinations made by the state court administrator concerning the judicial retirement system.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §605A.2]
83 Acts, ch 186, §10202(2)
CS83, §602.9102
2026 Acts, ch 1191, §7
Section amended

602.9103 Reserved.

602.9104 Deductions from judges' salaries — contributions by state.

1. *a.* A judge to whom this article applies shall be paid an amount equal to the basic salary of the judge as set pursuant to section 602.1401 reduced by an amount designated as the judge's required contribution to the judicial retirement fund. The amount designated as the judge's required contribution shall be paid by the state in the manner provided in subsection 2.

b. The state shall contribute annually to the judicial retirement fund an amount equal to the state's required contribution for all judges covered under this article.

2. The amount designated as the judge's required contribution to the judicial retirement fund shall be paid by the department of administrative services from the general fund of the state to the court administrator for deposit with the treasurer of state to the credit of the judicial retirement fund. Moneys in the fund are appropriated for the payment of annuities, refunds, and allowances provided by this article, except that the amount of the appropriations affecting payment of annuities, refunds, and allowances to judges of the municipal and superior court is limited to that part of the fund accumulated for their benefit as provided in this article. The corpus and income of the fund shall be used only for the exclusive benefit of the judges covered under this article, their survivors, or an alternate payee who is assigned benefits pursuant to a domestic relations order.

3. A judge covered under this article is deemed to consent to the reduction in basic salary as provided in subsection 1.

4. Any change to the required contribution rate shall be shared between judges and the state in the same proportion as the required contribution rate.

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

a. *"Judge's required contribution"* means an amount equal to the basic salary of the judge multiplied by the percentage rate equal to thirty-five percent of the required contribution rate.

b. *"Required contribution rate"* means that percentage of the basic salary of all judges

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covered under this article equal to the actuarially required contribution rate determined by the actuary pursuant to section 602.9116. The required contribution rate shall not vary by more than one percentage point from the required contribution rate for the prior fiscal year.

c. "State's required contribution" means an amount equal to the basic salary of all judges covered under this article multiplied by the percentage rate equal to sixty-five percent of the required contribution rate.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §605A.4]
83 Acts, ch 186, §10202(2)
CS83, §602.9104
86 Acts, ch 1243, §35; 91 Acts, ch 116, §16; 94 Acts, ch 1183, §82; 2000 Acts, ch 1077, §112 – 114; 2003 Acts, ch 145, §286; 2006 Acts, ch 1091, §12; 2008 Acts, ch 1171, §54, 55; 2024 Acts, ch 1153, §8, 9; 2026 Acts, ch 1200, §68, 75
Referred to in §602.9104A, 602.9108, 602.9116, 602.11115, 602.11116
2026 amendment to subsection 1, paragraph a effective June 19, 2026; 2026 Acts, ch 1200, §75
Subsection 1, paragraph a amended

602.9104A Moneys deposited in the judicial retirement fund — limitations — intent.

1. As used in this section, unless the context otherwise requires, *"court revenues"* means any court costs, fees, fines, penalties, surcharges, forfeited bail, or similar charges collected by the court, or interest on such amounts.

2. Notwithstanding section 602.8105, 602.8106, or 631.6, or any other provision of law to the contrary, court revenues shall not be deposited in the judicial retirement fund established in section 602.9104. If a provision of law provides for the deposit of court revenues in the judicial retirement fund, those court revenues shall be deposited in the general fund.

3. The judicial retirement fund shall consist of the contributions specified in section 602.9104, as well as the corpus and income of the fund as provided in section 602.9104.

4. It is the intent of the general assembly that the judicial retirement system be funded from contributions based upon the basic salary of the judges covered by this article, rather than from court revenues.

94 Acts, ch 1183, §83

602.9105 Rollovers of judges' accounts.

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

a. "Direct rollover" means a payment by the system to the eligible retirement plan specified by the judge covered under this article or the judge's surviving spouse.

b. (1) *"Eligible retirement plan"* means either of the following that accepts an eligible rollover distribution from a judge covered by this article or a judge's surviving spouse:

(a) An individual retirement account in accordance with section 408(a) of the federal Internal Revenue Code.

(b) An individual retirement annuity in accordance with section 408(b) of the federal Internal Revenue Code.

(2) In addition, an *"eligible retirement plan"* includes an annuity plan in accordance with section 403(a) of the federal Internal Revenue Code, or a qualified trust in accordance with section 401(a) of the federal Internal Revenue Code, that accepts an eligible rollover distribution from a judge covered by this article.

c. "Eligible rollover distribution" means all or any portion of a judge's account, except that an eligible rollover distribution does not include any of the following:

(1) A distribution that is one of a series of substantially equal periodic payments, which occur annually or more frequently, made for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary, or made for a specified period of ten years or more.

(2) A distribution to the extent that the distribution is required pursuant to section 401(a)(9) of the federal Internal Revenue Code.

(3) The portion of any distribution that is not includible in the gross income of the distributee, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities.

(4) A distribution of less than two hundred dollars of taxable income.

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2. Effective January 1, 1993, a judge covered by this article or a judge's surviving spouse may elect, at the time and in the manner prescribed by the state court administrator, to have the system pay all or a portion of an eligible rollover distribution directly to an eligible retirement plan, specified by the judge or the judge's surviving spouse, in a direct rollover. If a judge or a judge's surviving spouse elects a partial direct rollover, the amount of funds elected for the partial direct rollover must equal or exceed five hundred dollars.

94 Acts, ch 1183, §84; 2013 Acts, ch 30, §261

602.9106 Retirement.

Any person who shall have become separated from service as a judge of any of the courts included in this article and who has had an aggregate of at least four years of service as a judge of one or more of such courts and shall have attained the age of sixty-five years or who has had twenty years of consecutive service as a judge of one or more of said courts and shall have attained the age of fifty years, and who shall have otherwise qualified as provided in this article, shall be entitled to an annuity as provided in this article.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §605A.6]

83 Acts, ch 186, §10202(2)

CS83, §602.9106

2006 Acts, ch 1091, §13; 2020 Acts, ch 1063, §322

Referred to in §602.1612, 602.9112, 602.9203

602.9107 Amount of annuity.

1. *a.* The annual annuity of a judge under this system is an amount equal to three and one-fourth percent of the judge's average annual basic salary for the judge's highest three years as a judge of one or more of the courts included in this article, multiplied by the judge's years of service as a judge of one or more of the courts for which contributions were made to the system. However, an annual annuity shall not exceed an amount equal to a specified percentage of the highest basic annual salary which the judge is receiving or had received as of the time the judge became separated from service. Forfeitures shall not be used to increase the annuities a judge or survivor would otherwise receive under the system.

b. "*Specified percentage*", for purposes of this section, means as follows:

(1) For judges who retire and receive an annuity prior to July 1, 1998, the specified percentage shall be fifty percent.

(2) For judges who retire and receive an annuity on or after July 1, 1998, but before July 1, 2000, the specified percentage shall be fifty-two percent.

(3) For judges who retire and receive an annuity on or after July 1, 2000, but before July 1, 2001, the specified percentage shall be fifty-six percent.

(4) For judges who retire and receive an annuity on or after July 1, 2001, but before July 1, 2006, the specified percentage shall be sixty percent.

(5) For judges who retire and receive an annuity on or after July 1, 2006, the specified percentage shall be sixty-five percent.

2. *a.* A judge shall not receive under this article in any calendar year an annuity benefit which, if received in the form of a straight life annuity with no ancillary benefits, exceeds the lesser of the following:

(1) A dollar limitation of ninety thousand dollars adjusted each January 1 to the dollar limitation determined by the federal commissioner of internal revenue pursuant to section 415(d) of the United States Internal Revenue Code, as amended.

(2) A compensation limit of one hundred percent of the average compensation paid to the judge during those three consecutive calendar years as a judge of one or more of the courts included in this article which give the highest average.

b. The limitations of this subsection do not apply to an annuity benefit which is less than ten thousand dollars.

3. *a.* The limitations in subsection 2 shall be adjusted as follows:

(1) If the annuity begins prior to the sixty-second birthday of the judge, the dollar limitation shall be equal to an annual annuity benefit which is equal to the actuarial

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equivalent of an annuity benefit commencing on the sixty-second birthday of the judge, but not below seventy-five thousand dollars.

(2) If the annuity begins after the sixty-fifth birthday of the judge, the dollar limitation shall be equal to an annual annuity benefit which is the actuarial equivalent of an annuity benefit commencing on the sixty-fifth birthday of the judge.

(3) If the annuity begins prior to the judge having ten years of creditable service, the dollar limitation, the one hundred percent of average compensation limitation, and the exception for an annuity benefit which is less than ten thousand dollars, shall be reduced by a fraction, the numerator of which is the total years and months of creditable service, and the denominator of which is ten.

b. For purposes of the limitations of this subsection, the actuarial equivalent shall be determined from actuarial tables using the 1983 group annuity table for males and five percent interest compounded annually. The value of the joint and survivorship feature of an annuity shall not be taken into account in applying the limitations of this section.

4. This section is intended to meet the requirements of section 415 of the United States Internal Revenue Code and shall be construed in accordance with that section, and shall, by this reference, incorporate any subsequent changes to that section which apply to the judicial retirement system.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §605A.7]

83 Acts, ch 186, §10202(2)

CS83, §602.9107

86 Acts, ch 1243, §36; 98 Acts, ch 1183, §101; 2000 Acts, ch 1077, §115; 2002 Acts, ch 1135, §54; 2006 Acts, ch 1091, §14 – 16; 2013 Acts, ch 30, §261

Referred to in §602.9115A, 602.9204, 602.9208

602.9107A Optional retirement and decreased annuity. Repealed by 2006 Acts, ch 1091, §25. See §602.9106.

602.9107B Minimum annuity benefit.

A judge, or a survivor of a judge, who retired before July 1, 1977, and who is receiving an annuity pursuant to this article, shall, commencing with an annuity paid on or after July 1, 1998, be paid a minimum monthly annuity payment of five hundred dollars.

98 Acts, ch 1183, §102

602.9107C Iowa public employees' retirement system — service credit.

1. A judge under this system who has at least four years of service as a judge of any of the courts included in this article and who was a member of the Iowa public employees' retirement system as provided in chapter 97B, but who was not retired under that system, upon submitting verification of membership and service in the Iowa public employees' retirement system to the court administrator, including proof that the judge has no further claim upon a retirement benefit from that public system, may make contributions as provided by this section to the system either for the entire period of service in the other public system, or for partial service in the other public system in increments of one or more calendar quarters, and receive credit for that service under the system.

2. The contributions required to be made for purposes of this section shall be in an amount equal to the actuarial cost of the service purchase. For purposes of this subsection, the actuarial cost of the service purchase is an amount determined by the court administrator in accordance with actuarial tables, as reported to the court administrator by the system's actuary, which reflects the actuarial cost necessary to fund an increased retirement annuity resulting from the purchase of additional service.

3. A judge eligible for an increased retirement annuity because of the payment of contributions under this section is entitled to receipt of retroactive adjustment payments for no more than six months immediately preceding the month in which the judge pays contributions under this section.

4. The court administrator shall ensure that the judge, in exercising an option provided in

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this section, does not exceed the amount of annual additions to a judge's account permitted pursuant to section 415 of the Internal Revenue Code.

2002 Acts, ch 1135, §55; 2006 Acts, ch 1091, §17

602.9108 Individual accounts — refunding.

The amount designated as the judge's contribution to the judicial retirement fund in section 602.9104 and all amounts paid into the fund by a judge shall be credited to the individual account of the judge. If a judge covered under this article becomes separated from service as a judge before the judge completes an aggregate of four years of service as a judge of one or more of the courts, the total amount in the judge's individual account shall be returned to the judge or the judge's legal representatives within one year of the separation. If a judge, who is covered under this article and who has completed an aggregate of four years or more of service as a judge of one or more of the courts, dies before retirement, without a survivor, the total amount in the judge's individual account shall be paid in one sum to the judge's legal representatives within one year of the judge's death. If an annuitant under this section dies without a survivor, and without having received in annuities an amount equal to the total amount in the judge's individual account at the time of separation from service, the amount remaining to the annuitant's credit shall be paid in one sum to the annuitant's legal representatives within one year of the annuitant's death.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §605A.8]
83 Acts, ch 186, §10202(2)
CS83, §602.9108
86 Acts, ch 1243, §37; 2006 Acts, ch 1091, §18
Referred to in §602.9115A

602.9109 Payment of annuities.

Annuities granted under the terms of this article are due and payable in monthly installments on the last business day of each month following the month or other period for which the annuity has accrued and shall continue during the life of the annuitant; and payment of all annuities, refunds, and allowances granted under this article shall be made by checks or warrants drawn and issued by the director of the department of administrative services. Applications for annuities shall be in such form as the director of the department of administrative services may prescribe.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §605A.9]
83 Acts, ch 186, §10202(2)
CS83, §602.9109
85 Acts, ch 197, §28; 89 Acts, ch 228, §8; 2003 Acts, ch 145, §286
Referred to in §602.9204

602.9110 Other public employment prohibited.

An annuity shall not be paid to any person, except a survivor, entitled to receive an annuity under this article while the person is serving as a state officer or employee. However, this section does not prohibit the payment of an annuity to a senior judge while serving as provided in section 602.9206.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §605A.10]
83 Acts, ch 186, §10202(2)
CS83, §602.9110
2019 Acts, ch 59, §198

602.9111 Investment of fund.

1. So much of the judicial retirement fund as may not be necessary to be kept on hand for the making of disbursements under this article shall be invested by the treasurer of state in any investments authorized for the Iowa public employees' retirement system in section 97B.7A and subject to the requirements of chapters 12F, 12H, 12J, and 12K, and the earnings therefrom shall be credited to the fund. The treasurer of state may execute contracts and agreements with investment advisors, consultants, and investment management and benefit consultant firms in the administration of the judicial retirement fund.

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2. Investment management expenses shall be charged to the investment income of the fund and there is appropriated from the fund an amount required for the investment management expenses. The court administrator shall report the investment management expenses for the fiscal year as a percent of the market value of the system.

3. For purposes of this section, investment management expenses are limited to the following:

a. Fees for investment advisors, consultants, and investment management and benefit consultant firms hired by the treasurer of state in administering the fund.

b. Fees and costs for safekeeping fund assets.

c. Costs for performance and compliance monitoring, and accounting for fund investments.

d. Any other costs necessary to prudently invest or protect the assets of the fund.

4. The state court administrator and the treasurer of state, and their employees, are not personally liable for claims based upon an act or omission of the person performed in the discharge of the person's duties concerning the judicial retirement fund, except for acts or omissions which involve malicious or wanton misconduct.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §605A.11]
83 Acts, ch 186, §10202(2)
CS83, §602.9111
84 Acts, ch 1180, §10; 96 Acts, ch 1187, §109; 2001 Acts, ch 68, §18, 24; 2007 Acts, ch 39, §13; 2011 Acts, ch 82, §13; 2017 Acts, ch 29, §159; 2023 Acts, ch 58, §14

602.9112 Voluntary retirement for disability.

Any judge of the supreme, district or municipal court, including a district associate judge, or a judge of the court of appeals, who shall have served as a judge of one or more of such courts for a period of four years in the aggregate and who believes the judge has become permanently incapacitated, physically or mentally, to perform the duties of the judge's office may personally or by the judge's next friend or guardian file with the court administrator a written application for retirement. The application shall be filed in duplicate and accompanied by an affidavit as to the duration and particulars of the judge's service and the nature of the judge's incapacity. The court administrator shall forthwith transmit one copy of the application and affidavit to the chief justice who shall request the attorney general in writing to cause an investigation to be made relative to the claimed incapacity and report back the results thereof in writing. If the chief justice finds from the report of the attorney general that the applicant is permanently incapacitated, physically or mentally, to perform the duties of the applicant's office the chief justice shall by endorsement thereon declare the applicant retired, and the office vacant, and shall file the report in the office of the court administrator, and a copy in the office of the secretary of state. From the date of such filing the applicant shall be deemed retired from the applicant's office and entitled to the benefits of this article to the same extent as if the applicant had retired under the provisions of section 602.9106.

[C66, 71, 73, 75, 77, 79, 81, §605A.12]
83 Acts, ch 186, §10202(2)
CS83, §602.9112
2006 Acts, ch 1091, §19
Referred to in §602.9207

602.9113 Retirement benefits for disability.

An adjudication as to permanent physical or mental disability under the provisions of article 2, part 1 shall entitle the judge to the same retirement benefits as provided for voluntary retirement for such cause.

[C66, 71, 73, 75, 77, 79, 81, §605A.13]
83 Acts, ch 186, §10202(2)
CS83, §602.9113

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602.9114 Forfeiture of benefits — refund.

If a judge covered under this part is removed for cause other than permanent disability the judge and the judge's survivor shall forfeit the right to any retirement benefits under the system but the total amount in the judge's individual account shall be returned to the judge or the judge's legal representatives within one year of the removal.

[C66, 71, 73, 75, 77, 79, 81, §605A.14]
83 Acts, ch 186, §10202(2)
CS83, §602.9114
86 Acts, ch 1243, §38

602.9115 Annuity for survivor of annuitant.

1. For the purposes of this article, *"survivor"* means the surviving spouse of a person who was a judge, if married to the judge for at least one year preceding the judge's death.

2. The survivor of a judge who was qualified for retirement compensation under the system at the time of the judge's death, is entitled to receive an annuity of one-half of the amount of the annuity the judge was receiving or would have been entitled to receive at the time of the judge's death, or if the judge died before age sixty-five, then one-half of the amount the judge would have been entitled to receive at age sixty-five based on the judge's years of service for which contributions were made to the system. The annuity shall begin on the judge's death or upon the survivor's reaching age sixty, whichever is later. However, a survivor less than sixty years old may elect to receive a decreased retirement annuity to begin on the judge's death by filing a written election with the state court administrator. The election is subject to the approval of the state court administrator. The amount of the decreased retirement annuity shall be the actuarial equivalent of the amount of the annuity otherwise payable to the survivor under this section.

3. If the judge dies leaving a survivor but without receiving in annuities an amount equal to the judge's credit, the balance shall be credited to the account of the judge's survivor, and if the survivor dies without receiving in annuities an amount equal to the balance, the amount remaining shall be paid to the survivor's legal representatives within one year of the survivor's death.

[C73, 75, 77, 79, 81, §605A.15]
83 Acts, ch 186, §10202(2)
CS83, §602.9115
84 Acts, ch 1285, §29; 86 Acts, ch 1243, §39; 2015 Acts, ch 29, §114; 2016 Acts, ch 1011, §110
Referred to in §602.9115A, 602.9209

602.9115A Optional annuity for judge and survivor.

1. In lieu of the annuities and refunds provided for judges and judges' survivors under sections 602.9107, 602.9108, 602.9115, 602.9204, 602.9208, and 602.9209, judges may elect to receive an optional retirement annuity during the judge's lifetime and have the optional retirement annuity, or a designated fraction of the optional retirement annuity, continued and paid to the judge's survivor after the judge's death and during the lifetime of the survivor.

2. The judge shall make the election request in writing to the state court administrator prior to retirement. The election is subject to the approval of the state court administrator. The judge may revoke the election prior to retirement by written request to the state court administrator, but cannot revoke the election after retirement.

3. The optional retirement annuity shall be the actuarial equivalent of the amounts of the annuities payable to judges and survivors under sections 602.9107, 602.9115, 602.9204, 602.9208, and 602.9209. The actuarial equivalent shall be based on the mortality and interest assumptions set out in section 602.9107, subsection 3.

4. *a.* If the judge dies without a survivor, prior to retirement or prior to receipt in annuities of an amount equal to the total amount remaining to the judge's credit at the time of separation from service, the election is null and void and the refunding provisions of section 602.9108 apply.

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b. If the judge dies with a survivor prior to retirement, the election remains valid and the survivor is entitled to receive the annuity beginning at the death of the judge.

c. If the judge dies with a survivor and the survivor subsequently dies prior to receipt in annuities by both the judge and the survivor of an amount equal to the total amount remaining to the judge's credit at the time of separation from service, the election remains valid and the refunding provision of section 602.9115 applies.

86 Acts, ch 1243, §40; 92 Acts, ch 1236, §402, 403; 2006 Acts, ch 1091, §20; 2015 Acts, ch 29, §105

602.9116 Actuarial valuation.

1. The court administrator shall cause an actuarial valuation to be made of the assets and liabilities of the judicial retirement fund at least once every four years commencing with the fiscal year beginning July 1, 1981. For each fiscal year in which an actuarial valuation is not conducted, the court administrator shall cause an annual actuarial update to be prepared for the purpose of determining the adequacy of the contribution rates specified in section 602.9104. The court administrator shall adopt actuarial methods and assumptions, mortality tables, and other necessary factors for use in the actuarial calculations required for the valuation upon the recommendation of the actuary. In addition, effective with the fiscal year beginning July 1, 2008, the actuarial valuation or actuarial update required to be conducted shall include information as required by section 97D.5. Following the actuarial valuation or annual actuarial update, the court administrator shall determine the condition of the system, determine the actuarially required contribution rate for each fiscal year which is the rate required by the system to discharge its liabilities, stated as a percentage of the basic salary of all judges covered under this article, and shall report any findings and recommendations to the general assembly.

2. The cost of the actuarial valuation or annual actuarial update shall be paid from the judicial retirement fund.

3. The court administrator shall submit to the general assembly a copy of each actuarial valuation and annual actuarial update.

[C81, §605A.18]
83 Acts, ch 186, §10202(2)
CS83, §602.9116
94 Acts, ch 1183, §85; 2006 Acts, ch 1091, §21; 2007 Acts, ch 22, §102; 2008 Acts, ch 1171, §56; 2022 Acts, ch 1145, §10
Referred to in §602.9104

PART 2

IOWA SENIOR JUDGE ACT

Referred to in §602.1101

602.9201 Short title.

This part may be cited and referred to as the *"Iowa Senior Judge Act"*.

[C81, §605A.21]
83 Acts, ch 186, §10202(2)
CS83, §602.9201

602.9202 Definitions.

As used in this part unless the context otherwise requires:

1. *"Retired senior judge"* means a senior judge who has been retired from a senior judgeship as provided in section 602.9207.

2. *"Roster of senior judges"* means the roster maintained by the clerk of the supreme court under section 602.9203, subsection 3.

3. *"Senior judge"* means a supreme court judge, court of appeals judge, district court judge, district associate judge, full-time associate juvenile judge, or full-time associate

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probate judge, who meets the requirements of section 602.9203 and who has not been retired or removed from the roster of senior judges under section 602.9207 or 602.9208.

4. *"Senior judge retirement age"* means eighty-four years of age or, if the senior judge is reappointed as a senior judge for an additional one-year term upon attaining eighty-four years of age, and then to a succeeding one-year term, pursuant to section 602.9203, eighty-six years of age.

5. *"Twelve-month period"* means each successive one-year period commencing on the date a retired judge becomes a senior judge and while the judge continues to be a senior judge.

[C81, §605A.22]

83 Acts, ch 186, §10202(2)

CS83, §602.9202

2002 Acts, ch 1135, §56; 2008 Acts, ch 1191, §149; 2012 Acts, ch 1021, §106; 2012 Acts, ch 1138, §75; 2025 Acts, ch 101, §12, 15

Referred to in §595.10

2025 amendment to subsection 4 applies to judicial officers retiring on or after July 1, 2025; 2025 Acts, ch 101, §15

602.9203 Senior judgeship requirements — appointment and term.

1. A supreme court judge, court of appeals judge, district judge, district associate judge, full-time associate juvenile judge, or full-time associate probate judge, who qualifies under subsection 2 may become a senior judge by filing with the clerk of the supreme court a written election in the form specified by the supreme court. The election shall be filed within six months of the date of retirement.

2. A judicial officer referred to in subsection 1 may be appointed, at the discretion of the supreme court, for a two-year term as a senior judge if the judicial officer meets all of the following requirements:

a. Retires from office on or after July 1, 1977, whether or not the judicial officer is of mandatory retirement age.

b. Meets the minimum requirements for entitlement to an annuity as specified in section 602.9106. However, a judge who elects to retire prior to attaining the age of sixty-five and who has not had twenty years of consecutive service, may serve as a senior judge, but shall not be paid an annuity pursuant to section 602.9204 until attaining age sixty-five.

c. Agrees in writing on a form prescribed by the supreme court to be available as long as the judicial officer is a senior judge to perform judicial duties as assigned by the supreme court for an aggregate period of thirteen weeks out of each successive twelve-month period.

d. Submits evidence to the satisfaction of the supreme court that as of the date of retirement the judicial officer does not suffer from a permanent physical or mental disability which would substantially interfere with the performance of duties agreed to under paragraph "*c*" of this subsection.

e. Submits evidence to the satisfaction of the supreme court that since the date of retirement the judicial officer has not engaged in the practice of law.

3. The clerk of the supreme court shall maintain a book entitled "Roster of Senior Judges", and shall enter in the book the name of each judicial officer who files a timely election under subsection 1 and qualifies under subsection 2. A person shall be a senior judge upon entry of the person's name in the roster of senior judges and until the person becomes a retired senior judge as provided in section 602.9207, or until the person's name is stricken from the roster of senior judges as provided in section 602.9208, or until the person dies.

4. The supreme court shall cause each senior judge on the roster to actually perform judicial duties during each successive twelve-month period.

5. *a.* A senior judge may be reappointed to additional two-year terms, at the discretion of the supreme court, if the judicial officer meets the requirements of subsection 2.

b. A senior judge may be reappointed to a one-year term upon attaining eighty-four years of age and to a succeeding one-year term, at the discretion of the supreme court, if the judicial officer meets the requirements of subsection 2.

[C81, §605A.23]

83 Acts, ch 186, §10202(2)

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CS83, §602.9203

85 Acts, ch 94, §1, 2; 89 Acts, ch 162, §1; 95 Acts, ch 145, §1, 2; 2002 Acts, ch 1135, §57; 2006 Acts, ch 1091, §22; 2008 Acts, ch 1191, §150; 2011 Acts, ch 78, §6 – 8; 2025 Acts, ch 101, §13, 15

Referred to in §602.9202, 602.9204, 602.9206

2025 amendment to subsection 5, paragraph b applies to judicial officers retiring on or after July 1, 2025; 2025 Acts, ch 101, §15

602.9204 Salary — annuity of senior judge and retired senior judge.

1. *a.* A judge who retires on or after July 1, 1994, and who is appointed a senior judge under section 602.9203 shall be paid a salary determined pursuant to section 602.1401.

b. A senior judge or retired senior judge shall be paid an annuity under the judicial retirement system in the manner provided in section 602.9109, but computed under this section in lieu of section 602.9107, as follows:

(1) The annuity paid to a senior judge or retired senior judge shall be an amount equal to the applicable percentage multiplier of the basic senior judge salary, multiplied by the judge's years of service prior to retirement as a judge of one or more of the courts included under this article, for which contributions were made to the system, except the annuity of the senior judge or retired senior judge shall not exceed an amount equal to the applicable specified percentage of the basic senior judge salary used in calculating the annuity.

(2) However, following the twelve-month period during which the senior judge or retired senior judge attains senior judge retirement age, the annuity paid to the person shall be an amount equal to the applicable percentage multiplier of the basic senior judge salary cap, multiplied by the judge's years of service prior to retirement as a judge of one or more of the courts included under this article, for which contributions were made to the system, except that the annuity shall not exceed an amount equal to the applicable specified percentage of the basic senior judge salary cap.

c. A senior judge or retired senior judge shall not receive benefits calculated using a basic senior judge salary established after the twelve-month period in which the senior judge or retired senior judge attains senior judge retirement age.

d. The state shall provide, regardless of age, to an active senior judge or a senior judge with six years of service as a senior judge and to the judge's spouse, and pay for medical insurance until the judge attains senior judge retirement age.

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

a. "Applicable percentage multiplier" means as follows:

(1) For a senior judge or retired senior judge who retired as a judge and received an annuity prior to July 1, 2006, three percent.

(2) For a senior judge or a retired senior judge who retired as a judge and received an annuity on or after July 1, 2006, three and one-fourth percent.

b. "Applicable specified percentage" means, for a senior judge or retired senior judge, the specified percentage, as defined in section 602.9107, subsection 1, that applied on the date the judge was separated from full-time service.

c. "Basic senior judge salary" means the highest basic annual salary which the judge is receiving or had received as of the time the judge became separated from full-time service, as would be used in computing an annuity pursuant to section 602.9107 without service as a senior judge, plus seventy-five percent of the escalator.

d. "Basic senior judge salary cap" means the basic senior judge salary, at the end of the twelve-month period during which the senior judge or retired senior judge attained senior judge retirement age, of the office in which the person last served as a judge before retirement as a judge or senior judge.

e. "Escalator" means the difference between the current basic salary, as of the time each payment is made up to and including the twelve-month period during which the senior judge or retired senior judge attains senior judge retirement age, of the office in which the senior judge last served as a judge before retirement as a judge or senior judge, and the basic annual salary which the judge is receiving at the time the judge becomes separated from full-time

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service as a judge of one or more of the courts included in this article, as would be used in computing an annuity pursuant to section 602.9107 without service as a senior judge.

[C81, §605A.24]

83 Acts, ch 186, §10202(2)

CS83, §602.9204

86 Acts, ch 1243, §41; 89 Acts, ch 162, §2; 92 Acts, ch 1201, §73, 76; 92 Acts, 2nd Ex, ch 1001, §116; 94 Acts, ch 1183, §86, 90; 95 Acts, ch 145, §3, 4; 99 Acts, ch 200, §22; 2000 Acts, ch 1077, §116; 2002 Acts, ch 1135, §58; 2006 Acts, ch 1091, §23, 24; 2008 Acts, ch 1191, §151, 152; 2026 Acts, ch 1200, §69, 75

Referred to in §602.9115A, 602.9203, 602.9208

Interpretive memorandum by the Iowa supreme court filed July 22, 1982

2026 amendment to subsection 1, paragraph a effective June 19, 2026; 2026 Acts, ch 1200, §75

Subsection 1, paragraph a amended

602.9205 Practice of law prohibited.

A senior judge shall not practice law.

[C81, §605A.25]

83 Acts, ch 186, §10202(2)

CS83, §602.9205

602.9206 Temporary service by senior judge.

1. Section 602.1612 does not apply to a senior judge but does apply to a retired senior judge. During the tenure of a senior judge, if the judge is able to serve, the judge may be assigned by the supreme court to temporary judicial duties on courts of this state without salary for an aggregate of thirteen weeks out of each twelve-month period, and for additional weeks with the judge's consent. A senior judge shall not be assigned to judicial duties on the supreme court unless the judge has been appointed to serve on the supreme court prior to retirement. While serving on temporary assignment, a senior judge has and may exercise all of the authority of the office to which the judge is assigned, shall continue to be paid the judge's annuity as senior judge, shall be reimbursed for the judge's actual expenses to the extent expenses of a district judge are reimbursable under section 602.1509, and, if assigned to the court of appeals or the supreme court, shall be given the assistance of a law clerk and a secretary designated by the court administrator of the judicial branch from the court administrator's staff. Each order of temporary assignment shall be filed with the clerks of court at the places where the senior judge is to serve.

2. A senior judge also shall be available to serve in the capacity of administrative law judge under chapter 17A, and the supreme court may assign a senior judge for temporary duties as an administrative law judge. A senior judge shall not be required to serve a period of time as an administrative law judge which, when added to the period of time being served by the person as a judge, if any, would exceed the maximum period of time the person agreed to serve pursuant to section 602.9203, subsection 2.

[C81, §605A.26]

83 Acts, ch 186, §10202(2)

CS83, §602.9206

88 Acts, ch 1109, §30; 90 Acts, ch 1271, §1512; 98 Acts, ch 1047, §62; 98 Acts, ch 1202, §43, 46; 2019 Acts, ch 24, §104; 2025 Acts, ch 101, §21

Referred to in §4.1, 602.1101, 602.9110

602.9207 Retirement of senior judge.

1. A senior judge shall cease to be a senior judge upon completion of the twelve-month period during which the judge attains senior judge retirement age. The clerk of the supreme court shall make a notation of the retirement of a senior judge in the roster of senior judges, at which time the senior judge shall become a retired senior judge.

2. A senior judge is subject to retirement under article 2, part 1 for the causes specified in section 602.2106, subsection 3, paragraph *"a"*. A senior judge may request and be granted retirement in the manner provided in section 602.9112. When a senior judge is retired as provided in this subsection the clerk of the supreme court shall make a notation of the

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retirement of the senior judge in the roster of senior judges, at which time the senior judge shall become a retired senior judge.

[C81, §605A.27]
83 Acts, ch 186, §10202(2)
CS83, §602.9207
2008 Acts, ch 1191, §153
Referred to in §602.1612, 602.9202, 602.9203

602.9208 Relinquishment of senior judgeship — removal for cause — retirement annuity.

1. A senior judge, at any time prior to the end of the twelve-month period during which the judge attains senior judge retirement age, may submit to the clerk of the supreme court a written request that the judge's name be stricken from the roster of senior judges. Upon the receipt of the request the clerk shall strike the name of the person from the roster of senior judges, at which time the person shall cease to be a senior judge. A person who relinquishes a senior judgeship as provided in this subsection may be assigned to temporary judicial duties as provided in section 602.1612.

2. A senior judge is subject to removal under the provisions of article 2, part 1 for any of the causes specified in section 602.2106, subsection 3, paragraph *"b"*. When a person is removed from a senior judgeship as provided in this subsection the clerk of the supreme court shall strike the name of the person from the roster of senior judges, at which time the person shall cease to be a senior judge.

3. A person who relinquishes a senior judgeship in the manner provided in subsection 1 or who is not reappointed shall be paid a retirement annuity that commences on the effective date of the relinquishment or the date of the completion of the term or appointment and shall be based upon the number of years the person served as a senior judge. A person who serves six or more years as a senior judge shall be paid a retirement annuity that is in an amount equal to the amount of the annuity the person is receiving on the effective date of the relinquishment or the date of the completion of the term or appointment in lieu of an amount determined according to section 602.9204. If the person serves less than six years as a senior judge, the person shall be paid a retirement annuity that is in an amount equal to an amount determined according to section 602.9107 added to an amount equal to the number of years the person served as a senior judge, divided by six, multiplied by the difference between the amount of the annuity the person is receiving on the effective date of the relinquishment and the amount determined according to section 602.9107. A person who is removed from a senior judgeship as provided in subsection 2 shall be paid a retirement annuity that commences on the effective date of the removal and is in an amount determined according to section 602.9107 in lieu of section 602.9204, and any service and annuity of the person as a senior judge is disregarded.

[C81, §605A.28]
83 Acts, ch 186, §10202(2)
CS83, §602.9208
84 Acts, ch 1234, §1; 95 Acts, ch 145, §5; 2008 Acts, ch 1191, §154
Referred to in §602.1612, 602.9115A, 602.9202, 602.9203, 602.9209

602.9209 Survivor's annuity.

1. A survivor of a senior judge, a retired senior judge, or a person who relinquished a senior judgeship under section 602.9208, subsection 1, shall be paid an annuity in lieu of that specified in section 602.9115, which is equal to one-half the amount of the annuity the senior judge, retired senior judge, or person who relinquished a senior judgeship was receiving at the time of death, provided the survivor is qualified under section 602.9115 to receive an annuity.

2. A survivor of a person whose name is stricken from the roster of senior judges because of removal from a senior judgeship under section 602.9208, subsection 2, shall be paid

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an annuity equal to one-half of the amount the person was receiving at the time of death, provided the survivor is qualified under section 602.9115 to receive an annuity.

[C81, §605A.29]
83 Acts, ch 186, §10202(2)
CS83, §602.9209
84 Acts, ch 1234, §2
Referred to in §602.9115A

PART 3

SENIOR MAGISTRATES

602.9301 Definitions.

As used in this part, unless the context otherwise requires:

1. *"Retired magistrate"* means a magistrate that has retired as a magistrate after serving not less than eight years and has attained the age of sixty-two, or a magistrate who has served at least twenty years prior to July 1, 2026. *"Retired magistrate"* does not include magistrates who are seeking reappointment.

2. *"Roster of senior magistrates"* means a roster maintained by the clerk of the supreme court under section 602.9302, subsection 5.

3. *"Senior magistrate"* means a magistrate who meets the requirements of section 602.9302 and who has not been retired or removed from the roster of senior magistrates under section 602.9305 or 602.9306.

4. *"Senior magistrate retirement age"* means eighty-four years of age, or if the senior magistrate is reappointed as a senior magistrate for an additional one-year term upon attaining eighty-four years of age, and then to a succeeding one-year term, pursuant to section 602.9302, eighty-six years of age.

5. *"Twelve-month period"* means each successive one-year period commencing on the date a retired magistrate becomes a senior magistrate and while the magistrate continues to be a senior magistrate.

2026 Acts, ch 1063, §28
NEW section

602.9302 Senior magistrate requirements — appointment and term.

1. A magistrate who qualifies under subsection 2 may become a senior magistrate by filing with the clerk of the supreme court a written election in the form specified by the supreme court. The election shall be filed within six months of the date of retirement.

2. A magistrate referred to in subsection 1 may be appointed, at the discretion of the supreme court, for a two-year term as senior magistrate if the magistrate meets all of the following requirements:

a. Retires from office on or after July 1, 2026, regardless of whether the magistrate is of mandatory retirement age.

b. Agrees in writing on a form prescribed by the supreme court to be available as long as the magistrate is a senior magistrate to perform judicial duties as assigned by the supreme court or chief judge of the senior magistrate's judicial district for service not to exceed an aggregate period of five weeks out of each successive twelve-month period.

c. Submits evidence to the satisfaction of the supreme court that, as of the date of retirement, the magistrate does not suffer from a permanent physical or mental disability which would substantially interfere with the performance of duties agreed to under paragraph *"b"*.

3. Prior to submitting an application to become a senior magistrate, the magistrate, the chief judge of the judicial district, the district court administrator, and the state court administrator may meet and discuss the magistrate's potential assignment together with the scope and parameters of the senior magistrate's service. If the magistrate decides to apply for senior magistrate, the magistrate can request the supreme court to give a preliminary determination as to whether the supreme court will approve the magistrate's application.

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4. The supreme court, in ruling on an application for senior magistrate, including reappointment of an applicant to an additional term, may consider any of the following factors:

a. A demonstration of the applicant's willingness and ability to undertake and complete all assigned work during the applicant's service as a senior magistrate.

b. A recommendation of the chief judge and court administrator made in consultation with other judges from the judicial election district where the applicant served as magistrate.

c. The Iowa state bar association's most recent judicial performance review for the applicant.

d. The applicant's monthly reports submitted pursuant to Iowa court rule 22.10.

e. The applicant's agreement to perform duties as scheduled and assigned by the chief judge of the judicial district or by the state court administrator.

f. The applicant's plans, if any, to regularly spend time or reside out of state.

g. The applicant's work or plans to work as an attorney, or as a mediator, arbitrator, or provider of other alternative dispute resolution services.

5. The clerk of the supreme court shall maintain a book entitled "Roster of Senior Magistrates", and shall enter in the book the name of each magistrate who files a timely election under subsection 1, qualifies under subsection 2, and is appointed by the supreme court. A person shall be a senior magistrate upon entry of the person's name in the roster of senior magistrates and until the person becomes a retired senior magistrate as provided in section 602.9305, or until the person's name is stricken from the roster of senior magistrates as provided in section 602.9306, or until the person dies.

6. *a.* A senior magistrate may be reappointed to additional two-year terms, at the discretion of the supreme court, if the judicial officer meets the requirements of subsection 2.

b. A senior magistrate may be reappointed to a one-year term upon attaining eighty-four years of age and to a succeeding one-year term, at the discretion of the supreme court, if the judicial officer meets the requirements of subsection 2.

2026 Acts, ch 1063, §29
Referred to in §602.1101, 602.9301, 602.9303
NEW section

602.9303 Senior magistrate salaries.

1. A magistrate who retires on or after July 1, 2026, and who is appointed a senior magistrate under section 602.9302, shall be paid a salary as determined pursuant to section 602.1401.

2. The senior magistrate shall be reimbursed for costs for which actively serving magistrates are reimbursed at the same rate.

3. The state shall provide and pay for medical insurance for senior magistrates at the same rate as is applicable to actively serving magistrates. A senior magistrate who elects to participate in medical insurance through the judicial branch shall make appropriate arrangements for the payment of the senior magistrate's share of medical insurance costs.

2026 Acts, ch 1063, §30; 2026 Acts, ch 1200, §70, 75
NEW section

602.9304 Practice of law.

A senior magistrate may practice law as provided under the Iowa code of judicial conduct.

2026 Acts, ch 1063, §31
NEW section

602.9305 Retirement of senior magistrate.

A senior magistrate shall cease to be a senior magistrate upon completion of the twelve-month period during which the magistrate attains senior magistrate retirement age. The clerk of the supreme court shall make a notation of the retirement of a senior magistrate in the roster of senior magistrates, at which time the senior magistrate shall become a retired senior magistrate.

2026 Acts, ch 1063, §32
Referred to in §602.9301, 602.9302
NEW section

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602.9306 Relinquishment of status as senior magistrate — removal for cause.

1. A senior magistrate, at any time prior to the end of the twelve-month period during which the magistrate attains senior magistrate retirement age, may submit to the clerk of the supreme court a written request that the magistrate's name be stricken from the roster of senior magistrates. Upon the receipt of the request, the clerk shall strike the name of the person from the roster of senior magistrates, at which time the person shall cease to be a senior magistrate.

2. A senior magistrate is subject to removal under article 2, part 1, for the causes specified in section 602.2106, subsection 3, paragraph *"a"*. When a person is removed as a senior magistrate as provided in this subsection, the clerk of the supreme court shall strike the name of the person from the roster of senior magistrates, at which time the person shall cease to be a senior magistrate.

2026 Acts, ch 1063, §33
Referred to in §602.9301, 602.9302
NEW section

602.9307 Rules.

The supreme court shall prescribe rules to implement this part.

2026 Acts, ch 1063, §34
NEW section

ARTICLE 10

ATTORNEYS AND COUNSELORS

Referred to in §252J.8, 272D.8, 556.2C, 556.11, 602.1209, 602.8102(93), 602.11101

See also Iowa Ct.R., ch 31 – 45

602.10101 Admission to practice.

The power to admit persons to practice as attorneys and counselors in the courts of this state, or any of them, is vested exclusively in the supreme court which shall adopt and promulgate rules to carry out the intent and purpose of this article.

[C97, §309, 315; S13, §315; C24, 27, 31, 35, 39, §**10907, 10918;** C46, 50, 54, 58, 62, 66, 71, 73, §610.1, 610.12; C75, 77, 79, 81, §610.1]

83 Acts, ch 186, §10202(2)
CS83, §602.10101
Referred to in §96.3
See Iowa Ct.R., ch 31

602.10102 Qualifications for admission.

Every applicant for such admission shall be a person of honesty, integrity, trustworthiness, truthfulness and one who appreciates and will adhere to a code of conduct for lawyers as adopted by the supreme court. The applicant shall have actually and in good faith pursued a regular course of study of the law and shall have graduated from some reputable law school. The application form shall not contain a recent photograph of the applicant. An applicant shall not be ineligible for registration because of age, citizenship, sex, race, religion, marital status or national origin although the application form may require citizenship information. The board may consider the past record of guilty pleas and convictions of public offenses of an applicant. Character references may be required; however, such references shall not be restricted to lawyers.

[C51, §1610; R60, §2700; C73, §208; C97, §310; S13, §310; C24, 27, 31, 35, 39, §**10908;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §610.2]

83 Acts, ch 186, §10202(2)
CS83, §602.10102
2019 Acts, ch 48, §1

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602.10103 Board of law examiners.

There is established a board of law examiners which shall consist of five persons admitted to practice law in this state and two persons not admitted to practice law in this state who shall represent the general public. Members shall be appointed by the supreme court. A member admitted to practice law shall be actively engaged in the practice of law in this state.

[S13, §311-a; C24, 27, 31, 35, 39, §**10910;** C46, 50, 54, 58, 62, 66, 71, 73, §610.4; C75, 77, 79, 81, §610.3]

83 Acts, ch 186, §10202(2)

CS83, §602.10103

602.10104 Examinations.

1. Every applicant shall be examined by the board concerning the applicant's learning and skill in the law. The sufficiency of the education of the applicant may be determined by written examination or in such other manner as the board shall prescribe. The board shall hold at least one meeting each year at the seat of government. Examinations shall be given as often as deemed necessary as determined by the court, but shall be conducted at least one time per year. All examinations in theory shall be in writing and the identity of the person taking the examination shall be concealed until after the examination papers have been graded. For examinations in practice, the identity of the person taking the examination shall also be concealed as far as possible.

2. An applicant who fails the examination once shall be allowed to take the examination at the next scheduled time. Thereafter, the applicant shall be allowed to take the examination at the discretion of the court. An applicant who has failed the examination may request in writing information from the court concerning the applicant's examination grade and subject areas or questions which the applicant failed to answer correctly, except that if the court administers a uniform, standardized examination, the court shall only be required to provide the examination grade and such other information concerning the applicant's examination results which are available to the court.

[C97, §311; S13, §311; C24, 27, 31, 35, 39, §**10909;** C46, 50, 54, 58, 62, 66, 71, 73, §610.3; C75, 77, 79, 81, §610.4]

83 Acts, ch 186, §10202(2)

CS83, §602.10104

2019 Acts, ch 24, §104

602.10105 Term of office.

Appointments shall be for three-year terms and shall commence on July 1 of the year in which the appointment is made. Vacancies shall be filled for the unexpired term by appointment of the supreme court. Members shall serve no more than three terms or nine years, whichever is less.

[S13, §311-a; C24, 27, 31, 35, 39, §**10911;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §610.5]

83 Acts, ch 186, §10202(2)

CS83, §602.10105

602.10106 Oath — compensation.

The members thus appointed shall take and subscribe an oath to be administered by one of the judges of the supreme court to faithfully and impartially discharge the duties of the office. The members shall, in addition to receiving actual and necessary expenses, set the per diem compensation for themselves and the temporary examiners appointed under section 602.10107 at a rate not exceeding the per diem specified in section 7E.6 for each day actually engaged in the discharge of their duties. The duties shall include the traveling to and from the place of examination, the preparation and conducting of examinations, and the reading

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of the examination papers. The per diem authorized under this section shall be reasonably apportioned in relation to the funds appropriated to the board.

[S13, §311-a; C24, 27, 31, 35, 39, §**10912;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §610.6]

83 Acts, ch 186, §10202(2)
CS83, §602.10106
90 Acts, ch 1256, §54

602.10107 Temporary appointments — expenses.

1. The supreme court may appoint from time to time, when necessary, temporary examiners to assist the board, who shall receive their actual and necessary expenses to be paid from funds appropriated to the board.

2. The members of the board authorized to grade examinations shall make the final decision on passage or failure of each applicant, subject to the rules of the supreme court. The board shall, also, recommend to the supreme court for admission to practice law in this state all applicants who pass the examination and who meet the requisite character requirements. The supreme court shall make the final decision in determining who shall be admitted.

[S13, §311-a; C24, 27, 31, 35, 39, §**10913;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §610.7]

83 Acts, ch 186, §10202(2)
CS83, §602.10107
2019 Acts, ch 24, §104
Referred to in §602.10106

602.10108 Fees — appropriation.

1. The supreme court shall set the fees for examination and for admission. The fees for examination shall be based upon the annual cost of administering the examinations. The fees for admission shall be based upon the costs of conducting an investigation of the applicant and the administrative costs of sustaining the board.

2. Fees shall be collected by the board and are appropriated to the judicial branch and shall be used to offset the costs of administering this article 10.

[S13, §311-b; C24, 27, 31, 35, 39, §**10914;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §610.8]

83 Acts, ch 186, §10202(2)
CS83, §602.10108
2010 Acts, ch 1159, §10; 2013 Acts, ch 45, §2

602.10109 Practitioners from other United States jurisdictions.

Any person who has been admitted to the bar of any other state in the United States, the District of Columbia, or a territory of the United States, may, in the discretion of the court, be admitted to practice in this state without examination or proof of a period of study. The person, in the application for admission to practice law in this state, in addition to all other requirements stated in this chapter, shall establish that the person has practiced law for five full years under license in such jurisdiction within the seven years immediately preceding the date of application and still holds a license to practice law. The teaching of law as a full-time instructor in a recognized law school in this state or some other state shall for the purpose of this section be deemed the practice of law. Any person who has discharged actual legal duties as a member of the armed services of the United States shall be deemed to have practiced law for the purposes of this section if certified to as such by the judge advocate general of the service. The court may charge an investigation fee based upon the cost of conducting the investigation as determined by the court.

[C97, §313; S13, §313; C24, 27, 31, 35, 39, §**10916;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §610.10]

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83 Acts, ch 186, §10202(2)
CS83, §602.10109
2019 Acts, ch 48, §2
See Iowa Ct.R. 31.12 and 31.13

602.10110 Oath or affirmation.

All persons on being admitted to the bar shall take an oath or affirmation, as promulgated by the supreme court, declaring to support the Constitutions of the United States and of the state of Iowa, and to faithfully discharge, according to the best of their ability, the duties of an attorney.

[C51, §1613; R60, §2703; C73, §208; C97, §314; C24, 27, 31, 35, 39, §**10917;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §610.11]

83 Acts, ch 186, §10202(2)
CS83, §602.10110
2005 Acts, ch 179, §76, 89

602.10111 Non-Iowa attorney — appointment of Iowa attorney.

Any member of the bar of another state, the District of Columbia, or a territory of the United States actually engaged in any cause or matter pending in any court of this state, may be permitted by such court to appear in and conduct such cause or matter, without being subject to this article; provided that at the time the attorney enters an appearance the attorney files with the clerk of such court the written appointment of some attorney admitted to practice in the state of Iowa, upon whom service may be had in all matters connected with said action, with the same effect as if personally made on such foreign attorney within this state. In case of failure to make such appointment, such attorney shall not be permitted to practice as provided in this section, and all papers filed by the attorney shall be stricken from the files.

[C51, §1612; R60, §2702; C73, §210; C97, §316; S13, §316; C24, 27, 31, 35, 39, §**10919;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §610.13]

83 Acts, ch 186, §10202(2)
CS83, §602.10111
2009 Acts, ch 133, §173; 2019 Acts, ch 48, §3
See Iowa Ct.R. 31.14

602.10112 Duties of attorneys and counselors. Repealed by 2005 Acts, ch 179, §79, 89.

602.10113 Deceit or collusion.

An attorney and counselor who is guilty of deceit or collusion, or consents thereto, with intent to deceive a court or judge or a party to an action or proceeding, is liable to be disbarred, and shall forfeit to the injured party treble damages to be recovered in a civil action.

[C51, §1615; R60, §2705; C73, §212; C97, §318; C24, 27, 31, 35, 39, §**10921;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §610.15]

83 Acts, ch 186, §10202(2)
CS83, §602.10113

602.10114 Authority.

An attorney and counselor has power to:

1. Execute in the name of a client a bond, or other written instrument, necessary and proper for the prosecution of an action or proceeding about to be or already commenced, or for the prosecution or defense of any right growing out of an action, proceeding, or final judgment rendered therein.

2. Bind a client to any agreement, in respect to any proceeding within the scope of the attorney's or counselor's proper duties and powers; but no evidence of any such agreement is receivable, except the statement of the attorney in person, the attorney's or counselor's written agreement signed and filed with the clerk, or an entry thereof upon the records of the court.

3. Receive money claimed by a client in an action or proceeding during the pendency thereof, or afterwards, unless the attorney or counselor has been previously discharged by the

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client, and, upon payment thereof, and not otherwise, to discharge the claim or acknowledge satisfaction of the judgment.

[C51, §1616; R60, §2706; C73, §213; C97, §319; C24, 27, 31, 35, 39, §**10922;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §610.16]

83 Acts, ch 186, §10202(2)

CS83, §602.10114

602.10115 Proof of authority.

The court may, on motion of either party and on the showing of reasonable grounds therefor, require the attorney for the adverse party, or for any one of the several adverse parties, to produce or prove by the attorney's own oath, or otherwise, the authority under which the attorney appears, and, until the attorney does so, may stay all proceedings by the attorney on behalf of the parties for whom the attorney assumes to appear.

[C51, §1617; R60, §2707; C73, §214; C97, §320; C24, 27, 31, 35, 39, §**10923;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §610.17]

83 Acts, ch 186, §10202(2)

CS83, §602.10115

602.10116 Attorney's lien — notice.

An attorney has a lien for a general balance of compensation upon:

1. Any papers belonging to a client which have come into the attorney's hands in the course of professional employment.
2. Money in the attorney's hands belonging to a client.
3. Money due a client in the hands of the adverse party, or attorney of such party, in an action or proceeding in which the attorney claiming the lien was employed, from the time of giving notice in writing to such adverse party, or attorney of such party, if the money is in the possession or under the control of such attorney, which notice shall state the amount claimed, and, in general terms, for what services.
4. After judgment in any court of record, such notice may be given, and the lien made effective against the judgment debtor, by entering the same in the judgment or combination docket, opposite the entry of the judgment.

[C51, §1618; R60, §2708; C73, §215; C97, §321; C24, 27, 31, 35, 39, §**10924;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §610.18]

83 Acts, ch 186, §10202(2)

CS83, §602.10116

Attorney as surety; §621.7, 636.5

602.10117 Release of lien by bond.

Any person interested may release such lien by executing a bond in a sum double the amount claimed, or in such sum as may be fixed by any district judge, payable to the attorney, with security to be approved by the clerk of the supreme or district court, conditioned to pay any amount finally found due the attorney for the attorney's services, which amount may be ascertained by suit on the bond.

[C51, §1619; R60, §2709; C73, §216; C97, §322; C24, 27, 31, 35, 39, §**10925;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §610.19]

83 Acts, ch 186, §10202(2)

CS83, §602.10117

602.10118 Automatic release.

Such lien will be released, unless the attorney, within ten days after demand therefor, files with the clerk a full and complete bill of particulars of the services and amount claimed for each item, or written contract with the party for whom the services were rendered.

[C73, §216; C97, §322; C24, 27, 31, 35, 39, §**10926;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §610.20]

83 Acts, ch 186, §10202(2)

CS83, §602.10118

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602.10119 Unlawful retention of money.

An attorney who receives the money or property of a client in the course of the attorney's professional business, and refuses to pay or deliver it in a reasonable time, after demand, is guilty of a theft and punished accordingly.

[C51, §1627; R60, §2717; C73, §224; C97, §330; C24, 27, 31, 35, 39, §**10927;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §610.21]

83 Acts, ch 186, §10202(2)

CS83, §602.10119

Referred to in §602.10120

602.10120 Excuse for nonpayment.

When the attorney claims to be entitled to a lien upon the money or property, the attorney is not liable to the penalties of section 602.10119 until the person demanding the money proffers sufficient security for the payment of the amount of the attorney's claim, when it is legally ascertained. Nor is the attorney in any case liable as aforesaid, provided the attorney gives sufficient security that the attorney will pay over the whole or any portion thereof to the claimant when the claimant is found entitled thereto.

[C51, §1628, 1629; R60, §2718, 2719; C73, §225, 226; C97, §331; C24, 27, 31, 35, 39, §**10928;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §610.22]

83 Acts, ch 186, §10202(2)

CS83, §602.10120

602.10121 Revocation of license.

The supreme court may revoke or suspend the license of an attorney to practice law in this state.

[C51, §1620; R60, §2710; C73, §217; C97, §323; C24, 27, 31, 35, 39, §**10929;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §610.23]

83 Acts, ch 186, §10202(2)

CS83, §602.10121

602.10122 Grounds of revocation.

The following are sufficient causes for revocation or suspension:

1. When the attorney has been convicted of a felony. The record of conviction is conclusive evidence.

2. When the attorney is guilty of a willful disobedience or violation of the order of the court, requiring the attorney to do or forbear an act connected with or in the course of the attorney's profession.

3. A willful violation of any of the duties of an attorney or counselor as prescribed in this article.

4. Doing any other act to which such a consequence is by law attached.

5. Soliciting legal business for the attorney or office, either by the attorney or representative. Nothing contained in this section shall be construed to prevent or prohibit listing in legal or other directories, law lists and other similar publications, or the publication of professional cards in any such lists, directories, newspapers or other publication.

[C51, §1621; R60, §2711; C73, §218; C97, §324; C24, 27, 31, 35, 39, §**10930;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §610.24]

83 Acts, ch 186, §10202(2)

CS83, §602.10122

2020 Acts, ch 1063, §323; 2021 Acts, ch 80, §354

602.10123 Proceedings.

The proceedings to remove or suspend an attorney may be commenced by the direction of the court or on the petition of any individual. In the former case, the court must direct some

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attorney to draw up the accusation; in the latter, the accusation must be drawn up and sworn to by the person making it.

[C51, §1622; R60, §2712; C73, §219; C97, §325; S13, §325; C24, 27, 31, 35, 39, §**10931;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §610.25]

83 Acts, ch 186, §10202(2)

CS83, §602.10123

93 Acts, ch 85, §4

602.10124 Costs.

If an action is commenced by direction of the court, the costs shall be taxed and disposed of as in criminal cases; provided that no allowance shall be made in such case for the payment of attorney fees.

[S13, §325; C24, 27, 31, 35, 39, §**10932;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §610.26]

83 Acts, ch 186, §10202(2)

CS83, §602.10124

602.10125 Attorney general — appropriateness of procedure — order for appearance.

If an action is commenced on the petition of an individual, the court shall notify and refer the matter to the attorney general. The attorney general, within thirty days of the referral, shall submit a report to the court concerning the appropriateness of bringing the action under this chapter. The court shall not proceed with consideration of the merits of the complaint until the report from the attorney general is received. If the court deems the accusation sufficient to justify further action, the court shall determine whether the complaint is more appropriately pursued under this chapter rather than the procedures established under Iowa court rules, ch. 35. If the court finds that proceeding under this chapter is more appropriate, it shall cause an order to be entered requiring the accused to appear and answer in the court where the accusation has been filed on the day fixed in the order, and shall cause a copy of the accusation and order to be served upon the accused personally.

[C51, §1623; R60, §2713; C73, §220; C97, §326; C24, §10933; C27, 31, 35, §10934-b1; C39, §**10934.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §610.27]

83 Acts, ch 101, §122; 83 Acts, ch 186, §10202(2)

CS83, §602.10125

93 Acts, ch 85, §5; 2006 Acts, ch 1010, §153

602.10126 Copy of accusation — duty of clerk.

The clerk of the district court shall immediately certify to the clerk of the supreme court a copy of the accusation.

[C27, 31, 35, §10934-b2; C39, §**10934.2;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §610.28]

83 Acts, ch 186, §10202(2)

CS83, §602.10126

602.10127 Notice to attorney general — duty.

Thereupon the chief justice of the supreme court shall notify the attorney general of such accusation and cause a copy thereof to be delivered to the attorney general, and it shall thereupon become the duty of the attorney general to superintend either through the attorney general's office, or through a special assistant to be designated by the attorney general, the prosecution of such charges.

[C27, 31, 35, §10934-b3; C39, §**10934.3;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §610.29]

83 Acts, ch 186, §10202(2)

CS83, §602.10127

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602.10128 Trial court.

The supreme court shall designate three district judges to sit as a court to hear and decide such charges.

[C27, 31, 35, §10934-b4; C39, §**10934.4;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §610.30]
83 Acts, ch 186, §10202(2)
CS83, §602.10128

602.10129 Time and place of hearing.

The hearing shall be at such time as the chief justice of the supreme court may designate, and shall be held within the county where the accusation was originally filed.

[C27, 31, 35, §10934-b5; C39, §**10934.5;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §610.31]
83 Acts, ch 186, §10202(2)
CS83, §602.10129

602.10130 Determination of issues.

The determination of all issues shall be heard before the said judges selected by the supreme court as herein provided for.

[C27, 31, 35, §10934-b6; C39, §**10934.6;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §610.32]
83 Acts, ch 186, §10202(2)
CS83, §602.10130

602.10131 Record and judgment.

The records and judgment at such trial shall constitute a part of the records of the district court in the county in which the accusations are originally filed.

[C27, 31, 35, §10934-b7; C39, §**10934.7;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §610.33]
83 Acts, ch 186, §10202(2)
CS83, §602.10131

602.10132 Pleadings — evidence — preservation.

To the accusation, the accused may plead or demur and the issues joined thereon shall in all cases be tried by said judges so selected and all of the evidence at such trial shall be reduced to writing, filed and preserved.

[C51, §1624; R60, §2714; C73, §221; C97, §327; C24, §10934; C27, 31, 35, §10934-b8; C39, §**10934.8;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §610.34]
83 Acts, ch 186, §10202(2)
CS83, §602.10132

602.10133 Costs and expenses.

The court costs incident to such proceedings and the reasonable expense of the judges in attending the hearing after being approved by the supreme court shall be paid as an expense authorized by the executive council from the appropriations addressed in section 7D.29.

[C27, 31, 35, §10934-b9; C39, §**10934.9;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §610.35]
83 Acts, ch 186, §10202(2)
CS83, §602.10133
2011 Acts, ch 131, §38, 158

602.10134 Plea of guilty or failure to plead.

If the accused pleads guilty, or fails to answer, the court shall proceed to render such judgment as the case requires.

[C51, §1625; R60, §2715; C73, §222; C97, §328; C24, 27, 31, 35, 39, §**10935;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §610.36]
83 Acts, ch 186, §10202(2)
CS83, §602.10134
2020 Acts, ch 1062, §63

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602.10135 Appeal.

In case of a removal or suspension being ordered, an appeal therefrom lies to the supreme court, and all the original papers, together with a transcript of the record, shall thereupon be transferred to the supreme court, to be there considered and finally acted upon. A judgment of acquittal by a court of record is final.

[C51, §1626; R60, §2716; C73, §223; C97, §329; C24, 27, 31, 35, 39, §**10936;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §610.37]

83 Acts, ch 186, §10202(2)

CS83, §602.10135

602.10136 Certification of judgment.

When a judgment has been entered in any court of record in the state revoking or suspending the license of any attorney at law to practice in the said court, the clerk of the court in which the judgment is rendered shall immediately certify to the clerk of the supreme court the order or judgment of the court in said cause.

[S13, §329-a; C24, 27, 31, 35, 39, §**10937;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §610.38]

83 Acts, ch 186, §10202(2)

CS83, §602.10136

602.10137 Renewals.

The right to practice law in this state shall be renewed in multiyear intervals by the supreme court upon such conditions as the court shall determine. Any moneys received from those persons admitted to practice law and which are designated for a client security fund or similar fund created by the supreme court shall be separately retained and administered by said court in accordance with rules promulgated by it.

[C75, 77, 79, 81, §610.45]

83 Acts, ch 186, §10202(2)

CS83, §602.10137

602.10138 Client security fund not an insurance company.

A client security fund established by the supreme court is not an insurance company and the insurance laws of this state and the rules of the commissioner of insurance are not applicable to such a client security fund.

[C75, 77, 79, 81, §610.46]

83 Acts, ch 186, §10202(2)

CS83, §602.10138

See Iowa Ct.R. 39.3

602.10139 Officers.

The board shall organize following its appointment and shall elect a chairperson and vice chairperson.

[S13, §311-a; C24, 27, 31, 35, 39, §**10910;** C46, 50, 54, 58, 62, 66, 71, 73, §610.4; C75, 77, 79, 81, §610.47]

83 Acts, ch 186, §10202(2)

CS83, §602.10139

602.10140 Public members.

The public members of the board shall be allowed to participate in the administrative, clerical, or ministerial functions incident to giving the examination, but shall not determine the content of the examination or determine the correctness of the answers. The public members shall participate in the determination of whether or not each applicant meets the requisite character requirements.

[C75, 77, 79, 81, §610.48]

83 Acts, ch 186, §10202(2)

CS83, §602.10140

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602.10141 Disclosure of confidential information.

1. A member of the board shall not disclose information relating to the following:

a. Criminal history or prior misconduct of the applicant.

b. Information relating to the contents of the examination.

c. Information relating to the examination results other than final score except for information about the results of an examination which is given to the person who took the examination.

2. A member of the board who willfully communicates or seeks to communicate such information, and any person who willfully requests, obtains, or seeks to obtain such information, is guilty of a simple misdemeanor.

[C75, 77, 79, 81, §610.49]
83 Acts, ch 186, §10202(2)
CS83, §602.10141
2013 Acts, ch 30, §261

ARTICLE 11

TRANSITION PROVISIONS

602.11101 Implementation by court component.

1. The state shall assume responsibility for components of the court system according to the following schedule:

a. On October 1, 1983, the state shall assume the responsibility for and the costs of jury fees and mileage as provided in section 607A.8 and on July 1, 1984, the state shall assume the responsibility for and the costs of prosecution witness fees and mileage and other witness fees and mileage assessed against the prosecution in criminal actions prosecuted under state law as provided in sections 622.69 and 622.72.

b. Court reporters shall become court employees on July 1, 1984. The state shall assume the responsibility for and the costs of court reporters on July 1, 1984.

c. Bailiffs who perform services for the court, other than law enforcement services, shall become court employees on January 1, 1985, and shall be called court attendants. The state shall assume the responsibility for and the costs of court attendants on January 1, 1985. Section 602.6601 takes effect on January 1, 1985.

d. (1) Juvenile probation officers shall become court employees on July 1, 1985. The state shall assume the responsibility for and the costs of juvenile probation officers on July 1, 1985.

(2) Until July 1, 1985, the county shall remain responsible for the compensation of juvenile court referees. Effective July 1, 1985, the state shall assume the responsibility for the compensation of juvenile court referees.

e. (1) Clerks of the district court shall become court employees on July 1, 1986. The state shall assume the responsibility for and the costs of the offices of the clerks of the district court on July 1, 1986. Persons who are holding office as clerks of the district court on July 1, 1986, are entitled to continue to serve in that capacity until the expiration of their respective terms of office. The district judges of a judicial election district shall give first and primary consideration for appointment of a clerk of the district court to serve the court beginning in 1989 to a clerk serving on and after July 1, 1986, until the expiration of the clerk's elected term of office. A vacancy in the office of clerk of the district court occurring on or after July 1, 1986, shall be filled as provided in section 602.1215.

(2) (a) Until July 1, 1986, the county shall remain responsible for the compensation of and operating costs for court employees not presently designated for state financing and for miscellaneous costs of the judicial branch related to furnishings, supplies, and equipment purchased, leased, or maintained for the use of judicial officers, referees, and their staff.

(b) Effective July 1, 1986, except as provided in subparagraph division (c) or (d), as applicable, the state shall assume the responsibility for the compensation of and operating costs for court employees presently designated for state financing and for miscellaneous costs of the judicial branch related to furnishings, supplies, and equipment purchased,

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leased, or maintained for the use of judicial officers, referees, and their staff. However, the county shall at all times remain responsible for the provision of suitable courtrooms, offices, and other physical facilities pursuant to section 602.1303, subsection 1, including paint, wall covering, and fixtures in the facilities.

(c) Effective July 1, 2023, except as provided in subparagraph division (d), if a county expends moneys for the renovation or construction of suitable courtrooms, offices, and other physical facilities pursuant to section 602.1303, that requires the purchase of furnishings, supplies, and equipment for the use of judicial officers, referees, and their staff as a result of that renovation or construction, the state shall be responsible for only seventy-five percent of the cost of the purchase.

(d) Effective July 1, 2025, the state is not responsible for the cost of furnishings purchased, leased, or maintained for the use of judicial officers, referees, and their staff in physical facilities described in section 602.1303, subsection 1.

(3) Until July 1, 1986, the county shall remain responsible for the compensation of and operating costs for probate referees and judicial hospitalization referees and their staffs. Effective July 1, 1986, the state shall assume the responsibility for the compensation of and operating costs for probate referees and judicial hospitalization referees and their staffs.

(4) Until July 1, 1986, the county shall remain responsible for necessary fees and costs related to certain court reporters. Effective July 1, 1986, the state shall assume the responsibility for necessary fees and costs related to certain court reporters.

f. The county shall remain responsible for the court-ordered costs of conciliation procedures under section 598.16.

2. *a.* For the period beginning July 1, 1983, and ending June 30, 1987, the provisions of division I of 1983 Iowa Acts, ch. 186, articles 1 through 10 of this chapter, take effect only to the extent that the provisions do not conflict with the scheduled state assumption of responsibility for the components of the court system, and the amendments and repeals of divisions II and III of 1983 Iowa Acts, ch. 186, take effect only to the extent necessary to implement that scheduled state assumption of responsibility. If an amendment or repeal to a Code section in division II or III of 1983 Iowa Acts, ch. 186, is not effective during the period beginning July 1, 1983, and ending June 30, 1987, the Code section remains in effect for that period. On July 1, 1987, 1983 Iowa Acts, ch. 186, takes effect in its entirety.

b. However, if the state does not fully assume the costs for a fiscal year of a component of the court system in accordance with the scheduled assumption of responsibility, the state shall not assume responsibility for that component, and the schedule of state assumption of responsibility shall be delayed. The delayed schedule of state assumption of responsibility shall again be followed for the fiscal year in which the state fully assumes the costs of that component. For the fiscal year for which the state's assumption of the responsibility for a court component is delayed, the clerk of the district court shall not reduce the percentage remittance to the counties from the court revenue distribution account under section 602.8108. The clerk shall resume the delayed schedule of reductions in county remittances for the fiscal year in which the state fully assumes the costs of that court component. If the schedules of state assumption of responsibility and reductions in county remittances are delayed, the transition period beginning July 1, 1983, and ending June 30, 1987, is correspondingly lengthened, and 1983 Iowa Acts, ch. 186, takes effect in its entirety only at the end of the lengthened transition period.

3. The supreme court shall prescribe temporary rules, prior to the dates on which the state assumes responsibility for the components of the court system, as necessary to implement the administrative and supervisory provisions of 1983 Iowa Acts, ch. 186, and as necessary to determine the applicability of specific provisions of 1983 Iowa Acts, ch. 186, in accordance with the scheduled state assumption of responsibility for the components of the court system.

83 Acts, ch 186, §10201, 10301; 84 Acts, ch 1301, §15; 85 Acts, ch 197, §29 – 31; 86 Acts, ch 1108, §8; 86 Acts, ch 1111, §1; 98 Acts, ch 1047, §63, 64; 2007 Acts, ch 126, §100; 2013 Acts, ch 90, §172; 2014 Acts, ch 1026, §127, 143; 2022 Acts, ch 1150, §18; 2025 Acts, ch 167, §17

Referred to in §602.1302, 602.11102

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602.11102 Accrued employee rights.

1. Persons who were paid salaries by the counties or judicial districts immediately prior to becoming state employees as a result of this chapter shall not forfeit accrued vacation, accrued sick leave, or longevity, except as provided in this section.

2. As a part of its rulemaking authority under section 602.11101, the supreme court, after consulting with the state comptroller, shall prescribe rules to provide for the following:

a. Each person referred to in subsection 1 shall have to the person's credit as a state employee commencing on the date of becoming a state employee the number of accrued vacation days that was credited to the person as a county employee as of the end of the day prior to becoming a state employee.

b. Each person referred to in subsection 1 shall have to the person's credit as a state employee commencing on the date of becoming a state employee the number of accrued days of sick leave that was credited to the person as a county employee as of the end of the day prior to becoming a state employee. However, the number of days of sick leave credited to a person under this subsection and eligible to be taken when sick or eligible to be received upon retirement shall not respectively exceed the maximum number of days, if any, or the maximum dollar amount as provided in section 70A.23 that state employees generally are entitled to accrue or receive according to rules in effect as of the date the person becomes a state employee.

c. Commencing on the date of becoming a state employee, each person referred to in subsection 1 is entitled to claim the person's most recent continuous period of service in full-time county employment as full-time state employment for purposes of determining the number of days of vacation which the person is entitled to earn each year. The actual vacation benefit, including the limitation on the maximum accumulated vacation leave, shall be determined as provided in section 70A.1 according to rules in effect for state employees of comparable longevity, irrespective of any greater or lesser benefit as a county employee.

d. Notwithstanding paragraphs "*b*" and "*c*", for the period beginning July 1, 1984, and ending June 30, 1986, court reporters who become state employees as a result of this chapter are not subject to the sick leave and vacation accrual limitations generally applied to state employees. However, court reporters are subject to the maximum dollar limitation upon retirement as provided in section 70A.23.

83 Acts, ch 186, §10201, 10302; 85 Acts, ch 195, §57; 85 Acts, ch 197, §32

602.11103 Life, health, and disability insurance.

1. Persons who were covered by county employee life insurance and accident and health insurance plans prior to becoming state employees as a result of this chapter shall be permitted to apply prior to becoming state employees for life insurance and health and accident insurance plans that are available to state employees so that those persons do not suffer a lapse of insurance coverage as a result of this chapter. The supreme court, after consulting with the state comptroller, shall prescribe rules and distribute application forms and take other actions as necessary to enable those persons to elect to have insurance coverage that is in effect on the date of becoming state employees. The actual insurance coverage available to a person shall be determined by the plans that are available to state employees, irrespective of any greater or lesser benefits as a county or judicial district employee.

2. Commencing on the date of becoming a state employee, each person referred to in this section is entitled to claim the person's most recent continuous period of service in full-time county or judicial district employment as full-time state employment for purposes of determining disability benefits as provided in section 70A.20 according to rules in effect for state employees of comparable longevity, irrespective of any greater or lesser benefit as a county or judicial district employee.

83 Acts, ch 186, §10201, 10303; 85 Acts, ch 197, §33; 2019 Acts, ch 24, §104

602.11104 Reserved.

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602.11105 Hiring moratorium.

1. Commencing one year prior to each category of employees becoming state employees as a result of 1983 Iowa Acts, ch. 186, new employees shall not be hired and vacancies shall not be filled, except as provided in subsection 2, with respect to any of the following agencies or positions:

a. Offices of the clerks of the district court.

b. District court administrators.

c. Juvenile probation offices.

d. Court reporters.

e. Any other position of employment that is supervised by a district court judicial officer or by a person referred to or employed in an office referred to in paragraph *"a"*, *"b"*, *"c"*, or *"d"*.

2. A new employee position or vacancy that is subject to subsection 1 may be filled upon approval by the chief judge of the judicial district. The employer seeking to fill the new position or vacancy shall submit a request to the chief judge in the form prescribed by the supreme court, and shall be governed by the decision of the chief judge. The chief judge shall obtain the advice of the district judges of the judicial district respecting decisions to be made under this subsection.

83 Acts, ch 186, §10201, 10305; 2014 Acts, ch 1092, §133

602.11106 Employee reclassification moratorium.

Commencing one year prior to county employees becoming state employees as a result of 1983 Iowa Acts, ch. 186, the county employees shall not be promoted or demoted, and shall not be subject to a reduction in salary or a reduction in other employee benefits, except after approval by the chief judge of the judicial district. An employer wishing to take any of these actions shall apply to the chief judge in a writing that discloses the proposed action, the reasons for the action, and the statutory or other authority for the action. The chief judge shall not approve any proposed action that is in violation of an employee's rights or that is extraordinary when compared with customary practices and procedures of the employer. The chief judge shall obtain the advice of the district judges of the judicial district respecting decisions to be made under this section.

83 Acts, ch 186, §10201, 10306; 2014 Acts, ch 1092, §134

602.11107 Court property.

1. Commencing on the date when each category of employees becomes state employees as a result of 1983 Iowa Acts, ch. 186, public property referred to in subsection 2 that on the day prior to that date is in the custody of a person or agency referred to in subsection 3 shall not become property of the judicial branch but shall be devoted for the use of the judicial branch in its course of business. The judicial branch shall only be responsible for maintenance contracts or contracts for purchase entered into by the judicial branch. Upon replacement of the property by the judicial branch, the property shall revert to the use of the appropriate county. However, if the property is personal property of a historical nature, the property shall not become property of the judicial branch, and the county shall make the property available to the judicial branch for the judicial branch's use within the county courthouse until the court no longer wishes to use the property, at which time the property shall revert to the use of the appropriate county.

2. This section applies to the following property:

a. Books, accounts and records that pertain to the operation of the district court.

b. Forms, materials, and supplies that are consumed in the usual course of business.

c. Tables, chairs, desks, lamps, curtains, window blinds, rugs and carpeting, flags and flag standards, pictures and other wall decorations, and other similar furnishings.

d. Typewriters, adding machines, desk calculators, cash registers and similar business machines, reproduction machines and equipment, microfiche projectors, tape recorders and associated equipment, microphones, amplifiers and speakers, film projectors and screens, overhead projectors, and similar personal property.

e. Filing cabinets, shelving, storage cabinets, and other property used for storage.

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f. Books of statutes, books of ordinances, books of judicial decisions, and reference books, except those that are customarily held in a law library for use by the public.

g. All other personal property that is in use in the operation of the district court.

3. This section applies to the following persons and agencies:

a. Clerks of the district court.

b. Judicial officers.

c. District court administrators.

d. Juvenile probation officers.

e. Court reporters.

f. Persons who are employed by a person referred to in paragraphs "*a*" through "*e*".

4. Subsections 1 through 3 and 5 do not apply to electronic data storage equipment, commonly referred to as computers, or to computer terminals or any machinery, equipment, or supplies used in the operation of computers. Those counties that were providing computer services to the district court shall continue to provide these services until the general assembly provides otherwise. The state shall reimburse these counties for the cost of providing these services. Each county providing computer services to the district court shall submit a bill for these services to the supreme court at the end of each calendar quarter. Reimbursement shall be payable from funds appropriated to the supreme court for operating expenses of the district court, and shall be paid within thirty days after receipt by the supreme court of the quarterly billing.

5. Personal property of a type that is subject to subsections 1 through 3 shall be subject to the control of the chief judge of the judicial district commencing on the date when each category of employees becomes state employees as a result of 1983 Iowa Acts, ch. 186. On and after that date the chief judge of the judicial district may issue necessary orders to preserve the use of the property by the district court. Commencing on that date, the chief judge, subject to the direction of the supreme court, shall establish and maintain an inventory of property used by the district court.

83 Acts, ch 186, §10201, 10307; 98 Acts, ch 1047, §65; 2014 Acts, ch 1092, §135

602.11108 Collective bargaining.

1. A person who becomes a state employee as a result of this chapter is a public employee, as defined in section 20.3, subsection 9, for purposes of chapter 20. The person may bargain collectively on and after July 1, 1983, as provided by law for a court employee. However, if the person is subject to a collective bargaining agreement negotiated prior to July 1, 1983, the person is entitled to the rights and benefits obtained by the person pursuant to that contract after July 1, 1983, until that contract expires. If the person is subject to a collective bargaining agreement negotiated by a public employer other than the state court administrator on or after July 1, 1983, the person is not entitled to any rights or benefits obtained by the person pursuant to that contract after becoming a state employee.

2. Commencing one year prior to each category of employees becoming state employees as a result of this chapter, the state court administrator shall assume the position of public employer of those employees of that category for the sole purpose of negotiating a collective bargaining agreement with those employees to be effective upon the date those employees became state employees as a result of this chapter.

83 Acts, ch 186, §10201, 10308; 85 Acts, ch 197, §34; 2019 Acts, ch 24, §104

602.11109 Reserved.

602.11110 Judgeships for election districts 5A and 5C. Repealed by 2025 Acts, ch 101, §6.

602.11111 Judicial nominating commissions for election districts 5A and 5C.

The membership of district judicial nominating commissions for judicial election districts 5A and 5C shall be as provided in chapter 46, subject to the following transition provisions:

1. Those judicial nominating commissioners of judicial election district 5A who are residents of Polk county shall be disqualified from serving in election district 5A on January

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1, 1985, and their offices shall be deemed vacant. The vacancies thus created shall be filled as provided in section 46.5 for the remainder of the unexpired terms.

2. After January 1, 1985, the governor shall appoint five eligible electors of judicial election district 5C to the district judicial nominating commission for terms commencing immediately upon appointment. Two of the appointees shall serve terms ending January 31, 1988, two of the appointees shall serve terms ending January 31, 1990, and the remaining appointee shall serve a term ending January 31, 1992, as determined by the governor. At the end of these terms and each six years thereafter the governor shall appoint commissioners pursuant to section 46.3.

3. After January 1, 1985, elective judicial nominating commissioners for judicial election district 5C shall be elected as provided in chapter 46 to terms of office commencing immediately upon election. One of those elected shall serve a term ending January 31, 1988, two shall serve terms ending January 31, 1990, and two shall serve terms ending January 31, 1992, as determined by the drawing of lots by the persons elected. At the end of these terms and every six years thereafter elective commissioners shall be elected pursuant to chapter 46.

83 Acts, ch 186, §10201, 10311

602.11112 Fifth judicial election district.

The provisions of section 602.6109, Code 2003, relating to the division of the fifth judicial district into judicial election districts 5A, 5B, and 5C take effect January 1, 1985.

83 Acts, ch 186, §10201, 10312; 2004 Acts, ch 1086, §97

602.11113 Bailiffs employed as court attendants.

Persons who were employed as bailiffs and who were performing services for the court, other than law enforcement services, immediately prior to July 1, 1983, shall be employed by the district court administrators as court attendants under section 602.6601 on July 1, 1983.

83 Acts, ch 186, §10201, 10313; 2015 Acts, ch 30, §177; 2015 Acts, ch 138, §48, 161, 162

602.11114 Temporary service by certain retired judicial magistrates.

Persons who retired before January 1, 1981, and who were judicial magistrates at the time of retirement and who meet the qualifications of a district associate judge are considered to be district associate judges for the purposes of section 602.1612.

83 Acts, ch 186, §10201, 10314

602.11115 District associate judges' retirement.

If a full-time judicial magistrate who became a district associate judge on January 1, 1981, pursuant to statute or a person who was appointed a district associate judge between January 1, 1981, and June 30, 1984, is a member of the Iowa public employees' retirement system on June 30, 1984, the district associate judge may elect, by informing the state court administrator by June 30, 1984, one of the following retirement benefit options to be effective July 1, 1984:

1. To remain covered under the Iowa public employees' retirement system pursuant to chapter 97B.

2. To commence coverage under the judicial retirement system pursuant to article 9, part 1, effective July 1, 1984, but to become an inactive member of the Iowa public employees' retirement system pursuant to chapter 97B and remain eligible for benefits under sections 97B.49A through 97B.49H for the period of membership service under chapter 97B.

3. To commence coverage under the judicial retirement system pursuant to article 9, part 1, retroactive to the date the district associate judge became a district associate judge or a full-time judicial magistrate, whichever was earlier, and to cease to be a member of the Iowa public employees' retirement system, effective July 1, 1984. The department of personnel shall transmit by January 1, 1985, to the state court administrator for deposit in the judicial retirement fund the district associate judge's accumulated contributions as defined in section 97B.1A, subsection 2 for the judge's period of membership service as a district associate judge or full-time judicial magistrate, or both. Before July 1, 1986, or at retirement previous

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to that date, a district associate judge who becomes a member of the judicial retirement system pursuant to this subsection shall contribute to the judicial retirement fund an amount equal to the difference between four percent of the district associate judge's total basic salary for the entire period of service before July 1, 1984, as a district associate judge or judicial magistrate, or both, and the district associate judge's accumulated contributions transmitted by the department of personnel to the state court administrator pursuant to this subsection. The district associate judge's contribution shall not be limited to the amount specified in section 602.9104, subsection 1. The state court administrator shall credit a district associate judge with service under the judicial retirement system for the period of service for which contributions at the four percent level are made.

84 Acts, ch 1285, §28; 98 Acts, ch 1183, §73, 82; 2003 Acts, ch 145, §286; 2004 Acts, ch 1086, §98

Referred to in §602.1611

602.11116 Associate juvenile judges and associate probate judges — retirement.

If a full-time associate juvenile judge or full-time associate probate judge is a member of the Iowa public employees' retirement system on June 30, 1998, the associate juvenile judge or associate probate judge shall elect, by informing the state court administrator by June 30, 1998, one of the following retirement benefit options to be effective July 1, 1998:

1. To remain a member under the Iowa public employees' retirement system pursuant to chapter 97B.

2. To commence membership under the judicial retirement system pursuant to article 9, part 1, effective July 1, 1998, but to become an inactive member of the Iowa public employees' retirement system pursuant to chapter 97B and remain eligible for benefits under sections 97B.49A through 97B.49H, as applicable, for the period of membership service under chapter 97B.

3. To commence membership under the judicial retirement system pursuant to article 9, part 1, retroactive to the date the associate juvenile judge or associate probate judge became an associate juvenile judge or associate probate judge, and to cease to be a member of the Iowa public employees' retirement system, effective July 1, 1998. The department of personnel shall transmit by January 1, 1999, to the state court administrator for deposit in the judicial retirement fund the associate juvenile judge's or associate probate judge's accumulated contributions as defined in section 97B.1A, subsection 2, for the judge's period of membership service as an associate juvenile judge or associate probate judge. Before July 1, 2000, or at retirement previous to that date, an associate juvenile judge or associate probate judge who becomes a member of the judicial retirement system pursuant to this subsection shall contribute to the judicial retirement fund an amount equal to the difference between four percent of the associate juvenile judge's or associate probate judge's total salary received for the entire period of service before July 1, 1998, as an associate juvenile judge or associate probate judge, and the associate juvenile judge's or associate probate judge's accumulated contributions transmitted by the department of personnel to the state court administrator pursuant to this subsection. The associate juvenile judge's or associate probate judge's contribution shall not be limited to the amount specified in section 602.9104, subsection 1. The state court administrator shall credit an associate juvenile judge or associate probate judge with service under the judicial retirement system for the period of service for which contributions at the four percent level are made.

98 Acts, ch 1183, §103, 104; 2003 Acts, ch 145, §286; 2005 Acts, ch 3, §104

Referred to in §602.1611

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CHAPTERS 603 to 607

RESERVED

CHAPTER 607A

JURIES

Referred to in §602.1209, 602.6809, 602.8102(92)

See also R.C.P. 1.915 – 1.917 and R.Cr.P. 2.18

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607A.45 Employer prohibited from penalizing employee — penalty — action for lost wages.
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607A.47 Juror questionnaire.
607A.48 Public access to juror information.

607A.1 Declaration of policy.

It is the policy of this state that all persons be selected at random from a fair cross section of the population of the area served by the court, and that a person shall have both the opportunity in accordance with the provisions of law to be considered for jury service in this state and the obligation to serve as a juror when selected.

86 Acts, ch 1108, §9

607A.2 Prohibition of discrimination.

A person shall not be excluded from jury service or from consideration for jury service in this state on account of age if the person is eighteen years of age or older, race, creed, color, sex, national origin, religion, economic status, physical disability, or occupation.

86 Acts, ch 1108, §10

607A.3 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Clerk"* means clerk of the district court or the clerk's designee.
2. *"Court"* means the district court of this state and includes, when the context requires, a judicial officer as defined in section 602.1101.
3. *"Electronic data processing system"* means an electronic jury management system as designated by the state court administrator.

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4. *"Identification"* means the random drawing of names in a manner immune to any subjective bias so that no recognizable class of the population from which names are being randomly drawn can be purposefully included or excluded.

5. *"Juror"* means any person identified for service on either the grand or petit jury who attends court when originally instructed to report or is deferred to a future date uncertain, or is on-call and available to report to court when so needed and so requested by the court.

6. *"Jury pool"* means the sum total of prospective jurors reporting for service.

7. *"Jury wheel"* means a physical device or electronic data processing system for storage of the names and addresses or identifying numbers of prospective jurors.

8. *"Master jury list"* means the list of names taken from the source lists for possible jury service.

9. *"Motor vehicle operators list and nonoperators identification list"* means the official records maintained by the state of the names and addresses of those individuals in the respective counties retaining valid motor vehicle driver's licenses or nonoperator's identification cards.

10. *"Panel"* means those jurors drawn or assigned for service to a courtroom, judge, or trial.

11. *"Person with a disability"* means a person who is not physically able to operate a motor vehicle or use public transportation without assistance due to a physical disability.

12. *"Source lists"* means the voter registration list, the motor vehicle operators list, the nonoperators identification list, and other comprehensive lists of persons residing in a county as identified pursuant to section 607A.22.

13. *"Term of service"* means the period of time a juror is requested to serve.

14. *"Voter registration list"* means the official records maintained by the state of names and addresses of persons registered to vote.

86 Acts, ch 1108, §11; 87 Acts, ch 85, §1, 2; 90 Acts, ch 1233, §37; 96 Acts, ch 1163, §1; 96 Acts, ch 1219, §31; 2017 Acts, ch 133, §10 – 12

Referred to in §720.4

607A.4 Jury service — minimum qualifications — disqualification — documentation.

1. To serve or to be considered for jury service, a person must possess the following minimum qualifications:

a. Be eighteen years of age or older.

b. Be a citizen of the United States.

c. Be able to understand the English language in a written, spoken, or manually signed mode.

d. Be able to receive and evaluate information such that the person is capable of rendering satisfactory jury service.

2. A person possessing the minimum qualifications for service or consideration for service may be disqualified for service or consideration for service if the person has, directly or indirectly, requested to be placed on a list for jury service.

3. A person convicted of a felony who remains under the supervision of the department of corrections, a judicial district department of correctional services, or the board of parole shall be disqualified from jury service.

4. A person convicted of a felony who is currently registered as a sex offender under chapter 692A or who is required to serve a special sentence under chapter 903B shall be disqualified from jury service.

5. A person who claims disqualification for any of the grounds identified in this section may, upon the person's own volition, or shall, upon the court's volition, submit in writing to the court's satisfaction, documentation that verifies disqualification from jury service.

86 Acts, ch 1108, §12; 2023 Acts, ch 98, §5

Referred to in §48A.30

607A.5 Automatic excuse from jury service.

A person shall be excused from jury service if the person submits written documentation verifying, to the court's satisfaction, that the person is solely responsible for the daily care of a

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person with a permanent disability living in the person's household and that the performance of juror service would cause substantial risk of injury to the health of the person with a disability, or that the person is the mother of a breastfed child and is responsible for the daily care of the child. However, if the person is regularly employed at a location other than the person's household, the person shall not be excused under this section.

86 Acts, ch 1108, §13; 94 Acts, ch 1196, §22; 96 Acts, ch 1129, §104

607A.6 Discretionary excuse from jury service.

The court may defer a term of grand or petit juror service upon a finding of hardship, inconvenience, or public necessity; however the juror may be required to serve at a later date established by the court. The court may excuse a person from grand juror service, considering the length of grand juror service, in part or in full, upon a finding that such service would threaten the person's economic, physical, or emotional well-being, or the well-being of another person who is dependent upon the person, or other similar findings of extreme hardship. The courts shall exercise this authority strictly. However, in exercising this authority the court shall allow the employer of the person being asked to serve to give testimony in support of a request by the person for deferral or excuse. The court may dismiss a juror at any time in the interest of justice.

86 Acts, ch 1108, §14

607A.7 False excuse — prohibited requests — penalty.

A person who knowingly makes a false affidavit, statement, or claim, for the purpose of relieving the person or another person from juror service, or a person who requests the court to select the person as a juror for a particular case, commits contempt.

86 Acts, ch 1108, §15

607A.8 Fees and expenses for jurors.

1. A grand juror and a petit juror in all courts shall receive thirty dollars as compensation for each day's service or attendance, including attendance required for the purpose of being considered for service. The supreme court may adopt rules that allow additional compensation for jurors whose attendance and service exceeds seven days.

2. A grand juror and a petit juror in all courts shall receive reimbursement for mileage expenses at the rate specified by the supreme court for each mile traveled each day to and from the residence of the juror to the place of service or attendance, and shall receive reimbursement for actual expenses of parking, as determined by the clerk of the district court. A juror who is a person with a disability may receive reimbursement for the costs of alternate transportation from the residence of the juror to the place of service or attendance. A juror shall not receive reimbursement for mileage expenses or actual expenses of parking when the juror travels in a vehicle for which another juror is receiving reimbursement for mileage and parking expenses.

3. A grand juror or a petit juror in all courts may waive the right of the juror to receive compensation under subsection 1 or reimbursement under subsection 2.

86 Acts, ch 1108, §16; 96 Acts, ch 1163, §2; 96 Acts, ch 1219, §32; 2005 Acts, ch 171, §8; 2007 Acts, ch 210, §4; 2010 Acts, ch 1159, §11

Referred to in §602.11101

607A.9 through 607A.19 Repealed by 2017 Acts, ch 133, §25.

607A.20 Jury manager.

The chief judge of the judicial district shall appoint an individual to serve as the jury manager for each county in that district. A jury manager shall be responsible for the implementation of this chapter for the jury manager's county and shall assist the state court administrator in implementing this chapter. A jury manager shall retain proper records to document, as directed by the chief judge or state court administrator, that the procedures used to randomly identify prospective jurors meet the requirements of this chapter.

86 Acts, ch 1108, §28; 2017 Acts, ch 133, §13

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607A.21 Master jury list.

The electronic data processing system shall create a master jury list by merging all of the names from the source lists and removing duplicative entries. The state court administrator shall ensure the electronic data processing system updates the master jury lists from the source list at least once every year. The names entered in the master jury lists constitute the grand and petit master jury lists, from which grand and petit jurors shall be identified.

86 Acts, ch 1108, §29; 87 Acts, ch 85, §5; 2017 Acts, ch 133, §14

607A.22 Use of source lists — information provided.

1. The state court administrator shall ensure the following source lists are merged in the electronic data processing system when preparing grand and petit master jury lists:

a. The current voter registration list.

b. The current motor vehicle operators list and nonoperators identification list.

2. A jury manager may use any other current comprehensive list of persons residing in the county which the state court administrator or the jury manager determines are useable for the purpose of a juror source list.

3. The applicable state and local government officials shall furnish, upon request, the state court administrator or the jury manager with copies of lists necessary for the formulation of source lists at no cost.

86 Acts, ch 1108, §30; 87 Acts, ch 85, §6; 92 Acts, ch 1093, §1; 2013 Acts, ch 30, §184; 2017 Acts, ch 133, §15

Referred to in §607A.3

607A.23 Judicial division of county.

In counties which are divided for judicial purposes, and in which court is held at more than one place, each division shall be treated as a separate county, and the grand and petit jurors, selected to serve in the respective courts, shall be drawn from the division of the county in which the court is held and at which the persons are required to serve.

86 Acts, ch 1108, §31

607A.24 Certification. Repealed by 2017 Acts, ch 133, §25.

607A.25 Storing and security of master jury lists.

The master jury lists shall be stored in the electronic data processing system, and shall be accessible to only the state court administrator or state court administrator's designee, or the jury manager or jury manager's designee.

86 Acts, ch 1108, §33; 2017 Acts, ch 133, §16

607A.26 Preservation of records.

The clerk or jury manager shall preserve all records and lists compiled and maintained in connection with the identification and service of jurors for four years, or for any longer period ordered by the state court administrator or chief judge of the judicial district.

86 Acts, ch 1108, §34; 2017 Acts, ch 133, §17

607A.27 Preparation for drawing of panels. Repealed by 2017 Acts, ch 133, §25.

607A.28 Ballot boxes — sealed and custody — security of programs. Repealed by 2017 Acts, ch 133, §25.

607A.29 Length of service.

In any two-year period, a person shall not be required:

1. To serve or attend court for prospective juror service for more than a term of service ordered by the court, not to exceed three months, unless necessary to complete service in a particular case.

2. To serve on more than one grand jury.

3. To serve or attend as both a grand and a petit juror.

86 Acts, ch 1108, §37

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607A.30 Drawing of jury pools.

1. At times necessary for the identification of grand and petit jurors, the jury manager shall arrange for the electronic data processing system to draw the necessary number of grand and petit jurors from the master jury list.

2. The chief judge of the judicial district may by order prescribe the time for the drawing by the jury manager.

3. The jurors identified constitute the jury pool and shall be notified by the clerk or jury manager by regular mail when called.

86 Acts, ch 1108, §38; 2017 Acts, ch 133, §18

607A.31 Notice of drawing. Repealed by 2017 Acts, ch 133, §25.

607A.32 Absence of commissioner. Repealed by 2017 Acts, ch 133, §25.

607A.33 Electronic data processing system — identifying jurors.

The designated electronic data processing system shall be used for the identification of jurors.

86 Acts, ch 1108, §41; 2017 Acts, ch 133, §19
Referred to in §607A.35

607A.34 Resealing of box. Repealed by 2017 Acts, ch 133, §25.

607A.35 Notice to report.

After the jurors have been identified in the manner provided in section 607A.33, and immediately upon the request of the court, the clerk shall issue a notice to report, by regular mail, to the persons identified to appear at the courthouse at times as the court prescribes, for service as petit or grand jurors.

86 Acts, ch 1108, §43; 2017 Acts, ch 133, §20; 2018 Acts, ch 1026, §168

607A.36 Contempt.

If a person fails to appear when notified to report or at a regularly scheduled meeting, without providing a sufficient cause, the court may issue an order requiring the person to appear and show cause why the person should not be punished for contempt, and unless the person provides a sufficient cause for the failure, the person may be punished for contempt.

86 Acts, ch 1108, §44

607A.37 Cancellation for illegality.

If the court determines that the petit or grand jurors have been illegally identified or notified to report, the court may set aside the order under which the jurors were identified or notified and direct that a new identification and notification of a sufficient number of replacement jurors take place.

86 Acts, ch 1108, §45; 2017 Acts, ch 133, §21

607A.38 Discharged jurors — notification.

Jurors who have been discharged for any reason may, during the calendar quarter, be instructed to again report if the business of the court necessitates such action.

86 Acts, ch 1108, §46

607A.39 Additional jurors.

The court may order as many additional jurors identified for a jury pool or panel as the court deems necessary.

86 Acts, ch 1108, §47; 2017 Acts, ch 133, §22
Referred to in §607A.41

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607A.40 Discharge of panel.

The court may at any time discharge the panel of jurors, or any part of it, and order a new panel, or the number of jurors as deemed necessary, to be drawn.

86 Acts, ch 1108, §48

Referred to in §607A.41

607A.41 Method of subsequent drawing.

The names of the new or additional jurors shall be drawn from the jurors identified under sections 607A.39 and 607A.40 by the electronic data processing system that was used to draw the original jury pool or panel.

86 Acts, ch 1108, §49; 2017 Acts, ch 133, §23; 2018 Acts, ch 1026, §169

607A.42 Disposition of names drawn. Repealed by 2017 Acts, ch 133, §25.

607A.43 Correcting illegality in original lists.

If the court for any reason determines that there has been such substantial failure to comply with the law relative to jury identification, preparation, or return of grand or petit lists that lawful grand or petit jurors cannot be drawn, or that the lists are exhausted or insufficient for the needs of the court, the court shall order the jury manager or state court administrator to use electronic data processing techniques to prepare lists in lieu of the lists which have been found to be illegal, or an additional list or lists as the court deems necessary.

86 Acts, ch 1108, §51; 2017 Acts, ch 133, §24

607A.44 Notice to ex officio jury commission or jury manager. Repealed by 2017 Acts, ch 133, §25.

607A.45 Employer prohibited from penalizing employee — penalty — action for lost wages.

1. An employer shall not deprive an employee of employment or threaten or otherwise coerce an employee with respect to the employee's employment because the employee receives a notice to report, responds to the notice, serves as a juror, or attends court for prospective juror service. An employer who violates this subsection commits contempt.

2. If an employer discharges an employee in violation of subsection 1, the employee may within sixty days of the discharge bring a civil action for the recovery of wages lost as a result of the violation and for an order requiring the reinstatement of the employee. Damages recoverable shall not exceed lost wages for a period of six weeks. If the employee prevails, the employee shall be allowed reasonable attorney fees as determined by the court.

86 Acts, ch 1108, §53

607A.46 Delinquency of officers.

A judicial officer, court employee, or other governmental official who intentionally fails to perform a legal duty imposed by this chapter, or who acts with willful malfeasance in the discharge of a legal duty imposed by this chapter, commits a serious misdemeanor.

86 Acts, ch 1108, §54

607A.47 Juror questionnaire.

The court may, on its own motion, or upon the motion of a party to the case or upon the request of a juror, order the sealing or partial sealing of a completed juror questionnaire, if the court finds that it is necessary to protect the safety or privacy of a juror or a family member of a juror.

2007 Acts, ch 210, §5

607A.48 Public access to juror information.

1. Public access to juror and prospective juror information shall be limited. Information on the year of birth and address information identifying the city and zip code of prospective jurors shall be available to the public. However, more specific address information, phone

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numbers, and the date and month of birth of prospective jurors are confidential and not subject to disclosure without an order of the court.

2. Notwithstanding subsection 1, attorneys representing parties to the case are entitled to the complete juror questionnaires of jurors and prospective jurors without order of the court.

2024 Acts, ch 1104, §2

CHAPTERS 608 and 609

RESERVED

CHAPTER 610

DEFERRAL OF COSTS
(In forma pauperis)

Referred to in §610A.1

610.1	Affidavit — contents — tolling of limitations.	610.4	Order to pay fees, costs, or security — dismissal for failure.
610.2	Directions by court.		
610.3	Deferral of costs.	610.5	Penalty.

610.1 Affidavit — contents — tolling of limitations.

1. A court of the district court, court of appeals, or supreme court shall authorize the commencement, prosecution, or defense of a suit, action, proceeding, or appeal, whether civil or criminal, without the prepayment of fees, costs, or security upon a showing that the person is unable to pay such costs or give security. The person shall submit an affidavit stating the nature of the suit, action, proceeding, or appeal and the affiant's belief that there is an entitlement to redress. Such affidavit shall also include a brief financial statement showing the person's inability to pay costs, fees, or give security. Any authorization to proceed without prepayment of fees, costs, or security under this chapter may be made by the court without hearing. The filing of an affidavit to proceed without the prepayment of fees, costs, or security tolls the applicable statute of limitations. Upon the denial of an application and affidavit to proceed without the prepayment of fees, costs, or security, the person shall have the remainder of the limitations period in which to pay fees, costs, or give security. This section does not allow the deferral of the cost of a transcript.

2. Notwithstanding the provisions of this section, the court shall deny the application and affidavit of an inmate who has had three or more actions dismissed pursuant to section 610A.2. Such inmate shall not be permitted to proceed without prepayment of fees, cost, or security pursuant to this chapter.

86 Acts, ch 1088, §1; 87 Acts, ch 115, §79; 98 Acts, ch 1147, §1, 6; 2021 Acts, ch 76, §150

Referred to in §610A.1

610.2 Directions by court.

When an application and supporting affidavit pursuant to this chapter are filed with the court and approved by the court in a civil or criminal action, the court shall direct the appropriate officers of the court to issue and serve all necessary writs, process, and proceedings.

86 Acts, ch 1088, §2; 88 Acts, ch 1134, §105

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610.3 Deferral of costs.

When an application and supporting affidavit are filed and approved by the court and a civil or criminal proceeding is instituted, the court shall order that all fees, costs, and security be deferred until final disposition of the proceeding.

86 Acts, ch 1088, §3; 88 Acts, ch 1134, §106

610.4 Order to pay fees, costs, or security — dismissal for failure.

If after entry of an order authorizing prosecution of the case without prepayment of fees, costs, or security, the court finds that the affidavit of inability to pay was without merit, the court may order the person to pay the fees, costs, or security within fourteen days or the case will be dismissed.

86 Acts, ch 1088, §4

610.5 Penalty.

A person who knowingly and wrongfully invokes the privileges of this chapter without just cause, or who knowingly makes a false statement regarding the person's inability to pay fees, costs, or security, is guilty of perjury and shall be punished as provided in section 720.2.

86 Acts, ch 1088, §5

Referred to in §610A.2

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CHAPTER 610A

CIVIL LITIGATION BY INMATES AND PRISONERS

610A.1 Actions or appeals brought by inmates or prisoners.
610A.2 Dismissal of action or appeal.
610A.3 Penalties.
610A.4 Cost setoff.

610A.1 Actions or appeals brought by inmates or prisoners.

1. Notwithstanding section 610.1 or 822.5, if the person bringing a civil action or appeal is an inmate of an institution or facility under the control of the department of corrections or a prisoner of a county or municipal jail or detention facility, the inmate or prisoner shall pay in full all fees and costs associated with the action or appeal.

a. Upon filing of the action or appeal, the court shall order the inmate or prisoner to pay a minimum of twenty percent of the required filing fee before the court will take any further action on the inmate's or prisoner's action or appeal and shall also order the inmate or prisoner to make monthly payments of ten percent of all outstanding fees and costs associated with the inmate's or prisoner's action or appeal.

b. If the inmate has an inmate account under section 904.702, the department of corrections shall withdraw moneys maintained in the account for the payment of fees and costs associated with the inmate's action or appeal in accordance with the court's order until the required fees and costs are paid in full. The inmate shall file a certified copy of the inmate's account balance with the court at the time the action or appeal is filed.

c. An inmate may authorize the department of corrections to make or the inmate may make an initial or subsequent payment beyond that required by this section.

d. The court may dismiss any civil action or appeal in which the inmate or prisoner has previously failed to pay fees and costs in accordance with this section.

e. If the inmate has unsuccessfully prosecuted three or more frivolous actions in the preceding five-year period, the court may stay the proceeding in accordance with section 617.16.

f. If the inmate has had three or more actions dismissed pursuant to section 610A.2, the inmate shall not be permitted to file an action pursuant to chapter 610.

2. The court may make the authorization provided for in section 610.1 if it finds that the inmate does not have sufficient moneys in the inmate's account or sufficient moneys flowing into the account to make the payments required in this section or, in the case of a

prisoner of a county or municipal jail or detention facility, that the prisoner otherwise meets the requirements of section 610.1.

3. In any civil case filed by a petitioner who is an inmate or prisoner, the respondent may review the petition and, if applicable, file a pre-answer motion asserting, in addition to any other defense that must be asserted in such a motion under the rules of civil procedure, that the action or any portion of the action should be dismissed pursuant to this chapter because the action or any portion of the action is frivolous or malicious, fails to state a claim upon which relief can be granted, or is otherwise subject to dismissal under section 610A.2.

95 Acts, ch 167, §1; 96 Acts, ch 1079, §17; 98 Acts, ch 1147, §2, 3, 6
Referred to in §904.702

610A.2 Dismissal of action or appeal.

1. In addition to the penalty provided in section 610.5, if applicable, or any other applicable penalty under the Code, the court may dismiss an action or appeal that is subject to this chapter, in whole or in part, on a finding of any of the following:

a. The allegation of inability to pay asserted in an accompanying affidavit is false.

b. The action, claim, defense, or appeal is frivolous or malicious in whole or in part.

c. The inmate or prisoner has knowingly presented false testimony or evidence, or has attempted to create or present false testimony or evidence in support of the action, claim, defense, or appeal.

d. The actions of the inmate or prisoner in pursuing the action, claim, defense, or appeal constitute an abuse of the discovery process.

2. In determining whether an action or appeal is frivolous or malicious, the court may consider the following:

a. Whether the action, claim, defense, or appeal is without substantial justification, or otherwise has no arguable basis in law or fact, including that the action, claim, defense, or appeal fails to state a claim upon which relief could be granted, or the action, claim, defense, or appeal cannot be supported by a reasonable argument for a change in existing law.

b. Whether the action, claim, defense, or appeal is substantially similar to a previous action, claim, defense, or appeal, that was determined to be frivolous or malicious, either in that it is brought against the same party or in that the claim arises from the same operative facts.

c. Whether the action, claim, defense, or appeal is intended solely or primarily for harassment.

d. The fact that evidentiary support for the action, claim, defense, or appeal is unavailable, or is not likely to be discovered after investigation.

e. Whether the action, claim, defense, or appeal is asserted with an improper purpose, including but not limited to, causing an unnecessary expansion or delay in proceedings, increasing the cost of proceedings, or harassing an opponent.

f. Whether the defendant is immune from providing the relief sought.

3. In making the determination under subsection 1, the court may hold a hearing before or after service of process on its own motion or on the motion of a party. The hearing may be held by telephone or video conference on the motion of the court or of a party.

4. The court may dismiss the entire action or appeal or a portion of the action or appeal before or after service of process. If a portion of the action or appeal is dismissed, the court shall also designate the issues and defendants on which the action or appeal is to proceed without paying fees and costs. This order is not subject to interlocutory appeal.

95 Acts, ch 167, §2; 98 Acts, ch 1147, §4, 6
Referred to in §610.1, 610A.1, 610A.3, 903A.3

610A.3 Penalties.

1. If an action or appeal brought by an inmate or prisoner in state court is dismissed pursuant to section 610A.2, or, if brought in federal court, is dismissed under any of the principles enumerated in section 610A.2, the inmate shall be subject to the following penalties:

a. The loss of some or all of the earned time credits acquired by the inmate or prisoner.

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Previous dismissals under section 610A.2 may be considered in determining the appropriate level of penalty.

b. If the inmate or prisoner has no earned time credits to deduct, the order of the court or the disciplinary hearing may deduct up to fifty percent of the average balance of the inmate account under section 904.702 or of any prisoner account.

2. The court may make an order deducting the credits or the credits may be deducted pursuant to a disciplinary hearing pursuant to chapter 903A at the facility at which the inmate is held.

95 Acts, ch 167, §3; 98 Acts, ch 1147, §5, 6; 2000 Acts, ch 1173, §1, 10
Referred to in §903A.3

610A.4 Cost setoff.

The state or a county or municipality shall have the right to set off the cost of incarceration of an inmate or prisoner at any time, following notice and hearing, against any claim made by or monetary obligation owed to an inmate or prisoner for whom the cost of incarceration can be calculated.

95 Acts, ch 167, §4; 96 Acts, ch 1079, §18

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SUBTITLE 3

CIVIL PROCEDURE

Rules of civil and appellate procedure and rules of evidence
are published in the compilation "Iowa Court Rules"

CHAPTER 611

ACTIONS

For Iowa court rules concerning substitution of parties,
see R.C.P. 1.221 – 1.227

611.1 Proceedings classified.
611.2 Civil and special actions.
611.3 Forms of action.
611.4 Equitable proceedings.
611.5 Action on note and mortgage.
611.6 Ordinary proceedings.
611.7 Error — effect of.
611.8 Correction by plaintiff.
611.9 Correction on motion.
611.10 Equitable issues.
611.11 Court may order change.
611.12 Errors waived.
611.13 Uniformity of procedure.
611.14 Title of cause.
611.15 Judgments annulled in equity.
611.16 Action to obtain discovery.
611.17 Petition for discovery.
611.18 Costs.
611.19 Successive actions.
611.20 Actions survive.
611.21 Civil remedy not merged in crime.
611.22 Actions by or against legal representatives or successors in interest — substitution.
611.23 Civil actions involving allegations of elder abuse, sexual abuse, or domestic abuse — counseling.

611.1 Proceedings classified.

Every proceeding in court is an action, and is civil, special, or criminal.

[R60, §2605; C73, §2504; C97, §3424; C24, 27, 31, 35, 39, §**10938;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §611.1]

611.2 Civil and special actions.

1. A civil action is a proceeding in a court of justice in which one party, known as the plaintiff, demands against another party, known as the defendant, the enforcement or protection of a private right, or the prevention or redress of a private wrong. It may also be brought for the recovery of a penalty or forfeiture.

2. Every other proceeding in a civil case is a special action.

[R60, §2606, 2607, 2609; C73, §2505, 2506; C97, §3425; C24, 27, 31, 35, 39, §**10939;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §611.2]

2021 Acts, ch 76, §150

611.3 Forms of action.

All forms of action are abolished, but proceedings in civil actions may be of two kinds, ordinary or equitable.

[R60, §2608, 2610; C73, §2507; C97, §3426; C24, 27, 31, 35, 39, §**10940;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §611.3]

611.4 Equitable proceedings.

The plaintiff may prosecute an action by equitable proceedings in all cases where courts of equity, before the adoption of this Code, had jurisdiction, and must so proceed in all cases where such jurisdiction was exclusive.

[R60, §2611; C73, §2508; C97, §3427; C24, 27, 31, 35, 39, §**10941;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §611.4]

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611.5 Action on note and mortgage.

An action on a note, together with a mortgage or deed of trust for the foreclosure of the same, shall be by equitable proceedings. An action on the bond or note alone, without regard therein to the mortgage or deed of trust, shall be by ordinary proceedings.

[R60, §4179; C73, §2509; C97, §3428; C24, 27, 31, 35, 39, §**10942;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §611.5]

Actions on certain judgments prohibited, chapter 615
Related provision, §654.4

611.6 Ordinary proceedings.

In all other cases, unless otherwise provided, the plaintiff must prosecute an action by ordinary proceedings.

[R60, §2612; C73, §2513; C97, §3431; C24, 27, 31, 35, 39, §**10943;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §611.6]

611.7 Error — effect of.

An error of the plaintiff as to the kind of proceedings adopted shall not cause the abatement or dismissal of the action, but merely a change into the proper proceedings, and a transfer to the proper docket.

[R60, §2613; C73, §2514; C97, §3432; C24, 27, 31, 35, 39, §**10944;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §611.7]

611.8 Correction by plaintiff.

Such error may be corrected by the plaintiff without motion at any time before the defendant has answered, or afterwards on motion in court.

[R60, §2614; C73, §2515; C97, §3433; C24, 27, 31, 35, 39, §**10945;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §611.8]

611.9 Correction on motion.

The defendant may have the correction made by motion at or before the filing of an answer, where it appears by the provisions of this Code wrong proceedings have been adopted.

[R60, §2615, 2616; C73, §2516; C97, §3434; C24, 27, 31, 35, 39, §**10946;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §611.9]

611.10 Equitable issues.

Where the action has been properly commenced by ordinary proceedings, either party shall have the right, by motion, to have any issue heretofore exclusively cognizable in equity tried in the manner hereinafter prescribed in cases of equitable proceedings; and if all the issues were such, though none were exclusively so, the defendant shall be entitled to have them all tried as in cases of equitable proceedings.

[R60, §2617; C73, §2517; C97, §3435; C24, 27, 31, 35, 39, §**10947;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §611.10]

611.11 Court may order change.

If there is more than one party plaintiff or defendant, who fail to unite on the kind of proceedings to be adopted, the court, on its own motion, may direct such proceedings to be changed to the same extent as if the parties had united in asking it to be done.

[C73, §2518; C97, §3436; C24, 27, 31, 35, 39, §**10948;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §611.11]

611.12 Errors waived.

An error as to the kind of proceedings adopted in the action is waived by a failure to move for its correction at the time and in the manner prescribed in this chapter; and all errors in the decisions of the court are waived unless excepted to at the time, save final judgments and interlocutory or final decrees entered of record.

[R60, §2619; C73, §2519; C97, §3437; C24, 27, 31, 35, 39, §**10949;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §611.12]

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611.13 Uniformity of procedure.

The provisions of this Code concerning the prosecution of a civil action apply to both ordinary and equitable proceedings unless the contrary appears, and shall be followed in special actions not otherwise regulated, so far as applicable.

[C51, §2516; R60, §2620, 4173; C73, §2520; C97, §3438; C24, 27, 31, 35, 39, §**10950;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §611.13]

611.14 Title of cause.

The title of the cause shall not be changed in any of its stages of transit from one court to another.

[R60, §2949; C73, §2721; C97, §3631; C24, 27, 31, 35, 39, §**10951;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §611.14]

611.15 Judgments annulled in equity.

Judgment obtained in an action by ordinary proceedings shall not be annulled or modified by any order in an action by equitable proceedings, except for a defense which has arisen or been discovered since the judgment was rendered. But such judgment does not prevent the recovery of any claim, though such claim might have been used by way of counterclaim in the action on which the judgment was recovered.

[R60, §2621; C73, §2522; C97, §3440; C24, 27, 31, 35, 39, §**10952;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §611.15]

See R.C.P. 1.241

611.16 Action to obtain discovery.

No action to obtain a discovery shall be brought, except, where a person or corporation is liable either jointly or severally with others by the same contract, an action may be brought against any parties who are liable, to obtain discovery of the names and residences of the others.

[R60, §4127; C73, §2523; C97, §3441; C24, 27, 31, 35, 39, §**10953;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §611.16]

611.17 Petition for discovery.

In such action the plaintiff shall state in the petition, in effect, that the plaintiff has used due diligence, without success, to obtain the information asked to be discovered, and that the plaintiff does not believe the parties to the contract who are known to the plaintiff have property sufficient to satisfy the plaintiff's claim. The petition shall be verified.

[R60, §4127; C73, §2523; C97, §3441; C24, 27, 31, 35, 39, §**10954;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §611.17]

611.18 Costs.

The cost of such action shall be paid by the plaintiff unless the discovery be resisted.

[R60, §4127; C73, §2523; C97, §3441; C24, 27, 31, 35, 39, §**10955;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §611.18]

611.19 Successive actions.

Successive actions may be maintained upon the same contract or transaction whenever, after the former action, a new cause of action has arisen thereon or therefrom.

[R60, §4128; C73, §2524; C97, §3442; C24, 27, 31, 35, 39, §**10956;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §611.19]

611.20 Actions survive.

All causes of action shall survive and may be brought notwithstanding the death of the person entitled or liable to the same.

[C51, §2502; R60, §3467; C73, §2525; C97, §3443; C24, 27, 31, 35, 39, §**10957;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §611.20]

Referred to in §611.22

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611.21 Civil remedy not merged in crime.

The right of civil remedy is not merged in a public offense and is not restricted for other violation of law, but may in all cases be enforced independently of and in addition to the punishment of the former.

[C51, §2500; R60, §4110; C73, §2526; C97, §3444; C24, 27, 31, 35, 39, §**10958;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §611.21]

85 Acts, ch 197, §36

Referred to in §611.22

611.22 Actions by or against legal representatives or successors in interest — substitution.

Any action contemplated in sections 611.20 and 611.21 may be brought, or the court, on motion, may allow the action to be continued, by or against the legal representatives or successors in interest of the deceased. Such action shall be deemed a continuing one, and to have accrued to such representative or successor at the time it would have accrued to the deceased if the deceased had survived. If such is continued against the legal representative or successor in interest of the defendant, a notice shall be served as in case of original notices. If such an action by the deceased is allowed to be continued, then the court shall appoint a personal representative for the deceased as defined in section 633.3 or shall allow a successor under section 633.356 to continue the action.

[C51, §1699; R60, §4111; C73, §2527; C97, §3445; C24, 27, 31, 35, 39, §**10959;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §611.22]

2021 Acts, ch 7, §1, 2

Manner of service, R.C.P. 1.302 – 1.315

2021 amendment applies to actions that arise on or after July 1, 2021; 2021 Acts, ch 7, §2

611.23 Civil actions involving allegations of elder abuse, sexual abuse, or domestic abuse — counseling.

In a civil case in which a plaintiff is seeking relief or damages for alleged elder abuse as defined in section 235F.1, sexual abuse as defined in section 709.1, or domestic abuse as defined in section 236.2, the plaintiff may seek, and the court may grant, an order requiring the defendant to receive professional counseling, in addition to any other appropriate relief or damages.

91 Acts, ch 181, §1; 2014 Acts, ch 1107, §21

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CHAPTER 612

JOINDER OF ACTIONS

For Iowa court rules concerning joinder, misjoinder, and nonjoinder, see R.C.P. 1.231 – 1.237

CHAPTER 613

PARTIES — CAUSES OF ACTION — LIABILITY

For Iowa court rules concerning parties and capacity, see R.C.P. 1.201 – 1.212
For Iowa court rules concerning substitution of parties, see R.C.P. 1.221 – 1.227
For Iowa court rules concerning interpleader, see R.C.P. 1.251 – 1.257
For Iowa court rules concerning class actions, see R.C.P. 1.261 – 1.279

613.1 Joint and several obligations.
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613.19 Personal liability.
613.20 Limitation on liability for motor vehicle operation — felons.
613.21 Immunity from civil suit.

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613.1 Joint and several obligations.

Where two or more persons are bound by contract or by judgment, decree, or statute, whether jointly only, or jointly and severally, or severally only, including the parties to negotiable paper, common orders, and checks, and sureties on the same or separate instruments, or by any liability growing out of the same, the action thereon may, at the plaintiff's option, be brought against any or all of them. When any of those so bound are dead, the action may be brought against any or all of the survivors, with any or all of the representatives of the decedents, or against any or all such representatives.

[C51, §1681, 1682; R60, §2764; C73, §2550; C97, §3465; C24, 27, 31, 35, 39, §**10975;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §613.1]

Separate trials, R.C.P. 1.914

613.2 Adjudication.

An action or judgment against any one or more of several persons jointly bound shall not be a bar to proceedings against the others.

[R60, §2764; C73, §2550; C97, §3465; C24, 27, 31, 35, 39, §**10976;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §613.2]

613.3 through 613.6 Reserved.

613.7 Written instrument.

When an action is founded on a written instrument, it may be brought by or against any of the parties thereto by the same name and description as those by which they are designated in such instrument.

[C51, §1692; R60, §2786; C73, §2558; C97, §3473; C24, 27, 31, 35, 39, §**10988;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §613.7]

613.8 Actions against state.

Upon the conditions provided in this chapter for the protection of the state, the consent of the state be and it is hereby given, to be made a party in any suit or action in any of the district courts of Iowa, any of the United States district courts within the state or in any other court of or in Iowa having jurisdiction of the subject matter, involving the title to real estate, the partition of real estate, the foreclosure of liens or mortgages against real estate, or the determination of the priorities of liens or claims against real estate, for the purpose of obtaining an adjudication touching or pertaining to any mortgage or other lien or claim which the state may have or claim to the real estate involved. The petition in the action shall specifically allege the interest or apparent interest of the state and the specific facts upon which the claim against the state is based and it shall be legally insufficient to allege the claim in general terms.

[C35, §10990-g1; C39, §**10990.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §613.8]
2019 Acts, ch 59, §199
Referred to in §613.10

613.9 Service on state.

Service upon the state shall be made by serving a copy of the original notice with a copy of the petition upon the county attorney for the county, or counties, in which the real estate is located, and by sending a copy of the original notice and petition by certified mail to the attorney general, at Des Moines. The state shall appear within thirty days after the day such notice is served upon the county attorney or within thirty days after such notice is mailed to the attorney general, whichever is later.

[C35, §10990-g2; C39, §**10990.2;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §613.9]
Referred to in §613.10

613.10 Status of state as defendant.

After compliance with sections 613.11 and 613.12 and sections 613.8 and 613.9 the state of Iowa shall have the same standing as any other plaintiff or defendant and any and all orders, judgments, or decrees rendered and entered in any such action shall be binding on the state of Iowa in the same manner and degree as any other party to an action against whom such an order, judgment, or decree is entered, and the state of Iowa shall have the same rights in respect to the trial of such cause and in respect to any orders, judgments, or decrees entered therein, together with all rights of appeal, as any other similarly situated party would have.

[C35, §10990-g3; C39, §**10990.3;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §613.10]

613.11 Actions against department of transportation.

The state of Iowa hereby waives immunity from suit and consents to the jurisdiction of any court in which an action is brought against the state department of transportation respecting any claim, right, or controversy arising out of the work performed, or by virtue of the provisions of any construction contract entered into by the department. Such action shall be heard and determined pursuant to rules otherwise applicable to civil actions brought in the particular court having jurisdiction of the suit and the parties to the suit shall have the right of appeal from any judgment, decree, or decision of the trial court to the appropriate appellate court under applicable rules of appeal.

[C66, 71, 73, 75, 77, 79, 81, §613.11]
Referred to in §613.10, 613.14

613.12 Venue.

Any such action shall name the Iowa state department of transportation as defendant and the venue for trial shall be in the county, or in the federal court district, where all or part of the construction work was performed.

[C66, 71, 73, 75, 77, 79, 81, §613.12]
Referred to in §613.10

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613.13 Service of notice.

Service upon the state of Iowa shall be made by serving an original notice or summons, with a copy of the petition attached, upon any member of the Iowa state department of transportation in the manner provided for the service of original notices in actions brought in the district courts of the state of Iowa, or by serving summonses upon any member of the said department in the manner provided for service of summons in actions brought in United States district courts, except only that the state shall be required to appear within thirty days after the day such notice or summons is served upon a member of the said department.

[C66, 71, 73, 75, 77, 79, 81, §613.13]

613.14 Limitation.

Actions against the state of Iowa authorized under the provisions of section 613.11 may be instituted within three years from the date of the completion or acceptance of the work, whichever date is later, except that this should not apply to contracts completed and accepted and for which final payment was made previous to July 4, 1963.

[C66, 71, 73, 75, 77, 79, 81, §613.14]

613.15 Injury or death of spouse or parent — measure of recovery.

In any action for damages because of the wrongful or negligent injury or death of a woman, there shall be no disabilities or restrictions, and recovery may be had on account thereof in the same manner as in cases of damage because of the wrongful or negligent injury or death of a man. In addition she, or her administrator for her estate, may recover for physician's services, nursing and hospital expense, and in the case of both women and men, such person, or the appropriate administrator, may recover the value of services and support as spouse or parent, or both, as the case may be, in such sum as the jury deems proper; provided, however, recovery for these elements of damage may not be had by the spouse and children, as such, of any person who, or whose administrator, is entitled to recover same.

[SS15, §3477-a; C24, 27, §10463; C31, 35, §10991-d1; C39, §**10991.1;** C46, 50, 54, 58, 62, §613.11; C66, 71, 73, 75, 77, 79, 81, §613.15]

613.15A Injury to or death of a child.

A parent or the parents of a child may recover for the expense and actual loss of services, companionship, and society resulting from injury to or death of a minor child and may recover for the expense and actual loss of services, companionship, and society resulting from the death of an adult child.

2007 Acts, ch 132, §1, 3

613.15B Wrongful birth or wrongful life cause of action — prohibitions — exceptions.

1. A cause of action shall not arise and damages shall not be awarded, on behalf of any person, based on a wrongful birth claim that, but for an act or omission of the defendant, a child would not or should not have been born.

2. A cause of action shall not arise and damages shall not be awarded, on behalf of any person, based on a wrongful life claim that, but for an act or omission of the defendant, the person bringing the action would not or should not have been born.

3. The prohibitions specified in this section apply to any claim regardless of whether the child is born healthy or with a birth defect or disorder or other adverse medical condition. However, the prohibitions specified in this section shall not apply to any of the following:

a. A civil action for damages for an intentional or grossly negligent act or omission, including any act or omission that constitutes a public offense.

b. A civil action for damages for the intentional failure of a physician to comply with the duty imposed by licensure pursuant to chapter 148 to provide a patient with all information reasonably necessary to make decisions about a pregnancy.

2018 Acts, ch 1165, §118 – 120

613.16 Parental responsibility for actions of children.

1. The parent or parents of an unemancipated minor child under the age of eighteen years

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shall be liable for actual damages to person or property caused by unlawful acts of such child. However, a parent who is not entitled to legal custody of the minor child at the time of the unlawful act shall not be liable for such damages.

2. The legal obligation of the parent or parents of an unemancipated minor child under the age of eighteen years to pay damages shall be limited as follows:

a. Not more than two thousand dollars for any one act.

b. Not more than five thousand dollars, payable to the same claimant, for two or more acts.

3. The word "*person*" for the purpose of this section shall include firm, association, partnership or corporation.

4. When an action is brought on parental responsibility for acts of their children, the parents shall be named as defendants therein and, in addition, the minor child shall be named as a defendant. The filing of an answer by the parents shall remove any requirement that a guardian ad litem be required.

[C71, 73, 75, 77, 79, 81, §613.16]

94 Acts, ch 1172, §40

Referred to in §624.38, 645.3

613.17 Emergency assistance in an accident.

1. A person, who in good faith renders emergency care or assistance without compensation, shall not be liable for any civil damages for acts or omissions occurring at the place of an emergency or accident or while the person is in transit to or from the emergency or accident or while the person is at or being moved to or from an emergency shelter unless such acts or omissions constitute recklessness or willful and wanton misconduct. An emergency includes but is not limited to a disaster as defined in section 29C.2 or the period of time immediately following a disaster for which the governor has issued a proclamation of a disaster emergency pursuant to section 29C.6.

a. For purposes of this subsection, if a volunteer fire fighter, a volunteer operator or attendant of an ambulance or rescue squad service, a volunteer paramedic, a volunteer emergency medical technician, or a volunteer registered member of the national ski patrol system receives nominal compensation not based upon the value of the services performed, that person shall be considered to be receiving no compensation.

b. For purposes of this subsection, operation of a motor vehicle in compliance with section 321.231 by a volunteer fire fighter, volunteer operator, or attendant of an ambulance or rescue squad service, a volunteer paramedic, or volunteer emergency medical technician shall be considered rendering emergency care or assistance.

c. For purposes of this subsection, a person rendering emergency care or assistance includes a person involved in a workplace rescue arising out of an emergency or accident.

2. The following persons or entities, while acting reasonably and in good faith, who render emergency care or assistance relating to the preparation for and response to a sudden cardiac arrest emergency, shall not be liable for any civil damages for acts or omissions arising out of the use of an automated external defibrillator, whether occurring at the place of an emergency or accident or while such persons are in transit to or from the emergency or accident or while such persons are at or being moved to or from an emergency shelter:

a. A person or entity that acquires an automated external defibrillator.

b. A person or entity that owns, manages, or is otherwise responsible for the premises on which an automated external defibrillator is located if the person or entity maintains the automated external defibrillator in a condition for immediate and effective use at all times, subject to standards developed by the department of health and human services by rule.

c. A person who retrieves an automated external defibrillator in response to a perceived sudden cardiac arrest emergency.

d. A person who uses, attempts to use, or fails to use an automated external defibrillator in response to a perceived sudden cardiac arrest emergency.

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e. A person or entity that provides instruction in the use of an automated external defibrillator.

[C71, 73, 75, 77, 79, 81, §613.17; 82 Acts, ch 1198, §1]

91 Acts, ch 182, §1; 96 Acts, ch 1219, §74; 2008 Acts, ch 1052, §1; 2009 Acts, ch 40, §1; 2023 Acts, ch 19, §1269

Referred to in §139A.2, 141A.1
Assistance in response to crime, see §915.3

613.18 Limitation on products liability of nonmanufacturers.

1. A person who is not the assembler, designer, or manufacturer, and who wholesales, retails, distributes, or otherwise sells a product is:

a. Immune from any suit based upon strict liability in tort or breach of implied warranty of merchantability which arises solely from an alleged defect in the original design or manufacture of the product.

b. Not liable for damages based upon strict liability in tort or breach of implied warranty of merchantability for the product upon proof that the manufacturer is subject to the jurisdiction of the courts of this state and has not been judicially declared insolvent.

2. A person who is a retailer of a product and who assembles a product, such assembly having no causal relationship to the injury from which the claim arises, is not liable for damages based upon strict liability in tort or breach of implied warranty of merchantability which arises from an alleged defect in the original design or manufacture of the product upon proof that the manufacturer is subject to the jurisdiction of the courts of this state and has not been judicially declared insolvent.

3. An action brought pursuant to this section, where the claimant certifies that the manufacturer of the product is not yet identifiable, tolls the statute of limitations against such manufacturer until such time as discovery in the case has identified the manufacturer.

86 Acts, ch 1211, §32

613.19 Personal liability.

A director, officer, employee, member, trustee, or volunteer, of a nonprofit organization is not liable on the debts or obligations of the nonprofit organization and a director, officer, employee, member, trustee, or volunteer is not personally liable for a claim based upon an act or omission of the person performed in the discharge of the person's duties, except for acts or omissions which involve intentional misconduct or knowing violation of the law, or for a transaction from which the person derives an improper personal benefit. For purposes of this section, "*nonprofit organization*" includes an unincorporated club, association, or other similar entity, however named, if no part of its income or profit is distributed to its members, directors, or officers.

87 Acts, ch 212, §19

613.20 Limitation on liability for motor vehicle operation — felons.

1. Except as provided in subsection 2, in an action to recover damages arising out of the operation or use of a motor vehicle, a person shall not recover noneconomic losses including but not limited to pain and suffering if the injured person was the operator of a motor vehicle, a passenger in a motor vehicle, or a pedestrian and the person's injuries were proximately caused by the person's commission of any felony, or immediate flight therefrom, and the injured person was duly convicted of that felony.

2. This section does not apply if the injured person is found to have no fault in the accident.

3. If a person injured in a motor vehicle accident has been formally charged with the violation of the felony referred to in subsection 1, but a final determination regarding guilt has not been made, liability and uninsured and underinsured motorist insurers, to whom a claim for damages has been presented, shall advise the injured party that settlement of the claim will not be resolved until a final judgment is rendered on the charges. The injured party claiming damages shall provide evidence of the outcome of any criminal charges.

2000 Acts, ch 1062, §1; 2025 Acts, ch 30, §96

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613.21 Immunity from civil suit.

An employee of a public school district, accredited nonpublic school, or area education agency shall be immune from civil suit for reasonable acts undertaken in good faith relating to participation in the making of a report and any resulting investigation or administrative or judicial proceedings regarding violence, threats of violence, or other inappropriate activity against a school employee or student, pursuant to the provisions of section 280.27.

2000 Acts, ch 1162, §2; 2018 Acts, ch 1057, §12

Referred to in §279.51A

CHAPTER 613A

RESERVED

CHAPTER 614

LIMITATIONS OF ACTIONS

Referred to in §206.14, 354.21, 679A.20

For Iowa court rule concerning commencement of actions, tolling, and cover sheet, see R.C.P. 1.301
Method of computing time, §4.1(34)
Limitations of actions against licensed veterinarians, §169.21
Limitations of actions against museums, §305B.9
Limitations of state tort claims, §669.13
Limitations of governmental subdivision tort claims, §670.5
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SUBCHAPTER I

GENERAL PROVISIONS

614.1 Period.

Nothing in this section shall be construed to alter the law governing when a cause of action accrues, including the discovery rule and related doctrines, as recognized by statute or common law. Actions may be brought within the times limited as follows, respectively, after their causes accrue, and not afterwards, except when otherwise specially declared, provided that such time limitations may only be altered by an Act of the general assembly:

1. *Penalties or forfeitures under ordinance.* Those to enforce the payment of a penalty or forfeiture under an ordinance, within one year.

2. *Injuries to person or reputation — relative rights — statute penalty.* Those founded on injuries to the person or reputation, including injuries to relative rights, whether based on contract or tort, or for a statute penalty, within two years.

2A. *With respect to products.*

a. Those founded on the death of a person or injuries to the person or property brought against the manufacturer, assembler, designer, supplier of specifications, seller, lessor, or distributor of a product based upon an alleged defect in the design, inspection, testing, manufacturing, formulation, marketing, packaging, warning, labeling of the product, or any other alleged defect or failure of whatever nature or kind, based on the theories of strict liability in tort, negligence, or breach of an implied warranty shall not be commenced more than fifteen years after the product was first purchased, leased, bailed, or installed for use or consumption unless expressly warranted for a longer period of time by the manufacturer, assembler, designer, supplier of specifications, seller, lessor, or distributor of the product. This subsection shall not affect the time during which a person found liable may seek and obtain contribution or indemnity from another person whose actual fault caused a product to be defective. This subsection shall not apply if the manufacturer, assembler, designer, supplier of specifications, seller, lessor, or distributor of the product intentionally misrepresents facts about the product or fraudulently conceals information about the product and that conduct was a substantial cause of the claimant's harm.

b. (1) The fifteen-year limitation in paragraph *"a"* shall not apply to the time period in which to discover a disease that is latent and caused by exposure to a harmful material, in which event the cause of action shall be deemed to have accrued when the disease and such disease's cause have been made known to the person or at the point the person should have been aware of the disease and such disease's cause. This subsection shall not apply to cases governed by subsection 11 of this section.

(2) As used in this paragraph, *"harmful material"* means silicone gel breast implants, which were implanted prior to July 12, 1992; and chemical substances commonly known as asbestos, dioxins, tobacco, or polychlorinated biphenyls, whether alone or as part of any product; or any substance which is determined to present an unreasonable risk of injury to health or the environment by the United States environmental protection agency pursuant to the federal Toxic Substance Control Act, 15 U.S.C. §2601 et seq., or by this state, if that risk is regulated by the United States environmental protection agency or this state.

2B. *With respect to nontestamentary transfers.* Those founded upon a decedent's title to assets, beneficiary designations, or other nontestamentary transfers procured in whole or in part by tortious interference with inheritance, undue influence, fraud, or other wrongful conduct not involving fraud, within two years of the decedent's death.

3. *Against sheriff or other public officer.* Those against a sheriff or other public officer for the nonpayment of money collected on execution within three years of collection.

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4. *Unwritten contracts — injuries to property — fraud — other actions.* Those founded on unwritten contracts, those brought for injuries to property, or for relief on the ground of fraud in cases heretofore solely cognizable in a court of chancery, and all other actions not otherwise provided for in this respect, within five years, except as provided by subsections 8 and 10.

5. *Written contracts — judgments of courts not of record — recovery of real property and rent.*

a. Except as provided in paragraph *"b"*, those founded on written contracts, or on judgments of any courts except those provided for in subsection 6, and those brought for the recovery of real property, within ten years.

b. Those founded on claims for rent, within five years.

6. *Judgments of courts of record.* Those founded on a judgment of a court of record, whether of this or of any other of the United States, or of the federal courts of the United States, within twenty years, except that a time period limitation shall not apply to an action to recover a judgment for child support, spousal support, or a judgment of distribution of marital assets.

7. *Judgment quieting title.* No action shall be brought to set aside a judgment or decree quieting title to real estate unless the same shall be commenced within ten years from and after the rendition thereof.

8. *Wages.* Those founded on claims for wages or for a liability or penalty for failure to pay wages, within two years.

9. *Malpractice.*

a. Except as provided in paragraph *"b"*, those founded on injuries to the person or wrongful death against any physician and surgeon, osteopathic physician and surgeon, dentist, podiatric physician, optometrist, pharmacist, chiropractor, physician associate, or nurse, licensed under chapter 147, or a hospital licensed under chapter 135B, arising out of patient care, within two years after the date on which the claimant knew, or through the use of reasonable diligence should have known, or received notice in writing of the existence of, the injury or death for which damages are sought in the action, whichever of the dates occurs first, but in no event shall any action be brought more than six years after the date on which occurred the act or omission or occurrence alleged in the action to have been the cause of the injury or death unless a foreign object unintentionally left in the body caused the injury or death.

b. An action subject to paragraph *"a"* and brought on behalf of a minor who was under the age of eight years when the act, omission, or occurrence alleged in the action occurred shall be commenced no later than the minor's tenth birthday or as provided in paragraph *"a"*, whichever is later.

10. *Secured interest in farm products.* Those founded on a secured interest in farm products, within two years from the date of sale of the farm products against the secured interest of the creditor.

11. *Improvements to real property.*

a. In addition to limitations contained elsewhere in this section, an action arising out of the unsafe or defective condition of an improvement to real property based on tort and implied warranty and for contribution and indemnity, and founded on injury to property, real or personal, or injury to the person or wrongful death, shall not be brought more than the number of years specified below after the date on which occurred the act or omission of the defendant alleged in the action to have been the cause of the injury or death:

(1) For an action arising from or related to a nuclear power plant licensed by the United States nuclear regulatory commission or an interstate pipeline licensed by the federal energy regulatory commission, fifteen years.

(2) For an action arising from or related to residential construction, as defined in section 572.1, ten years.

(3) For an action arising from or related to any other kind of improvement to real property, eight years.

b. Notwithstanding paragraph *"a"*, an action arising from or related to the intentional misconduct or fraudulent concealment of an unsafe or defective condition of an improvement

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to real property shall not be brought more than fifteen years after the date on which occurred the act or omission of the defendant alleged in the action to have been the cause of the injury or death.

c. If the unsafe or defective condition is discovered within one year prior to the expiration of the applicable period of repose, the period of repose shall be extended one year.

d. This subsection does not bar an action against a person solely in the person's capacity as an owner, occupant, or operator of an improvement to real property.

12. *Sexual abuse or sexual exploitation by a counselor, therapist, school employee, or adult providing training or instruction.* An action for damages for injury suffered as a result of sexual abuse, as defined in section 709.1, by a counselor, therapist, school employee, or adult providing training or instruction, as defined in section 709.15, or as a result of sexual exploitation by a counselor, therapist, school employee, or adult providing training or instruction shall be brought within five years of the date the victim was last treated by the counselor or therapist, or within five years of the date the victim was last enrolled in or attended the school.

13. *Public bonds or obligations.* Those founded on the cancellation, transfer, redemption, or replacement of public bonds or obligations by an issuer, trustee, transfer agent, registrar, depository, paying agent, or other agent of the public bonds or obligations, within eleven years of the cancellation, transfer, redemption, or replacement of the public bonds or obligations.

14. *County collection of taxes.* No time limitation shall apply to an action brought by a county under section 445.3 to collect delinquent real property taxes levied on or after April 1, 1992.

[C51, §1659; R60, §1075, 1865, 2740; C73, §486, 2529; C97, §3447; S13, §2963-g, 3447; C24, 27, 31, 35, 39, §**11007;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.1]

83 Acts, ch 69, §1, 2; 86 Acts, ch 1120, §1; 91 Acts, ch 130, §3; 92 Acts, ch 1199, §1; 93 Acts, ch 89, §3; 95 Acts, ch 108, §21; 97 Acts, ch 175, §235; 97 Acts, ch 197, §5, 6, 16; 98 Acts, ch 1100, §78; 2002 Acts, ch 1050, §51; 2003 Acts, ch 180, §62; 2007 Acts, ch 40, §1; 2008 Acts, ch 1032, §83; 2008 Acts, ch 1088, §141; 2013 Acts, ch 95, §1; 2017 Acts, ch 64, §1, 2; 2019 Acts, ch 59, §200; 2021 Acts, ch 102, §1; 2026 Acts, ch 1008, §3; 2026 Acts, ch 1074, §1, 7; 2026 Acts, ch 1150, §1

Referred to in §135P.3, 222.82, 502.511, 522B.17A, 522D.9, 537C.12, 614.6, 614.8, 686.2, 715B.4, 910.15
Subsection 2B applies to actions involving decedents dying on or after July 1, 2026; 2026 Acts, ch 1074, §7
Code editor directive applied
Unnumbered paragraph 1 amended
NEW subsection 2B

614.2 Death of party to be charged.

In all cases where by the death of the party to be charged, the bringing of an action against the party's estate shall have been delayed beyond the period provided for by statute, the time within which action may be brought against the estate is hereby extended for six months from the date of the death of said decedent.

[S13, §3447-a; C24, 27, 31, 35, 39, §**11008;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.2]

Referred to in §614.6

614.3 Judgments.

No action shall be brought upon any judgment against a defendant therein, rendered in any court of record of this state, within nine years after the rendition thereof, without leave of the court for good cause shown, and, if the adverse party is a resident of this state, upon reasonable notice of the application therefor to the adverse party; nor on a judgment of a justice of the peace in the state within nine years after the same is rendered, unless the docket of the justice or record of such judgment is lost or destroyed; but the time during which an action on a judgment is prohibited by this section shall not be excluded in computing the statutory period of limitation for an action thereon.

[C73, §2521; C97, §3439; S13, §3439; C24, 27, 31, 35, 39, §**11009;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.3]

Referred to in §614.6
Action on certain judgments prohibited, chapter 615
Lien of judgments, §624.23

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614.4 Fraud — mistake — trespass.

In actions for relief on the ground of fraud or mistake, and those for trespass to property, the cause of action shall not be deemed to have accrued until the fraud, mistake, or trespass complained of shall have been discovered by the party aggrieved.

[C51, §1660; R60, §2741; C73, §2530; C97, §3448; C24, 27, 31, 35, 39, §**11010;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.4]

Referred to in §614.6

614.4A Identity theft.

In actions for relief on the ground of identity theft under section 714.16B, the cause of action shall not be deemed to have accrued until the identity theft complained of is discovered by the party aggrieved.

2005 Acts, ch 18, §1

Referred to in §614.6

614.5 Open account.

When there is a continuous, open, current account, the cause of action shall be deemed to have accrued on the date of the last item therein, as proved on the trial.

[C51, §1662; R60, §2743; C73, §2531; C97, §3449; C24, 27, 31, 35, 39, §**11011;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.5]

Referred to in §614.6

614.6 Nonresident or unknown defendant.

1. The period of limitation specified in sections 614.1 through 614.5 shall be computed omitting any time when:

a. The defendant is a nonresident of the state, or

b. In those cases involving personal injuries or death resulting from a felony or indictable misdemeanor, while the identity of the defendant is unknown after diligent effort has been made to discover it.

2. The provisions of this section shall be effective January 1, 1970, and to this extent the provisions are retroactive.

[C51, §1664; R60, §2745; C73, §2533; C97, §3451; C24, 27, 31, 35, 39, §**11013;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.6]

2015 Acts, ch 30, §178; 2016 Acts, ch 1011, §111

614.7 Bar in foreign jurisdiction.

When a cause of action has been fully barred by the laws of any country where the defendant has previously resided, such bar shall be the same defense here as though it had arisen under the provisions of this chapter; but this section shall not apply to causes of action arising within this state.

[C51, §1665; R60, §2746; C73, §2534; C97, §3452; C24, 27, 31, 35, 39, §**11014;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.7]

614.8 Minors and persons with mental illness.

1. The times limited for actions in this chapter, or chapter 216, 669, or 670, except those brought for penalties and forfeitures, are extended in favor of persons with mental illness, so that they shall have one year from and after the termination of the disability within which to file a complaint pursuant to chapter 216, to make a claim pursuant to chapter 669, or to otherwise commence an action.

2. Except as provided in section 614.1, subsection 9, or section 614.8A, the times limited for actions in this chapter, or chapter 216, 659A, 669, or 670, except those brought for penalties and forfeitures, are extended in favor of minors, so that they shall have five years

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from and after attainment of majority within which to file a complaint pursuant to chapter 216, to make a claim pursuant to chapter 669, or to otherwise commence an action.

[C51, §1666; R60, §2747; C73, §2535; C97, §3453; C24, 27, 31, 35, 39, §**11015;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.8]

96 Acts, ch 1129, §113; 97 Acts, ch 197, §7, 16; 2007 Acts, ch 110, §2; 2021 Acts, ch 56, §10; 2026 Acts, ch 1104, §5

Referred to in §216.15, 229.27, 252A.5A, 252F.2, 587.12, 600B.33, 614.8A, 614.19, 614.27, 659A.7, 669.13, 670.5, 714I.4
Subsection 2 amended

614.8A Commencement of action for child or minor sexual abuse or human trafficking — time limitation.

1. Notwithstanding section 614.8, subsection 2, and the times limited for actions in this chapter, the time to file an action related to sexual abuse or human trafficking that occurred when the injured person was a minor is extended to five years beyond the minor's attainment of eighteen years of age.

2. In addition to the extension of the time provided in subsection 1, an action for damages for injury suffered as a result of sexual abuse or human trafficking that occurred when the injured person was a child, but not discovered until after the injured person is of the age of majority, shall be brought within five years from the time of discovery by the injured party of both the injury and the causal relationship between the injury and the sexual abuse or human trafficking.

90 Acts, ch 1241, §2; 2026 Acts, ch 1104, §6

Referred to in §614.8
Section amended

614.9 Exception in case of death.

If the person having a cause of action dies within one year next previous to the expiration of the limitation provided for, the limitation shall not apply until one year after the person's death.

[C51, §1667; R60, §2748; C73, §2536; C97, §3454; C24, 27, 31, 35, 39, §**11016;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.9]

2019 Acts, ch 59, §201

614.10 Failure of action.

If, after the commencement of an action, the plaintiff, for any cause except negligence in its prosecution, fails therein, and a new one is brought within six months thereafter, the second shall be held a continuation of the first.

[C51, §1668; R60, §2749; C73, §2537; C97, §3455; C24, 27, 31, 35, 39, §**11017;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.10]

2020 Acts, ch 1063, §324

614.11 Admission in writing — new promise.

Causes of action founded on contract are revived by an admission in writing, signed by the party to be charged, that the debt is unpaid, or by a like new promise to pay the same.

[C51, §1670; R60, §2751; C73, §2539; C97, §3456; C24, 27, 31, 35, 39, §**11018;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.11]

614.12 Counterclaim.

A counterclaim may be pleaded as a defense to any cause of action, notwithstanding it is barred by the provisions of this chapter, if it was the property of the party pleading it at the time it became barred, and was not barred at the time the claim sued on originated; but no judgment thereon, except for costs, can be rendered in favor of the party so pleading it.

[R60, §2752; C73, §2540; C97, §3457; C24, 27, 31, 35, 39, §**11019;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.12]

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614.13 Injunction.

When the commencement of an action shall be stayed by injunction or statutory prohibition, the time of the continuance of such injunction or prohibition shall not be part of the time limited for the commencement of the action, except as otherwise provided in this chapter.

[C73, §2541; C97, §3458; C24, 27, 31, 35, 39, §**11020;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.13]

2020 Acts, ch 1063, §325

614.13A Definitions.

As used in this chapter, unless the context otherwise requires, *"book"*, *"list"*, *"record"*, or *"schedule"* kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in section 445.1.

2000 Acts, ch 1148, §1

SUBCHAPTER II

SPECIAL LIMITATIONS

614.14 Real estate interest transferred by trustee.

1. If an interest in real estate is held of record by a trustee, a bona fide purchaser acquires all rights in the real estate which the trustee and the beneficiary of the trust had and any rights of persons claiming by, through or under them, free of any adverse claim including but not limited to claims arising under section 561.13 or claims relating to an interest in real estate arising under section 633.238.

2. A bona fide purchaser is a purchaser for value in good faith and without notice of any adverse claim, who has relied on a current, recorded affidavit in substantially the following form delivered to the purchaser:

[Individual trustee]
Affidavit in re
[insert legal description]

I, ..., being first duly sworn and under oath state of my personal knowledge that:

[1] I am the trustee under the trust dated ....., to which the above-described real estate was conveyed to the trustee by ....., pursuant to an instrument recorded the ..... day of ..... [month], ... [year], recorded in the office of the ..... County Recorder in ..... [insert recording data].

[2] I am the presently existing trustee under the trust and am authorized to ..... [describe the transfer to be made by the trustee to the bona fide purchaser], without any limitation or qualification whatsoever.

[3] The trust is in existence and I as trustee am authorized to transfer the interests in the real estate as described in paragraph [2], free and clear of any adverse claims.

.....
[signature of affiant]

Sworn to and subscribed before me by ..... on this ..... day of ..... [month], ... [year]

.....
[Notary Public in and for
the State of .....]

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[Corporate trustee]
Affidavit in re
[insert legal description]

I, ..., being first duly sworn and under oath state of my personal knowledge that:

[1] ..... is the trustee under the trust dated ....., to which the above-described real estate was conveyed to the trustee by ....., pursuant to an instrument recorded the ..... day of ..... [month], ... [year], recorded in the office of the ..... County Recorder in ..... [insert recording data].

[2] ..... is the presently existing trustee under the trust and is authorized to ..... [describe the transfer to be made by the trustee to the bona fide purchaser], without any limitation or qualification whatsoever, and I am ..... [officer] of the corporate trustee.

[3] The trust is in existence and ..... as trustee is authorized to transfer the interests in the real estate as described in paragraph [2], free and clear of any adverse claims.

.....
[signature of affiant]

Sworn to and subscribed before me by ....., on this ..... day of ..... [month], ... [year]

.....
[Notary Public in and for
the State of .....]

3. As used in this section, *"adverse claim"* includes a claim that a transfer was or would be wrongful, a claim that a particular adverse person is the owner of or has an interest in the real estate, and a claim that would be disclosed by the examination of any document not of record.

4. Unless clearly provided to the contrary by the instrument of transfer to a purchaser, a trustee transferring an interest in real estate warrants to the transferee all of the following:

a. That the trust pursuant to which the transfer is made is duly executed and in existence.

b. That, to the knowledge of the trustee, the person creating the trust was under no disability or infirmity at the time the trust was created.

c. That the transfer by the trustee to the purchaser is effective and rightful.

d. That the trustee knows of no facts or legal claims which might impair the validity of the trust or the validity of the transfer.

5. *a.* A person holding an adverse claim arising or existing prior to January 1, 2009, by reason of a transfer of an interest in real estate by a trustee, or a purported trustee, shall not file an action to enforce such claim after December 31, 2010, at law or in equity, in any court to recover or establish any interest in or claim to such real estate, legal or equitable, against the holder of the record title to the real estate.

b. An action based upon an adverse claim arising on or after January 1, 2009, by reason of a transfer of an interest in real estate by a trustee, or a purported trustee, shall not be maintained either at law or in equity, in any court to recover or establish any interest in or claim to such real estate, legal or equitable, against the holder of the record title to the real estate, legal or equitable, more than one year after the date of recording of the instrument from which such claim may arise.

6. An interest in real estate held of record at any time by a trust shall be deemed to be held of record by the trustee of such trust.

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7. This section shall not be construed to limit any personal action against the trustee or purported trustee.

[S13, §3447; C24, 27, 31, 35, 39, §**11021;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.14]

91 Acts, ch 183, §33; 92 Acts, ch 1014, §1, 2; 92 Acts, ch 1163, §115; 99 Acts, ch 56, §1; 2000 Acts, ch 1058, §65; 2008 Acts, ch 1119, §12, 13, 39; 2009 Acts, ch 52, §1, 14

Referred to in §614.16

614.14A Real estate interests transferred by entities.

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

a. (1) *"Adverse claim"* means a claim that the transfer of an interest in real estate to a transferee is invalid and should be set aside based on an allegation that the execution and delivery of a deed or real estate contract was not authorized by the entity.

(2) *"Adverse claim"* does not include a claim that a deed or real estate contract purports to transfer a greater interest than the entity legally could transfer.

b. *"Entity"* means the same as defined in section 558.72.

2. A transfer of an interest in real estate situated in this state by an entity by a deed or real estate contract is subject to the provisions of this section.

3. *a.* With regard to any deed or real estate contract executed by an entity and filed of record with the recorder of the county in which the real estate is situated, which is recorded prior to July 1, 2013, the holder of an adverse claim shall not file an action, at law or in equity, to enforce the adverse claim or to invalidate such transfer five years after July 1, 2013.

b. With regard to any deed or real estate contract executed by an entity and filed of record with the recorder of the county in which the real estate is situated, which is recorded on or after July 1, 2013, the holder of an adverse claim shall not file an action, at law or in equity, to enforce the adverse claim or to invalidate such transfer more than two years after the date of recording of the instrument.

4. This section shall not be construed to limit any personal action against a person who executed an instrument purportedly transferring an interest in real estate on behalf of an entity for damages based on a claim arising out of an allegation that the execution and delivery of the instrument was not authorized by the entity or that a warranty required in section 558.72 was false.

2013 Acts, ch 108, §6

Referred to in §558.72

614.15 Spouse failing to join in conveyance.

1. In all cases where the holder of the legal or equitable title or estate to real estate situated within this state, prior to July 1, 1981, conveyed the real estate or any interest in the real estate by deed, mortgage, or other instrument, and the spouse failed to join in the conveyance, the spouse or the heirs at law, personal representatives, devisees, grantees, or assignees of the spouse are barred from recovery unless suit is brought for recovery within one year after July 1, 1991. But in case the right to the distributive share has not accrued by the death of the spouse executing the instrument, then the one not joining is authorized to file in the recorder's office of the county where the land is situated, a notice with affidavit setting forth affiant's claim, together with the facts upon which the claim rests, and the residence of the claimants. If the notice is not filed within two years from July 1, 1991, the claim is barred forever. Any action contemplated in this section may include land situated in different counties, by giving notice as provided by section 617.13.

2. In all cases where the holder of the legal or equitable title or estate to real estate situated within this state, after July 1, 1981, conveyed the real estate or any interest in the real estate by deed, mortgage, or other instrument, and the spouse failed to join in the conveyance, the spouse or the heirs at law, personal representative, devisees, grantees, or assignees of the spouse are barred from recovery unless suit is brought for recovery within ten years from the date of the conveyance. However, in the case where the right to the distributive share has not accrued by the death of the spouse executing the instrument, then the party not joining is authorized to file in the recorder's office in the county where the land is situated, a notice

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with affidavit setting forth the affiant's claim, together with the facts upon which the claim is based, and the residence of the claimants. If the notice is not filed within ten years from the date of the execution of the instrument the claim is barred forever. Any action contemplated in this section may include land situated in different counties by giving notice as provided in section 617.13. The effect of filing the notice with affidavit shall extend for a further period of ten years the time within which the action may be brought. Successive notices may be filed extending this period.

[S13, §3447-b; C24, 27, 31, 35, 39, §**11022;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.15]

91 Acts, ch 183, §34; 93 Acts, ch 14, §1

Referred to in §561.13, 614.16, 614.20

614.16 Interpretative clause.

Sections 614.14 and 614.15 do not affect litigation pending on July 1, 1991, nor do they operate to revive rights or claims barred previous to that date, nor permit an action to be brought or maintained upon any claim or cause of action which is barred by a statute in force prior to July 1, 1991.

[C24, 27, 31, 35, 39, §**11023;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.16]

91 Acts, ch 183, §35

614.17 Claims to real estate antedating 1980.

1. An action based upon a claim arising or existing prior to January 1, 1980, shall not be maintained, either at law or in equity, in any court to recover real estate in this state or to recover or establish any interest in or claim to real estate, legal or equitable, against the holder of the record title to the real estate in possession, when the holder of the record title and the holder's immediate or remote grantors are shown by the record to have held chain of title to the real estate, since January 1, 1980, unless the claimant in person, or by the claimant's attorney or agent, or if the claimant is a minor or under legal disability, by the claimant's guardian, trustee, or either parent, within one year from and after July 1, 1991, files in the office of the recorder of deeds of the county in which the real estate is situated, a statement in writing, which is duly acknowledged, definitely describing the real estate involved, the nature and extent of the right or interest claimed, and stating the facts upon which the claim is based.

2. For the purposes of this section, section 614.17A, and sections 614.18 through 614.20, a person who holds title to real estate by will or descent from a person who held the title of record to the real estate at the date of that person's death or who holds title by decree or order of a court, or under a tax deed, trustee's, referee's, guardian's, executor's, administrator's, receiver's, assignee's, master's in chancery, or sheriff's deed, holds chain of title the same as though holding by direct conveyance.

3. For the purposes of this section and section 614.17A, such possession of real estate may be shown of record by affidavits showing the possession, and when the affidavits have been filed and recorded, it is the duty of the recorder to index the applicable entries specified in sections 558.49 and 558.52 and to index the name of the owner in possession, as named in the affidavits, and in like manner, the affidavits may be filed and recorded where any action was barred on any claim by this section as in force prior to July 1, 1991.

[C24, 27, 31, 35, 39, §**11024;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.17]

91 Acts, ch 183, §36; 2007 Acts, ch 101, §5; 2021 Acts, ch 80, §355

Referred to in §614.17A, 614.19, 614.20

614.17A Claims to real estate after 1992.

1. After July 1, 1992, an action shall not be maintained in a court, either at law or in equity, in order to recover or establish an interest in or claim to real estate if all the following conditions are satisfied:

a. The action is based upon a claim arising more than ten years earlier or existing for more than ten years.

b. The action is against the holder of the record title to the real estate in possession.

c. The holder of the record title to the real estate in possession and the holder's immediate

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or remote grantors are shown by the record to have held chain of title to the real estate for more than ten years.

2. *a.* The claimant within ten years of the date on which the claim arose or first existed must file with the county recorder in the county where the real estate is located a written statement which is duly acknowledged and definitely describes the real estate involved, the nature and extent of the right of interest claimed, and the facts upon which the claim is based. The claimant must file the statement in person or by the claimant's attorney or agent. If the claimant is a minor or under a legal disability, the statement must be filed by the claimant's guardian, trustee, or by either parent.

b. The filing of a claim shall extend for a further period of ten years the time within which such action may be brought by any person entitled to bring the claim. The person may file extensions for successive claims.

3. Nothing in this section shall be construed to revive any cause of action barred by section 614.17.

91 Acts, ch 183, §37; 2013 Acts, ch 30, §261
Referred to in §614.17, 614.18, 614.19, 614.20

614.18 Claim recorded and indexed.

Any such claim so filed shall be recorded, and the entries required in section 614.17A and any applicable entries specified in sections 558.49 and 558.52 indexed, in the office of the recorder of the county where such real estate is situated.

[C24, 27, 31, 35, 39, §**11025;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.18]
2007 Acts, ch 101, §6
Referred to in §614.17, 614.19, 614.20, 614.26

614.18A Judgment and decree affecting real property.

In an action in which the court had jurisdiction of the aggrieved party, a motion or other legal proceeding attacking the validity of the judgment or decree based on noncompliance with the requirements of rule of civil procedure 1.972 shall not affect the interests of any purchaser or mortgagee for value of the real property involved unless the motion or proceeding is initiated within thirty days after the recording of the sheriff's deed or within ninety days after the filing of a judgment or decree not providing for the issuance of a sheriff's deed.

2009 Acts, ch 51, §1, 17
Referred to in §614.17, 614.20

614.19 Inapplicability of provision regarding minors and persons with mental illness.

The provisions of section 614.8 as to the rights of minors and persons with mental illness shall not be applicable against the provisions of sections 614.17, 614.17A, 614.18, and 614.20.

[C24, 27, 31, 35, 39, §**11026;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.19]
96 Acts, ch 1129, §113; 2000 Acts, ch 1069, §1
Referred to in §229.27, 614.17, 614.20

614.20 Limitation on Act.

Sections 614.17 through 614.19 do not limit or extend the time within which actions by a spouse to recover dower or distributive share in real estate within this state may be brought or maintained under the provisions of section 614.15, nor do they limit or extend the time within which actions may be brought or maintained to foreclose or enforce any real estate mortgage, bond for deed, trust deed, or contract for the sale or conveyance of real estate under the provisions of section 614.21, nor do they revive or permit an action to be brought or maintained upon any claim or cause of action which is barred by a statute which is in force prior to July 1, 1991; nor do they affect litigation pending on July 1, 1991.

[C24, 27, 31, 35, 39, §**11027;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.20]
91 Acts, ch 183, §38; 2020 Acts, ch 1063, §326
Referred to in §614.17, 614.19

614.21 Foreclosure of ancient mortgages.

1. An action to foreclose or enforce any real estate mortgage, bond for deed, trust deed,

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or contract for the sale or conveyance of real estate, after twenty years from the date thereof, as shown by the record of such instrument, shall be barred, unless either of the following:

a. The record of such instrument shows that less than ten years have elapsed since the date of maturity of the indebtedness or part thereof, secured thereby, or since the right of action has accrued.

b. The record shows an extension of the maturity of the instrument or of the debt or a part thereof, and that ten years from the expiration of the time of such extension have not yet expired.

2. The date of maturity, when different than as appears by the record of the instrument, and the date of maturity of any extension of the instrument or the debt or of said indebtedness or part thereof, may be shown at any time prior to the expiration of the periods of limitation specified in subsection 1 by the holder of the debt or the owner or assignee of the instrument by filing in the office of the recorder where the instrument is recorded an extension agreement or other documentation confirming an agreement to extend the date of maturity of the instrument or said debt or said indebtedness secured thereby. By authorizing or becoming bound under an existing real estate mortgage, bond for deed, trust deed, or contract for the sale or conveyance of real estate, the grantor or mortgagor thereunder authorizes the holder of said debt or the owner or assignee of said instrument to make the filing under this subsection.

3. This section shall also apply to any instrument described in this section which is not of record but which is described or referred to in any other instrument which is filed of record. The limitation shall be ten years from the due date of the instrument referred to if disclosed in the record and, if not so disclosed, then within ten years from the date the instrument containing such reference is recorded.

4. *a.* A vendee of a real estate contract or bond for deed, the vendor of which is barred by this section from maintaining an action to foreclose or enforce the contract or bond, or a vendee who is entitled to immediate issuance of a deed in fulfillment of contract or bond and who is in physical possession of the property, may serve the vendor with a demand for a deed as provided in the contract. For purposes of this subsection, *"vendee"* includes a vendee's successor in interest. The notice may be served personally or by publication, on the same conditions, and in the same manner as is provided for the service of original notices, except that when the notice is served by publication an affidavit shall not be required before publication. Service by publication shall be deemed complete on the day of the last publication. Service may be made on a judgment creditor of the deceased vendor or any other person who is, as a matter of record, interested in the estate of a deceased vendor, in the manner provided in section 654.4A, subsections 4 and 5.

b. The demand shall state that if a deed is not provided within forty-five days of service and an action to foreclose or forfeit the contract has not been commenced within such forty-five-day period, the vendee may file an affidavit showing service and compliance with this subsection whereupon the auditor shall correct the county records as provided in section 558.67 to indicate that the rights of the vendor have vested in the vendee.

[S13, §3447-c; C24, 27, 31, 35, 39, §**11028;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.21]

2006 Acts, ch 1031, §14; 2013 Acts, ch 83, §2; 2020 Acts, ch 1011, §1

Referred to in §614.20

614.22 Action affecting ancient deeds.

1. An action shall not be maintained to set aside, cancel, annul, declare void or invalid, or to redeem from a tax deed, guardian's deed, executor's deed, administrator's deed, receiver's deed, referee's deed, assignee's deed, or sheriff's deed which has been recorded in the office of the recorder of the county or counties in this state in which the land described in the deed is situated prior to January 1, 1980, unless the action is commenced prior to January 1, 1992, and if an action to set aside, cancel, annul, declare void or invalid, or to redeem from the deed is not commenced prior to January 1, 1992, then the deed and all the proceedings upon which the deed is based are valid and unimpeachable and effective to convey title as stated in the deed, without exception for infancy, mental illness, absence from the state, or

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other disability or cause; provided that this subsection and section 614.23 do not apply to real property described in a deed which is not in the possession of those claiming title under the deed.

2. *a.* On and after January 1, 1992, an action shall not be maintained to set aside, cancel, annul, declare void or invalid, or to redeem from a tax deed, guardian's deed, executor's deed, administrator's deed, receiver's deed, referee's deed, assignee's deed, or sheriff's deed, if the deed has been recorded in the office of the recorder for more than ten years. The deed must be recorded in the office of the recorder of the county or counties in which the land described in the deed is situated. If an action under this subsection is not commenced within ten years of the recording of the deed, then the deed and all proceedings upon which the deed is based are valid and unimpeachable and effective to convey title as stated in the deed, without exception for infancy, mental illness, absence from the state, or other disability or cause.

b. However, this subsection and section 614.23 do not apply to real property described in a deed which is not in the possession of those claiming title under the deed.

[SS15, §3447-d; C24, 27, 31, 35, 39, §**11029;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.22]

91 Acts, ch 183, §39; 2000 Acts, ch 1069, §2; 2013 Acts, ch 30, §261

Referred to in §229.27, 614.23

Legalizing Acts, chapter 589

614.23 How possession established.

The possession of the persons claiming title as provided for in section 614.22 may be established by affidavit recorded in the office of the recorder of the county or counties in this state in which the deed to the land referred to in said affidavit is recorded.

[SS15, §3447-e; C24, 27, 31, 35, 39, §**11030;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.23]

Referred to in §614.22

614.24 Reversion or use restrictions on land — preservation.

1. No action based upon any claim arising or existing by reason of the provisions of any deed or conveyance or contract or will reserving or providing for any reversion, reverted interests or use restrictions in and to the land therein described shall be maintained either at law or in equity in any court to recover real estate in this state or to recover or establish any interest therein or claim thereto, legal or equitable, against the holder of the record title to such real estate in possession after twenty-one years from the recording of such deed of conveyance or contract or after twenty-one years from the admission of said will to probate unless the claimant shall, personally, or by the claimant's attorney or agent, or if the claimant is a minor or under legal disability, by the claimant's guardian, trustee, or either parent or next friend, file a verified claim with the recorder of the county wherein said real estate is located within said twenty-one year period. In the event said deed was recorded or will was admitted to probate more than twenty years prior to July 4, 1965, then said claim may be filed on or before one year after July 4, 1965. Such claims shall set forth the nature thereof, also the time and manner in which such interest was acquired. For the purposes of this section, the claimant shall be any person or persons claiming any interest in and to said land or in and to such reversion, reverter interest or use restriction, whether the same is a present interest or an interest which would come into existence if the happening or contingency provided in said deed or will were to happen at once. Said claimant further shall include any member of a class of persons entitled to or claiming such rights or interests.

2. The provisions of this section requiring the filing of a verified claim shall not apply to the reversion of railroad property if the reversion is caused by the property being abandoned for railway purposes and the abandonment occurs after July 1, 1980. The holder of such a reversionary interest may bring an action based upon the interest regardless of whether a verified claim has been filed under this section at any time after July 4, 1965.

3. This section shall not impair the validity of an environmental covenant established pursuant to chapter 455I.

4. This section shall not extinguish, limit, or impair the validity of a document or

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instrument specified in section 499A.23 or 499B.21, or any property interests created by such document or instrument.

5. As used in this section, *"use restrictions"* means a limitation or prohibition on the rights of a landowner to make use of the landowner's real estate, including but not limited to limitations or prohibitions on commercial uses, rental use, parking and storage of recreational vehicles and their attachments, ownership of pets, outdoor domestic uses, construction and use of accessory structures, building dimensions and colors, building construction materials, and landscaping. As used in this section, *"use restrictions"* does not include any of the following:

a. An easement granting a person an affirmative right to use land in the possession of another person including but not limited to an easement for pedestrian or vehicular access, reasonable ingress and egress, solar access, utilities, supporting utilities, parking areas, bicycle paths, and water flow.

b. An agreement between two or more parcel owners providing for the sharing of costs and other obligations for real estate taxes, insurance premiums, and for maintenance, repair, improvements, services, or other costs related to two or more parcels of real estate regardless of whether the parties to the agreement are owners of individual lots or incorporated or unincorporated lots or have ownership interests in common areas in a horizontal property regime or residential housing development.

c. An agreement between two or more parcel owners for the joint use and maintenance of driveways, party walls, landscaping, fences, wells, roads, common areas, waterways, or bodies of water.

[C66, 71, 73, 75, 77, 79, 81, §614.24]

2005 Acts, ch 102, §18; 2007 Acts, ch 22, §103; 2014 Acts, ch 1067, §1; 2014 Acts, ch 1095, §5, 6

Referred to in §229.27, 327G.77, 455I.9, 457A.2, 499A.23, 499B.21, 614.26, 614.27, 614.28

614.25 Effect of filing claim.

The filing of such claim shall extend for a further period of twenty-one years the time within which such action may be brought by any person entitled thereto, and successive claims for further like extensions may be filed.

[C66, 71, 73, 75, 77, 79, 81, §614.25]

Referred to in §455I.9, 457A.2, 614.26, 614.27, 614.28

614.26 Indexing.

The provisions of section 614.18 are made applicable to the provisions of sections 614.24 and 614.25, this section, and sections 614.27 and 614.28.

[C66, 71, 73, 75, 77, 79, 81, §614.26]

2020 Acts, ch 1063, §327

Referred to in §455I.9, 457A.2, 614.27, 614.28

614.27 Persons under disability.

The provisions of section 614.8 as to the rights of minors and persons with mental illness shall not be applicable against the provisions of sections 614.24 through 614.26, this section, and section 614.28.

[C66, 71, 73, 75, 77, 79, 81, §614.27]

96 Acts, ch 1129, §113; 2020 Acts, ch 1063, §328

Referred to in §229.27, 455I.9, 457A.2, 614.26, 614.28

614.28 Barred claims.

The provisions of sections 614.24 through 614.27, or the filing of a claim or claims under this subchapter, shall not revive or permit an action to be brought or maintained upon any claim or cause of action which is barred by any other statute. Provided further, that nothing contained in these sections shall affect litigation pending on July 4, 1965.

[C66, 71, 73, 75, 77, 79, 81, §614.28]

2020 Acts, ch 1063, §329

Referred to in §455I.9, 457A.2, 614.26, 614.27

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SUBCHAPTER III

MARKETABLE RECORD TITLE

614.29 Definitions.

As used in this chapter:

1. *"Marketable record title"* means a title of record, as indicated in section 614.31, which operates to extinguish such interests and claims, existing prior to the effective date of the root of title, as are stated in section 614.33.

2. *"Records"* includes probate and other official public records, as well as records in the office of the county recorder.

3. *"Recording"*, when applied to the official public records of a probate or other court, includes filing.

4. *"Person dealing with the land"* includes a purchaser of any estate or interest therein, a mortgagee, a levying or attaching creditor, a land contract vendee, or any other person, corporation, or entity seeking to acquire an estate or interest therein, or impose a lien thereon.

5. *"Root of title"* means that conveyance or other title transaction or other link in the chain of title of a person, purporting to create the interest claimed by such person, upon which the person relies as a basis for the marketability of the person's title, and which was the most recent to be recorded or established as of a date forty years prior to the time when marketability is being determined. The effective date of the *"root of title"* is the date on which it is recorded.

6. *"Title transaction"* means any transaction affecting title to any interest in land, including title by will or descent, title by tax deed, or deed by trustee, referee, guardian, executor, administrator, master in chancery, sheriff, or any other form of deed or decree of any court, as well as warranty deed, quitclaim deed, mortgage, or transfer or conveyance of any kind.

[C71, 73, 75, 77, 79, 81, §614.29]

2004 Acts, ch 1052, §5

Referred to in §257B.28, 455I.9, 457A.2, 614.31

614.30 Construction liberal.

This chapter shall be liberally construed to effect the legislative purpose of simplifying and facilitating land title transactions by allowing persons to rely on a record chain of title as described in section 614.31, subject only to such limitations as appear in section 614.32.

[C71, 73, 75, 77, 79, 81, §614.30]

2004 Acts, ch 1052, §6

Referred to in §257B.28, 455I.9, 457A.2

614.31 Forty-year chain of title.

Any person who has an unbroken chain of title of record to any interest in land for forty years or more, shall be deemed to have a marketable record title to such interest as defined in section 614.29, subject only to the matters stated in section 614.32. A person shall be deemed to have such an unbroken chain of title when the official public records disclose a conveyance or other title transaction, of record not less than forty years at the time the marketability is to be determined, which said conveyance or other title transaction purports to create such interest, either in:

1. The person claiming such interest, or

2. Some other person from whom, by one or more conveyances or other title transactions of record, such purported interest has become vested in the person claiming such interest; with nothing appearing of record, in either case, purporting to divest such claimant of such purported interest.

[C71, 73, 75, 77, 79, 81, §614.31]

Referred to in §257B.28, 455I.9, 457A.2, 614.29, 614.30

614.32 What interests and rights subject.

Such marketable record title shall be subject to:

1. All interests and defects which are inherent in the muniments of which such chain of

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record title is formed; provided however, that a general reference in such muniments, or any of them, to easements, use restrictions or other interests created prior to the root of title shall not be sufficient to preserve them, unless specific identification be made therein of a recorded title transaction which creates such easement, use restriction, or other interest.

2. All interest preserved by the filing of proper notice or by possession by the same owner continuously for a period of forty years or more, in accordance with section 614.34.

3. The rights of any person arising from a period of adverse possession or user, which was in whole or in part subsequent to the effective date of the root of title.

4. Any interest arising out of a title transaction which has been recorded subsequent to the effective date of the root of title from which the unbroken chain of title of record is started; provided such recording shall not revive or give validity to any interest which has been extinguished prior to the time of the recording by the operation of section 614.33.

5. The exceptions as stated and set forth in section 614.36.

6. All interests created by an environmental covenant established pursuant to chapter 455I.

[C71, 73, 75, 77, 79, 81, §614.32]
2005 Acts, ch 102, §19
Referred to in §257B.28, 455I.9, 457A.2, 614.30, 614.31, 614.33

614.33 Free and clear of other interests not stated.

Subject to the matters stated in section 614.32, such marketable record title shall be held by its owner and shall be taken by any person dealing with the land free and clear of all interests, claims or charges whatsoever, the existence of which depends upon any act, transaction, event or omission that occurred prior to the effective date of the root of title. All such interests, claims or charges, however denominated, whether legal or equitable, present or future, whether such interest, claims or charges are asserted by a person able to assert a claim on the person's own behalf or under a disability, whether such person is within or without the state, whether such person is natural or corporate, or is private or governmental, are hereby declared to be null and void.

[C71, 73, 75, 77, 79, 81, §614.33]
Referred to in §257B.28, 455I.9, 457A.2, 614.29, 614.32

614.34 Preserving interest during forty-year period.

1. Any person claiming an interest in land may preserve and keep effective such interest by filing for record during the forty-year period immediately following the effective date of the root of title of the person whose record title would otherwise be marketable, a notice in writing duly verified by oath or affirmation setting forth the nature of the claim. No disability or lack of knowledge of any kind on the part of anyone shall suspend the running of said forty-year period. Such notice may be filed for record by the claimant or by any other person acting on behalf of any claimant who is:

a. Under a disability,

b. Unable to assert a claim on the claimant's own behalf, or

c. One of a class, but whose identity cannot be established or is uncertain at the time of filing such notice of claim for record.

2. If the same record owner of any possessory interest in land has been in possession of such land continuously for a period of forty years or more, during which period no title transaction with respect to such interest appears of record in the chain of title, and no notice has been filed by the record owner or on the record owner's behalf as provided in subsection 1, and such possession continues to the time when marketability is being determined, such period of possession shall be deemed equivalent to the filing of the notice immediately preceding the termination of the forty-year period described in subsection 1.

[C71, 73, 75, 77, 79, 81, §614.34]
Referred to in §257B.28, 455I.9, 457A.2, 614.32, 614.35

614.35 Recording interest.

To be effective and to be entitled to record, the notice referred to in section 614.34 shall contain an accurate and full description of all land affected by such notice which description

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shall be set forth in particular terms and not by general inclusions; but if the claim is founded upon a recorded instrument, then the description in such notice may be the same as that contained in such recorded instrument. Such notice shall be filed for record in the office of the county recorder of the county or counties where the land described in the notice is situated. The recorder of each county shall accept all such notices presented to the recorder which describe land located in the county in which the recorder serves and shall enter and record full copies of the notices and shall index the applicable entries specified in sections 558.49 and 558.52, and each recorder shall be entitled to charge the same fees for the recording of the notices as are charged for recording deeds. In indexing such notices in the recorder's office each recorder shall enter such notices under the grantee indexes of deeds in the names of the claimants appearing in such notices.

[C71, 73, 75, 77, 79, 81, §614.35]

2006 Acts, ch 1031, §15; 2007 Acts, ch 101, §7; 2015 Acts, ch 30, §179

Referred to in §257B.28, 331.602, 331.607, 455I.9, 457A.2

614.36 Lessors, reversioners, and easements.

This chapter shall not be applied to bar any lessor or lessor's successor as a reversioner of the lessor's right to possession on the expiration of any lease; or to bar or extinguish any easement or interest in the nature of an easement, the existence of which is apparent from or can be proved by physical evidence of its use; or to bar any right, title or interest of the United States, by reason of failure to file the notice herein required.

[C71, 73, 75, 77, 79, 81, §614.36]

2004 Acts, ch 1052, §7

Referred to in §257B.28, 455I.9, 457A.2, 614.32

614.37 Limitation statutes not extended.

Nothing contained in this chapter shall be construed to extend the period for the bringing of an action or for the doing of any other required act under any statutes of limitations, nor, except as herein specifically provided, to effect the operation of any statutes governing the effect of the recording or the failure to record any instrument affecting land. It is intended that nothing contained in this chapter be interpreted to revive or extend the period of filing a claim or bringing an action that may be limited or barred by any other statute.

[C71, 73, 75, 77, 79, 81, §614.37]

2004 Acts, ch 1052, §8; 2004 Acts, ch 1175, §387

Referred to in §257B.28, 455I.9, 457A.2

614.38 Period extension in certain cases.

If the forty-year period specified in this chapter shall have expired prior to one year after July 1, 1969, such period shall be extended one year after July 1, 1969.

[C71, 73, 75, 77, 79, 81, §614.38]

2004 Acts, ch 1052, §9

Referred to in §257B.28, 455I.9, 457A.2

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CHAPTER 615

LIMITATIONS ON JUDGMENTS

Method of computing time, §4.1(34)

615.1	Execution on certain judgments prohibited.	615.3	Future judgments without foreclosure.
615.1A	Execution on judgment — claim for rent.	615.4	Chapter inapplicable in certain situations.
615.2	Revival of certain judgments prohibited.		

615.1 Execution on certain judgments prohibited.

1. After the expiration of a period of two years from the date of entry of judgment,

exclusive of any time during which execution on the judgment was stayed pending a bankruptcy action or order of court, a judgment entered in any of the following actions shall be null and void, all liens shall be extinguished, and no execution shall be issued except as a setoff or counterclaim:

a. For a real estate mortgage, deed of trust, or real estate contract executed prior to July 1, 2009, an action for the foreclosure of the real estate mortgage, deed of trust, or real estate contract upon property which at the time the foreclosure is commenced is either used for an agricultural purpose as defined in section 535.13 or as a one-family or two-family dwelling which is the residence of the mortgagor.

b. For a real estate mortgage, deed of trust, or real estate contract executed on or after July 1, 2009, an action for the foreclosure of the real estate mortgage, deed of trust, or real estate contract upon property which at the time of the execution of the mortgage, deed, or contract is either used for, or is being acquired for, an agricultural purpose as defined in section 535.13 or as a one-family or two-family dwelling which is the residence of the mortgagor.

2. As used in this section, "*mortgagor*" means a mortgagor or a borrower executing a deed of trust as provided in chapter 654 or a vendee of a real estate contract.

[C35, §11033-e1; C39, §**11033.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §615.1]

94 Acts, ch 1115, §1; 2006 Acts, ch 1132, §2, 16; 2008 Acts, ch 1031, §66; 2009 Acts, ch 51, §2, 17; 2013 Acts, ch 95, §2

Referred to in §654.1A, 654.17

615.1A Execution on judgment — claim for rent.

After the expiration of a period of ten years from the date of entry of judgment of a court not of record, or twenty years from the date of entry of judgment of a court of record, in an action on a claim for rent, exclusive of any time during which execution on the judgment was stayed pending a bankruptcy action or order of court, such judgment shall be null and void, all liens shall be extinguished, and no execution shall be issued. However, in the event that the judgment or the right to collect thereon is sold or otherwise assigned for value to a third party other than a state or federally chartered bank or credit union, such judgment shall be null and void, all liens shall be extinguished, and no execution shall be issued after the expiration of two years from the date of entry of the judgment, exclusive of any time during which execution on the judgment was stayed pending a bankruptcy action or order of court.

2013 Acts, ch 95, §3; 2018 Acts, ch 1148, §2

615.2 Revival of certain judgments prohibited.

An action or proceedings shall not be brought in any court of this state for the purpose of renewing or extending such judgment. Provided, however, that nothing herein shall prevent the continuance of such judgment in force against the property subject to foreclosure only for a longer period by the voluntary written stipulation of the judgment creditor and the equitable titleholders, filed in the action or proceedings.

[C35, §11033-e2; C39, §**11033.2;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §615.2]

2006 Acts, ch 1132, §3, 16

615.3 Future judgments without foreclosure.

A judgment hereafter rendered on a promissory obligation secured by a mortgage, deed of trust, or real estate contract upon property which at the time of the judgment is either used for an agricultural purpose as defined in section 535.13 or a one-family or two-family dwelling which is the residence of the mortgagor, but without foreclosure against the security, shall not be subject to renewal by action thereon, and, after the lapse of two years from the date of rendition, shall be without force and effect for any purpose whatsoever except as a setoff or counterclaim. As used in this section, "*mortgagor*" means a mortgagor of a mortgage or a borrower executing a deed of trust as provided in chapter 654 or the vendee of a real estate contract.

[C35, §11033-g1; C39, §**11033.3;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §615.3]

94 Acts, ch 1115, §2; 94 Acts, ch 1199, §67; 95 Acts, ch 49, §22

Referred to in §654.1A

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615.4 Chapter inapplicable in certain situations.

This chapter shall not be applied to actions which are subject to an agreement entered into pursuant to either section 628.26A or section 654.19.

85 Acts, ch 252, §42

CHAPTER 616

PLACE OF BRINGING ACTIONS

Referred to in §523H.3, 537A.10

For Iowa court rules concerning change of venue, see R.C.P. 1.801 – 1.808
Change of venue — prohibited transfer of civil actions, chapter 623

616.1	Real property.	616.12	Nonlife insurance premiums or notes.
616.2	Injuries to real property.	616.13	Operators of coal mines.
616.3	Local actions.	616.14	Office or agency.
616.4	Nonresident — attachment.	616.15	Surety companies.
616.5	Resident — attachment.	616.16	Municipal corporations in certain counties.
616.6	Transfer — attached property held.	616.17	Personal actions.
616.7	Place of contract.	616.18	Personal injury or damage actions.
616.8	Certain carriers and transmission companies — actions against.	616.19	Negotiable paper.
616.9	Construction companies.	616.20	Right of nonresident defendant.
616.10	Insurance companies.	616.21	Change of residence.
616.11	Nonlife insurance assessments.		

616.1 Real property.

Actions for the recovery of real property, or of an estate therein, or for the determination of such right or interest, or for the partition of real property, must be brought in the county in which the subject of the action or some part thereof is situated.

[C51, §1703; R60, §2795; C73, §2576; C97, §3491; C24, 27, 31, 35, 39, §**11034;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §616.1]

Real estate foreclosure, §654.3

616.2 Injuries to real property.

Actions for injuries to real property may be brought either in the county where the property is, or where the defendant resides.

[C73, §2577; C97, §3492; C24, 27, 31, 35, 39, §**11035;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §616.2]

616.3 Local actions.

Actions for the following causes must be brought in the county where the cause, or some part thereof, arose:

1. *For fines, penalties, or forfeitures.* Those for the recovery of a fine, penalty, or forfeiture imposed by a statute; but when the offense for which the claim is made was committed on a watercourse or road which is the boundary of two counties, the action may be brought in either of them.

2. *Against public officers.* Those against a public officer or person specially appointed to execute the public officer's duties, for an act done by the officer or person in virtue or under color of the public office, or against one who by the officer's or person's command or in the officer's or person's aid shall do anything touching the duties of such officer, or for neglect of official duty.

3. *On official bonds.* Those on the official bond of a public officer.

4. *Actions on bonds of executor or guardian.* Those on the bond of an executor, administrator, or guardian may be brought in the county in which the appointment was made and such bond filed.

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5. *Actions on other bonds.* Actions on all other bonds provided for or authorized by law may be brought in the county in which such bond was filed and approved.

[R60, §2796; C73, §2579; C97, §3494; S13, §3494; C24, 27, 31, 35, 39, §**11036;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §616.3]

616.4 Nonresident — attachment.

An action against a nonresident of the state, when aided by an attachment, may be brought in any county of the state wherein any part of the property sought to be attached may be found, or wherein any part was situated when the action was commenced, or where the defendant is personally served in this state.

[C51, §1703; R60, §2797; C73, §2580; C97, §3495; C24, 27, 31, 35, 39, §**11037;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §616.4]

616.5 Resident — attachment.

Except as hereinafter provided, an action against a resident of this state must be brought in the county of the defendant's residence, or that in which the contract was to be performed, except that, if an action be duly brought against such defendant in any other county by virtue of any of the provisions of this chapter, then such action may, if legal cause for an attachment exist, be aided by attachment.

[R60, §2797; C73, §2580; C97, §3495; C24, 27, 31, 35, 39, §**11038;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §616.5]

616.6 Transfer — attached property held.

Should such action be brought against a resident of this state in any other county than that of the defendant's residence, the defendant may have the place of trial changed to the district court of the county wherein the defendant resides, in the same manner and upon the same terms as provided in rule of civil procedure 1.808, and the property attached shall not be released because said action was brought in the wrong county, but shall be held and subject in the same manner as if said action had been brought in the county of defendant's residence.

[R60, §2797; C73, §2580; C97, §3495; C24, 27, 31, 35, 39, §**11039;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §616.6]

616.7 Place of contract.

When, by its terms, a written contract is to be performed in any particular place, action for a breach thereof may, except as otherwise provided, be brought in the county wherein such place is situated.

[C51, §1704; R60, §2798; C73, §2581; C97, §3496; C24, 27, 31, 35, 39, §**11040;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §616.7]

616.8 Certain carriers and transmission companies — actions against.

An action may be brought against any railway corporation, the owner of stages, or other line of coaches or cars, express, canal, steamboat and other river crafts, telegraph and telephone companies, or the owner of any line for the transmission of electric current for lighting, power, or heating purposes, and the lessees, companies, or persons operating the same, in any county through which such road or line passes or is operated.

[C73, §2582; C97, §3497; S13, §3497; C24, 27, 31, 35, 39, §**11041;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §616.8]

616.9 Construction companies.

An action may be brought against any corporation, company, or person engaged in the construction of a railway, canal, telegraph or telephone line, oil, gas, or gasoline transmission lines, highway, or public drainage improvement, on any contract relating thereto, or to any part thereof, or for damages in any manner growing out of the contract or work thereunder,

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in any county where such contract was made, or performed in whole or in part, or where the work was done out of which the damage claimed arose.

[C73, §2583; C97, §3498; C24, 27, 31, 35, 39, §**11042;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §616.9]

616.10 Insurance companies.

Insurance companies may be sued in any county in which their principal place of business is kept, or in which the contract of insurance was made, or in which the loss insured against occurred, or, in case of insurance against death or disability, in the county of the domicile of the insured at the time the loss occurred, or in the county of plaintiff's residence. As used in this section the term *"insurance companies"* includes nonprofit hospital service corporations and nonprofit medical service corporations which have incorporated under the provisions of chapter 504, Code 1989, or current chapter 504.

[C73, §2584; C97, §3499; C24, 27, 31, 35, 39, §**11043;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §616.10]

91 Acts, ch 97, §60; 2003 Acts, ch 108, §105; 2004 Acts, ch 1049, §191; 2004 Acts, ch 1175, §394

616.11 Nonlife insurance assessments.

No court other than that of the county in which the member resides shall have jurisdiction of actions to collect assessments levied by associations organized under the provisions of chapter 518A but such actions shall be brought in the county of the member's residence, any statement or agreement in the policy or contract of insurance, the application therefor, or any other contract entered into between the member and the association to the contrary notwithstanding.

[C24, 27, 31, 35, 39, §**11044;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §616.11]

616.12 Nonlife insurance premiums or notes.

No court other than that of the county in which the policyholder resides shall have jurisdiction of actions to collect premiums or premium notes payable or given for insurance other than life, but such actions shall be brought in the county of the policyholder's residence, any statement or agreement in the policy or contract of insurance, the application therefor, or any other contract entered into between the policyholder and the company or its agent to the contrary notwithstanding.

[C27, 31, 35, §11044-a1; C39, §**11044.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §616.12]

616.13 Operators of coal mines.

An action may be brought against any corporation, company, or person, owning, leasing, operating, or maintaining a coal mine, in the county where said mine is located, on any contract, or for any tort, in any manner connected with or growing out of the construction, use, or operation of said mine.

[S13, §3499-a; C24, 27, 31, 35, 39, §**11045;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §616.13]

616.14 Office or agency.

When a corporation, company, or individual has an office or agency in any county for the transaction of business, any actions growing out of or connected with the business of that office or agency may be brought in the county where such office or agency is located.

[C51, §1705; R60, §2801; C73, §2585; C97, §3500; C24, 27, 31, 35, 39, §**11046;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §616.14]

616.15 Surety companies.

1. Suit may be brought against any company or corporation furnishing or pretending to furnish surety, fidelity, or other bonds in this state, in any county in which the principal place of business of such company or corporation is maintained in this state, or in any county wherein is maintained its general office for the transaction of its Iowa business, or in the

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county where the principal resides at the time of bringing suit, or in the county where the principal did reside at the time the bond or other undertaking was executed; and in the case of bonds furnished by any such company or corporation for any building or improvement, either public or private, action may be brought in the county wherein said building or improvement or any part thereof is located.

2. The secretary of state shall serve as the agent for service of process for the purposes of 31 U.S.C. §9306, of any surety company or corporation for a surety bond written by that surety company or corporation for the federal government and issued in this state as required or permitted under federal law, if the surety company or corporation is licensed in this state and cannot be otherwise served with process. Notwithstanding section 507.14, upon request of the secretary of state, the commissioner of insurance shall provide the secretary of state with the name and address of the person designated for consent to service of process by the surety company or corporation which is on file with the commissioner.

[S13, §3500-a; C24, 27, 31, 35, 39, §**11047;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §616.15]

2006 Acts, ch 1117, §126

616.16 Municipal corporations in certain counties.

Actions against municipal corporations in all counties where the district court convenes in more than one place must be brought in the county and at the place where court is held nearest to where the cause or subject of the action originated.

[S13, §3504-a; C24, 27, 31, 35, 39, §**11048;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §616.16]

616.17 Personal actions.

Personal actions, except as otherwise provided, must be brought in a county in which some of the defendants actually reside, but if neither of them have a residence in the state, they may be sued in any county in which either of them may be found.

[C51, §1701; R60, §2800; C73, §2586; C97, §3501; C24, 27, 31, 35, 39, §**11049;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §616.17]

Referred to in §616.20

616.18 Personal injury or damage actions.

Actions arising out of injuries to a person or damage to property may be brought in the county in which the defendant, or one of the defendants, is a resident or in the county in which the injury or damage is sustained.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §616.18]

616.19 Negotiable paper.

In all actions upon negotiable paper, except when made payable at a particular place, in which any maker thereof, being a resident of the state, is defendant, the place of trial shall be limited to a county wherein some one of such makers resides.

[C73, §2586; C97, §3501; C24, 27, 31, 35, 39, §**11050;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §616.19]

Referred to in §616.20

616.20 Right of nonresident defendant.

Where an action provided for in sections 616.17 and 616.19 is against several defendants, some of whom are residents and others nonresidents of the county, and the action is dismissed as to the residents, or judgment is rendered in their favor, or there is a failure to obtain judgment against such residents, such nonresidents may, upon motion, have said cause dismissed, with reasonable compensation for trouble and expense in attending at the wrong county, unless they, having appeared to the action, fail to object before judgment is rendered against them.

[C73, §2587; C97, §3502; C24, 27, 31, 35, 39, §**11051;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §616.20]

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616.21 Change of residence.

If, after the commencement of an action in the county of the defendant's residence, the defendant removes therefrom, the service of notice upon the defendant in another county shall have the same effect as if it had been made in the county from which the defendant removed.

[C73, §2588; C97, §3503; C24, 27, 31, 35, 39, §**11052;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §616.21]

CHAPTER 617

COMMENCING ACTIONS

For Iowa court rules concerning commencement of actions, see R.C.P. 1.301 – 1.315

617.1 Process — criminal defendant.
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617.1 Process — criminal defendant.

Any defendant in any criminal action pending or to be brought in any court in the state of Iowa may be served with process, either civil or criminal, in any other action pending or to be brought against the defendant in the courts of this state while the defendant is present in this state, either voluntarily or involuntarily.

[C39, §**11056.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §617.1]

617.2 Penalty — amendment.

If a notice is not filed or returned by the sheriff to the person from whom it was received, or if the return thereon is defective, the officer making the same shall be guilty of a simple misdemeanor, and the officer shall be liable to an action for damages by any person aggrieved thereby. The court may, before or after judgment is entered, permit an amendment according to the truth of the case.

[R60, §2820; C73, §2606; C97, §3521; C24, 27, 31, 35, 39, §**11063;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §617.2]

617.3 Foreign corporations or nonresidents contracting or committing torts in Iowa.

1. If the action is against any corporation or person owning or operating any railway or canal, steamboat or other rivercraft, or any telegraph, telephone, stage, coach, or carline, or against any express company, or against any foreign corporation, service may be made upon any general agent of such corporation, company, or person, wherever found, or upon any station, ticket, or other agent, or person transacting the business thereof or selling tickets therefor in the county where the action is brought; if there is no such agent in said county, then service may be had upon any such agent or person transacting said business in any other county.

2. If a foreign corporation makes a contract with a resident of Iowa to be performed in whole or in part by either party in Iowa, or if such foreign corporation commits a tort in whole or in part in Iowa against a resident of Iowa, such acts shall be deemed to be doing business in Iowa by such foreign corporation for the purpose of service of process or original notice on such foreign corporation under this section, and, if the corporation does not have a registered agent or agents in the state of Iowa, shall be deemed to constitute the appointment

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of the secretary of state of the state of Iowa to be its true and lawful attorney upon whom may be served all lawful process or original notice in actions or proceedings arising from or growing out of such contract or tort. If a nonresident person makes a contract with a resident of Iowa to be performed in whole or in part by either party in Iowa, or if such person commits a tort in whole or in part in Iowa against a resident of Iowa, such acts shall be deemed to be doing business in Iowa by such person for the purpose of service of process or original notice on such person under this section, and shall be deemed to constitute the appointment of the secretary of state of the state of Iowa to be the true and lawful attorney of such person upon whom may be served all lawful process or original notice in actions or proceedings arising from or growing out of such contract or tort. The term *"nonresident person"* shall include any person who was, at the time of the contract or tort, a resident of the state of Iowa but who removed from the state before the commencement of such action or proceedings and ceased to be a resident of Iowa or, a resident who has remained continuously absent from the state for at least a period of six months following commission of the tort. The making of the contract or the committing of the tort shall be deemed to be the agreement of such corporation or such person that any process or original notice so served shall be of the same legal force and effect as if served personally upon such defendant within the state of Iowa. The term *"resident of Iowa"* shall include any Iowa corporation, any foreign corporation holding a certificate of authority to transact business in Iowa, any individual residing in Iowa, and any partnership or association one or more of whose members is a resident of Iowa.

3. Service of such process or original notice shall be made by filing duplicate copies of said process or original notice with said secretary of state, together with a fee of ten dollars, and by mailing to the defendant and to each of them if more than one, by registered or certified mail, a notification of said filing with the secretary of state, the same to be so mailed within ten days after such filing with the secretary of state. Such notification shall be mailed to each foreign corporation at the address of its principal office in the state or country under the laws of which it is incorporated and to each such nonresident person at an address in the state of residence. The defendant shall have sixty days from the date of such filing with the secretary of state within which to appear. Proof of service shall be made by filing in court the duplicate copy of the process or original notice with the secretary of state's certificate of filing, and the affidavit of the plaintiff or the plaintiff's attorney of compliance herewith.

4. The secretary of state shall keep a record of all processes or original notices so served upon the secretary of state, recording therein the time of service and the secretary of state's actions with reference thereto, and the secretary of state shall promptly return one of said duplicate copies to the plaintiff or the plaintiff's attorney, with a certificate showing the time of filing thereof in the secretary of state's office.

5. The original notice of suit filed with the secretary of state shall be in form and substance the same as provided in rule of civil procedure 1.1901, form 3, Iowa court rules.

6. The notification of filing shall be in substantially the following form, to wit:

> To ..... (Here insert the name of each defendant with proper address.) You will take notice that an original notice of suit or process against you, a copy of which is hereto attached, was duly served upon you at Des Moines, Iowa by filing a copy of said notice or process on the ..... day of ..... (month), ... (year), with the secretary of state of the state of Iowa.
>
> Dated at ....., Iowa, this ..... day of ..... (month), ... (year)
>
> .....
>
> Plaintiff
>
> By
>
> .....
>
> Attorney for Plaintiff

7. Actions against foreign corporations or nonresident persons as contemplated by this

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law may be brought in the county of which plaintiff is a resident, or in the county in which any part of the contract is or was to be performed or in which any part of the tort was committed.

[C51, §1727; R60, §2825; C73, §2611; C97, §3529; S13, §3529; C24, 27, 31, 35, 39, §**11072;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §617.3; 81 Acts, ch 21, §20]

83 Acts, ch 101, §123; 2000 Acts, ch 1058, §56; 2002 Acts, ch 1119, §106; 2007 Acts, ch 126, §101; 2011 Acts, ch 25, §70

Referred to in §85.3, 489.119, 533A.2, 537.1203, 548.115, 631.4, 631.6

617.4 Consolidated railways.

If the action is against any railway corporation which has sold or leased its property and franchises to any other railway corporation as authorized by section 327E.2, service of the original notice may be made upon any station, ticket, or other agent of the merged, vendee, or lessee corporation in the county where the action is brought; if there is no such agent in said county, then service may be made upon such agent or person in any other county.

[S13, §3529; C24, 27, 31, 35, 39, §**11073;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §617.4]

Referred to in §489.119

617.5 Insurance company.

If the action is against an insurance company, for loss or damage upon any contract of insurance or indemnity, service may be had upon any general agent of the company wherever found, or upon any recording agent or agent who has authority to issue policies.

[C97, §3530; C24, 27, 31, 35, 39, §**11074;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §617.5]

Referred to in §489.119

Actions against bonding companies, §636.20, 636.21

617.6 Other corporations.

When the action is against any other corporation, service may be made on any trustee or officer thereof, or on any agent employed in the general management of its business, or on any of the last known or acting officers of such corporation.

[C51, §1726; R60, §2824; C73, §2612; C97, §3531; C24, 27, 31, 35, 39, §**11077;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §617.6]

Referred to in §489.119

617.7 Unknown defendants.

Where it is necessary to make an unknown person defendant, the petition shall be sworn to and state the claim of plaintiff with reference to the property involved in the action, that the name and residence of such person is unknown to the plaintiff, and that the plaintiff has sought diligently to learn the same.

[R60, §2836; C73, §2622; C97, §3538; SS15, §3538; C24, 27, 31, 35, 39, §**11082;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §617.7]

617.8 Holidays.

No person shall be held to answer or appear in any court on any day now or hereafter made a legal holiday.

[C97, §3541; S13, §3541; C24, 27, 31, 35, 39, §**11090;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §617.8]

Legal public holidays, §1C.1

617.9 Unserved parties — optional procedure.

1. When the action is against two or more defendants, and one or more of them shall have been served, but not all, the plaintiff may proceed as follows:

2. If the action is against defendants who are jointly, or jointly and severally, or severally liable only, the plaintiff may, without prejudice to the plaintiff's rights in that or any other action against those not served, proceed against those served in the same manner as if they were the only defendants; if the plaintiff recovers against those jointly liable only, the plaintiff may take judgment against all thus liable, which may be enforced against the joint and separate property of those served, but not against the separate property of those not

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served, until they have had opportunity to show cause why judgment should not be enforced against their separate property.

[R60, §2841; C73, §2627; C97, §3542; C24, 27, 31, 35, 39, §**11091;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §617.9]

2021 Acts, ch 76, §150

617.10 Real estate — action indexed.

1. When a petition or municipal infraction citation affecting real estate is filed, the clerk of the district court where the petition or municipal infraction citation is filed shall index the petition or municipal infraction citation in an index book under the tract number which describes the property, entering in each instance the case number as a guide to the record of court proceedings which affect the real estate. If the petition or municipal infraction citation is amended to include other parties or other lands, the amended petition or municipal infraction citation shall be similarly indexed. When a final result is determined in the case, the result shall be indicated in the index book wherever indexed.

2. As used in this section, *"book"* means any mode of permanent recording, including but not limited to card files, microfilm, microfiche, and electronic records.

[R60, §2842; C73, §2628; C97, §3543; S13, §3543; C24, 27, 31, 35, 39, §**11092;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §617.10]

2007 Acts, ch 71, §4; 2010 Acts, ch 1050, §6

Referred to in §364.22, 446.7, 575.1, 602.8102(94), 617.11, 655A.3, 657.2A, 657A.2, 657A.12

617.11 Lis pendens.

1. When a petition or municipal infraction citation affecting real estate is indexed pursuant to section 617.10, either action shall be considered pending so as to charge all third persons with notice of its pendency, and while pending no interest can be acquired by third persons in the subject matter thereof as against the plaintiff's rights.

2. If a claim of interest against the property is acquired prior to the indexing of a petition affecting real estate and filed by anyone other than a city and such claim is not indexed or filed of record prior to the indexing of the petition, it is subject to the pending action as provided in subsection 1, unless any of the following occurs:

a. The claimant intervenes in the pending action prior to entry of judgment.

b. The claimant, prior to transfer of an interest in the property to a bona fide third-party transferee, records an affidavit showing that the party seeking relief under the pending action had, prior to the indexing of the petition, actual notice of the claim of interest and of the identity of the claimant.

3. If a claim of interest against the property is acquired prior to the indexing of a petition or municipal infraction citation affecting real estate and filed by a city and such claim is not indexed or filed of record prior to the indexing of the petition or citation, it is subject to the pending action as provided in subsection 1, unless either of the following occurs:

a. The claimant intervenes in the pending action and obtains relief from the court prior to entry of judgment.

b. Within ninety days after entry of judgment, the claimant files an application to reopen a petition or municipal infraction citation affecting real estate and filed by a city and proves at the hearing on the application that the claimant is entitled to relief because the city had actual notice of the claim of interest and of the identity of the claimant prior to the indexing of the petition or citation.

4. Subsections 2 and 3 shall not apply to a mechanic's lien filed pursuant to chapter 572 or to a person who has taken possession of the property for value prior to the indexing of the petition or citation.

[R60, §2842; C73, §2628; C97, §3543; S13, §3543; C24, 27, 31, 35, 39, §**11093;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §617.11]

2012 Acts, ch 1053, §1; 2012 Acts, ch 1138, §76

Referred to in §575.1, 602.8102(94)

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617.12 Exceptions.

If the real property affected is situated in the county where the petition or municipal infraction citation is filed it shall be unnecessary to show in said index lands not situated in said county.

[R60, §2842; C73, §2628; C97, §3543; S13, §3543; C24, 27, 31, 35, 39, §**11094;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §617.12]

2010 Acts, ch 1050, §7

Referred to in §575.1, 602.8102(94)

617.13 Real estate in other county.

When any part of real property, the subject of an action, is situated in any other county than the one in which the action is brought, the plaintiff must, in order to affect third persons with constructive notice of the pendency of the action, file with the clerk of the district court of the other county a notice of the pendency of the action, containing the names of the parties, the object of the action, and a description of the property in that county affected by the action. The clerk shall at once index and enter a memorandum of the notice in the encumbrance book.

[R60, §2843; C73, §2629; C97, §3544; C24, 27, 31, 35, 39, §**11095;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §617.13]

89 Acts, ch 83, §83

Referred to in §575.1, 602.8102(94), 614.15

617.14 Constructive notice.

From the time of such indexing, the pendency of the action shall be constructive notice to subsequent purchasers or encumbrancers thereof, who shall be bound by all the proceedings taken after the filing of such notice, to the same extent as if parties to the action.

[R60, §2843; C73, §2629; C97, §3544; C24, 27, 31, 35, 39, §**11096;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §617.14]

Referred to in §575.1, 602.8102(94)

617.15 Notice perpetuated.

Within two months after the determination of the action, there shall also be filed with such clerk a certified copy of the final order, judgment, or decree, who shall enter and index the same as though rendered in that county, or such notice of pendency shall cease to be constructive notice.

[R60, §2843; C73, §2629; C97, §3544; C24, 27, 31, 35, 39, §**11097;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §617.15]

Referred to in §575.1, 602.8102(94)

617.16 Frivolous actions.

If a party commencing an action has in the preceding five-year period unsuccessfully prosecuted three or more actions, the court may, if it deems the actions to have been frivolous, stay the proceedings until that party furnishes an undertaking secured by cash or approved sureties to pay all costs resulting to opposing parties to the action including a reasonable attorney fee.

86 Acts, ch 1211, §36

Referred to in §610A.1

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CHAPTER 618

PUBLICATION AND POSTING OF NOTICES

Referred to in §331.303

For Iowa court rule concerning effect of notice by posting, see R.C.P. 1.1804
Counties, see also §331.305 and chapter 349
Cities, see also §362.3

618.1 Publications in English.
618.2 Violation.
618.3 Requirements for newspaper for official publication.
618.3A Statewide public notice internet site.
618.4 Change in name — effect.
618.5 Permissible selection.
618.6 Selection by plaintiff.
618.7 Selection by county officers.
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618.12 Fee for posting.
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618.14 Publication of matters of public importance.
618.15 Service by certified mail.
618.16 Zoned editions of same newspaper.
618.17 Minimum type size.
618.18 Timely publication required.
618.19 Disputes — resolution.

618.1 Publications in English.

All notices, proceedings, and other matter whatsoever, required by law or ordinance to be published in a newspaper, shall be published only in the English language and in newspapers published primarily in the English language.

[C73, §306, 307; C97, §549; S13, §549; C24, 27, 31, 35, 39, §**11098;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §618.1]

2006 Acts, ch 1019, §1
Referred to in §618.2

618.2 Violation.

Any public official who violates the provisions of section 618.1 or who willfully fails to make publication as now required of the public official by law of any notice, report of proceedings or other matter whatsoever, shall be guilty of a simple misdemeanor.

[C97, §550; C24, 27, 31, 35, 39, §**11099;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §618.2]

618.3 Requirements for newspaper for official publication.

1. For the purpose of establishing and giving assured circulation to all notices and reports of proceedings required by statute to be published within the state, if newspapers are required to be used, only a newspaper which meets all of the following requirements shall be designated for official publication purposes:

a. Is a newspaper of general circulation that has been published at least once a week for at least fifty weeks per year within the area and regularly mailed through the post office of entry for at least one year.

b. Has a list of subscribers who have paid, or promised to pay, at more than a nominal rate, for copies to be received during a stated period.

c. Devotes at least twenty-five percent of its total column space in more than one-half of its issues during any twelve-month period to information of a public character other than advertising.

d. Is paid for by at least fifty percent of the persons or subscribers to whom it is distributed.

e. If the newspaper operates an internet site, the newspaper must do one of the following:

(1) Provide free access on the homepage of the internet site to all public notices posted on the internet site. The link providing free access to public notices must be displayed conspicuously.

(2) Display a link conspicuously on the homepage of the internet site of the newspaper to the statewide public notice internet site established pursuant to section 618.3A if such an internet site exists.

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f. Publish the address of the statewide public notice internet site established pursuant to section 618.3A, if such an internet site exists, in each edition of the newspaper in the section of the newspaper regularly designated for the publication of public notices, and on the section of the newspaper's internet site regularly designated for the publication of public notices, if the newspaper operates an internet site.

g. Post all notices and reports of proceedings required by statute to be published within the state by the newspaper to the statewide public notice internet site established pursuant to section 618.3A, if such an internet site exists, at no additional cost.

2. If no newspaper meeting the requirements of subsection 1, paragraphs "*a*" through "*d*", is published in the jurisdiction of a governmental entity, the governmental entity may satisfy public notice requirements through publication in a newspaper meeting the requirements of subsection 1, paragraphs "*a*" and "*c*", and on the statewide public notice internet site established pursuant to section 618.3A, if such an internet site exists.

[C35, §11099-e1; C39, §**11099.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §618.3]

86 Acts, ch 1183, §4; 2003 Acts, ch 76, §1; 2024 Acts, ch 1019, §2, 9

Referred to in §10.9, 49.53, 618.14

618.3A Statewide public notice internet site.

1. A statewide association representing a majority of newspapers in the state shall operate and maintain a statewide public notice internet site containing all notices and reports of proceedings required by statute to be published within the state by newspapers.

2. To qualify as a statewide public notice internet site, an internet site must meet all of the following requirements:

a. Public notices and reports of proceedings shall be available to the public at no cost.

b. The internet site must allow a person to search for a notice by criteria contained in the public notice or report of proceedings.

c. The internet site must provide access to all public notices and reports of proceedings for at least one year after initial publication.

d. The internet site must allow access through the use of common internet browsers.

e. The internet site must provide a method to allow members of the public to subscribe to alerts of public notices and reports of proceedings by means of electronic mail notifications. Notwithstanding paragraph "*a*", if the service provider for the statewide public notice internet site charges a fee to provide subscription services, the statewide public notice internet site may charge a fee to an individual subscriber in an amount not to exceed the cost of providing the subscription to the subscriber.

2024 Acts, ch 1019, §3, 9

Referred to in §618.3, 618.8, 618.18

618.4 Change in name — effect.

A change of name or ownership of a newspaper thus designated that does not affect its general circulation as above required shall in no way disqualify such newspaper for selection in making such publication of legal notices.

[C35, §11099-e2; C39, §**11099.2;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §618.4]

618.5 Permissible selection.

Publications may be made in a newspaper published at least once a week.

[C73, §3832; C97, §1293; S13, §1293; C24, 27, 31, 35, 39, §**11100;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §618.5]

2003 Acts, ch 108, §106

618.6 Selection by plaintiff.

The plaintiff or executor or the plaintiff's or executor's attorney, in all publications concerning actions, executions, and estates, may designate the newspaper in which such publication shall be made.

[C73, §3832; C97, §1293; S13, §1293; C24, 27, 31, 35, 39, §**11101;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §618.6]

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618.7 Selection by county officers.

The clerk of the district court, sheriff, auditor, treasurer, and recorder shall designate the newspapers in which the notices pertaining to their respective offices shall be published and the board of supervisors shall designate the newspapers in which all other county notices and proceedings, not required to be published in the official county newspapers, shall be published.

[R60, §314; C73, §306; C97, §549; S13, §549; C24, 27, 31, 35, 39, §**11102;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §618.7]

Referred to in §331.502, 331.552, 331.602, 331.653, 602.8102(95)

618.8 Refusal to publish.

If a newspaper refuses to publish a statutorily required public notice, a government body, as defined in section 22.1, satisfies public notice requirements with respect to that public notice by posting the public notice on the official internet site of the government body and forwarding the notice to each county in which notice is required to be given to any person and to the statewide public notice internet site established pursuant to section 618.3A if such an internet site exists. A county receiving a public notice pursuant to this section shall post the public notice on the county's internet site within seventy-two hours of receipt. The statewide public notice internet site shall post a public notice forwarded pursuant to this section within seventy-two hours of receipt.

[C73, §3832; C97, §1293; S13, §1293; C24, 27, 31, 35, 39, §**11103;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §618.8]

2024 Acts, ch 1019, §4, 8

618.9 Days of publication.

When the publication is in a newspaper which is published more than once a week, the succeeding publications of such notice shall be on the same day of the week as the first publication. This section shall not apply to any notice for the publication of which provision inconsistent herewith is specially made.

[S13, §1293-a; C24, 27, 31, 35, 39, §**11104;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §618.9]

2003 Acts, ch 108, §107

618.10 Payment for publication.

Publications required by law shall, in the first instance, be paid for by the party causing publication, and shall be taxed as costs in the proceeding.

[C51, §2558; R60, §4165; C73, §3838; C97, §1296; C24, 27, 31, 35, 39, §**11105;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §618.10]

618.11 Fees for publication and proof of publication.

1. The compensation, when not otherwise fixed, for the publication in a newspaper of any notice, order, citation, or other publication required or allowed by law shall be at a rate of thirty-four cents for one insertion and twenty-three cents for each subsequent insertion for each line of eight point type two inches in length, or its equivalent. Beginning June 1, 2001, and each June 1 thereafter, the director of the department of administrative services shall calculate a new rate for the following fiscal year as prescribed in this subsection, and shall publish this rate as a notice in the Iowa administrative bulletin prior to the first day of the following calendar month. The new rate shall be effective on the first day of the calendar month following its publication. The rate shall be calculated by applying the percentage change in the consumer price index for all urban consumers for the last available twelve-month period published in the federal register by the federal department of labor, bureau of labor statistics, to the existing rate as an increase or decrease in the rate rounded to the nearest one-tenth of a cent. The calculation and publication of the rate by the director of the department of administrative services shall be exempt from the provisions of chapters 17A and 25B.

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2. A newspaper shall not charge a fee to a government body, as defined in section 22.1, for proof of publication of a public notice.

[C73, §3832; C97, §1293; S13, §1293; C24, 27, 31, 35, 39, §**11106;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §618.11]

86 Acts, ch 1183, §5; 96 Acts, ch 1098, §4; 98 Acts, ch 1119, §25; 98 Acts, ch 1164, §40; 2000 Acts, ch 1148, §2; 2003 Acts, ch 145, §274; 2024 Acts, ch 1019, §5, 8

Referred to in §279.36, 331.302, 349.17, 380.9

618.12 Fee for posting.

In all cases where an officer in the discharge of the officer's duty is required to post an advertisement or notice, the officer shall, when not otherwise provided, be allowed twenty-five cents, and the same mileage as a sheriff.

[C51, §2558; R60, §4165; C73, §3838; C97, §1296; C24, 27, 31, 35, 39, §**11107;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §618.12]

618.13 Publication of docket in certain counties. Repealed by 2026 Acts, ch 1192, §27.

618.14 Publication of matters of public importance.

1. The governing body of any municipality or other political subdivision of the state may publish, as straight matter or display, any matter of general public importance, in one or more newspapers, as defined in section 618.3 published in and having general circulation in such municipality or political subdivision, at the legal or appropriate commercial rate, according to the character of the matter published.

2. In the event there is no such newspaper published in such municipality or political subdivision or in the event publication in more than one such newspaper is desired, publication may be made in any such newspaper having general circulation in such municipality or political subdivision.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §618.14]

87 Acts, ch 221, §34; 2021 Acts, ch 76, §150

Referred to in §28M.4, 330A.8, 331.305, 331.403, 422D.1, 536A.11

618.15 Service by certified mail.

Wherever used in this Code, the following words shall have the meanings respectively ascribed to them unless such meanings are repugnant to the context:

1. The words *"certified mail"* mean any form of mail service, by whatever name, provided by the United States post office where the post office provides the mailer with a receipt to prove mailing.

2. The words *"restricted certified mail"* mean any form of certified mail as defined in subsection 1 which carries on the face thereof, in a conspicuous place where it will not be obliterated, the endorsement "Deliver to addressee only" and for which the post office provides the mailer with a return receipt showing the date of delivery, the place of delivery, and person to whom delivered.

[C31, 35, §5079-d16; C39, §**5038.06;** C46, 50, 54, §321.503; C58, 62, 66, 71, 73, 75, 77, 79, 81, §618.15]

Referred to in §249F.3, 305B.3, 323.2, 323.3, 458A.22, 522B.14, 562A.8, 562A.29A, 562B.9, 562B.10, 562B.27A, 648.3, 648.5

618.16 Zoned editions of same newspaper.

Publication requirements for governmental subdivisions of the state shall be deemed satisfied when publication is made in editions or zoned editions which are delivered to an area within the jurisdiction of the subdivision making the publication even though publication is not made in other editions of the same newspaper.

86 Acts, ch 1183, §6; 89 Acts, ch 214, §6

618.17 Minimum type size.

A publication required by law shall be printed in type no smaller than six point.

89 Acts, ch 214, §7

Referred to in §10.9

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618.18 Timely publication required.

1. A newspaper shall publish all public notices and reports of proceedings that are required by law to be published by a certain date within seventy-two hours of receipt unless one of the following applies:

a. The newspaper publishes less than daily, in which case the newspaper shall publish the public notice or report of proceedings within forty-eight hours of the next scheduled publication of the newspaper.

b. The government body, as defined in section 22.1, did not submit the public notice or report of proceedings in a typed format.

2. A newspaper that receives payment to publish a statutorily required public notice and fails to timely or accurately publish the public notice as required by subsection 1 shall refund all moneys received to publish the notice to the government body that paid to publish the notice.

3. A government body, as defined in section 22.1, satisfies public notice requirements with respect to a statutorily required public notice that was untimely or inaccurately published by a newspaper if the government body timely and accurately posted the public notice on the official internet site of the government body, on the official internet site of all counties in which notice is required to be given to any person, and on the statewide public notice internet site established pursuant to section 618.3A if such an internet site exists.

89 Acts, ch 214, §8; 2024 Acts, ch 1019, §6, 8

618.19 Disputes — resolution.

A dispute arising between a government body, as defined in section 22.1, and a newspaper regarding the publication of a notice or report of proceedings under this chapter shall be heard by the Iowa public information board created pursuant to section 23.3 as a contested case proceeding pursuant to chapter 17A. The Iowa public information board shall award the prevailing party reasonable costs and attorney fees.

2024 Acts, ch 1019, §7

CHAPTER 619

PLEADINGS AND MOTIONS

For Iowa court rules concerning pleadings and motions, see R.C.P. 1.401 – 1.458
For Iowa court rules concerning discovery and inspection, see R.C.P. 1.501 – 1.517

619.1 Nonnecessity for prayer.
619.2 Exception.
619.3 Exception — limit on pleading extension.
619.4 Taking files from office.
619.5 Withdrawal of motion or demurrer.
619.6 Counterclaim by comaker or surety.
619.7 Mitigating facts.
619.8 Necessity to plead.
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619.10 Evidence under denial.
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619.12 Pleading estate.
619.13 Injuries to goods.
619.14 Injuries to real property.
619.15 Bond — breaches of.
619.16 Immaterial errors disregarded.
619.17 Contributory fault — burden.
619.18 Money damages not to be stated.
619.19 Verification not required — affidavits.

619.1 Nonnecessity for prayer.

In the defense part of an answer or reply, it shall not be necessary to make a prayer for judgment.

[R60, §2883; C73, §2658; C97, §3569; C24, 27, 31, 35, 39, §**11118;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §619.1]

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619.2 Exception.

If the action challenges the legality, validity or constitutionality of a proposed constitutional amendment, the defendant shall plead within three days after service of the original notice.

[C31, 35, §11121-d1; C39, §**11121.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §619.2]

Referred to in §619.3

619.3 Exception — limit on pleading extension.

If the action challenges the legality, validity or constitutionality of a proposed constitutional amendment, the court shall not extend the time to plead more than two days beyond the time fixed in section 619.2.

[C31, 35, §11123-d1; C39, §**11123.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §619.3]

619.4 Taking files from office.

The original files shall be taken from the clerk's office only on order of the judge by leaving with the clerk a receipt for the same.

[C97, §3558; SS15, §3558; C24, 27, 31, 35, 39, §**11126;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §619.4]

619.5 Withdrawal of motion or demurrer.

A motion or demurrer once filed shall not be withdrawn without the consent of the adverse party in writing, or given in open court, or of the court.

[R60, §2870; C73, §2642; C97, §3556; C24, 27, 31, 35, 39, §**11139;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §619.5]

619.6 Counterclaim by comaker or surety.

A comaker or surety, when sued alone, may, with the consent of the comaker or principal, make use of by way of counterclaim of a debt or liquidated demand due from the plaintiff at the commencement of the action to such comaker or principal, but the plaintiff may meet such counterclaim in the same way as if made by the comaker or principal.

[R60, §2887; C73, §2661; C97, §3572; C24, 27, 31, 35, 39, §**11153;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §619.6]

619.7 Mitigating facts.

In any action brought to recover damages for an injury to person, character, or property, the defendant may set forth, in a distinct division of the defendant's answer, any facts, of which evidence is legally admissible, to mitigate or otherwise reduce the damages, whether a complete defense or justification be pleaded or not, and the defendant may give in evidence the mitigating circumstances, whether the defendant proves the defense or justification or not.

[R60, §2929; C73, §2682; C97, §3593; C24, 27, 31, 35, 39, §**11172;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §619.7]

619.8 Necessity to plead.

No mitigating circumstances shall be proved unless pleaded, except such as are shown by or grow out of the testimony introduced by the adverse party.

[R60, §2929; C73, §2682; C97, §3593; C24, 27, 31, 35, 39, §**11173;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §619.8]

619.9 Amount of proof.

A party shall not be compelled to prove more than is necessary to entitle the party to the relief asked for, or any lower degree included therein, nor more than sufficient to sustain the party's defense.

[R60, §2966; C73, §2729; C97, §3639; C24, 27, 31, 35, 39, §**11181;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §619.9]

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619.10 Evidence under denial.

Under a denial of an allegation, no evidence shall be introduced which does not tend to negative some fact the party making the controverted allegation is bound to prove.

[R60, §2944; C73, §2704; C97, §3615; C24, 27, 31, 35, 39, §**11196;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §619.10]

619.11 Pleading conveyance.

When a party claims by conveyance, the party may state it according to its legal effect or name.

[R60, §2952; C73, §2723; C97, §3633; C24, 27, 31, 35, 39, §**11212;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §619.11]

619.12 Pleading estate.

It shall not be necessary to allege the commencement of either a particular or a superior estate, unless it be essential to the merits of the case.

[R60, §2954; C73, §2724; C97, §3634; C24, 27, 31, 35, 39, §**11213;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §619.12]

619.13 Injuries to goods.

In actions for injuries to goods and chattels, their kind or species shall be alleged.

[R60, §2956; C73, §2725; C97, §3635; C24, 27, 31, 35, 39, §**11214;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §619.13]

619.14 Injuries to real property.

In actions for injuries to real property, the petition shall describe the property, and when the injury is to an incorporeal hereditament, shall describe the property in respect of which the right is claimed, as well as the right itself, either by the numbers by which the property is designated in the national survey, or by its abuttals, or by its courses and distances, or by any name which it has acquired by reputation certain enough to identify it.

[R60, §2958; C73, §2726; C97, §3636; C24, 27, 31, 35, 39, §**11215;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §619.14]

619.15 Bond — breaches of.

In an action on a bond with conditions, the party suing thereon shall notice the conditions and allege the facts constituting the breaches relied on.

[C51, §1818; R60, §2960; C73, §2728; C97, §3638; C24, 27, 31, 35, 39, §**11217;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §619.15]

619.16 Immaterial errors disregarded.

The court, in every stage of an action, must disregard any error or defect in the proceeding which does not affect the substantial rights of the adverse party; and no judgment shall be reversed or affected by reason of such error or defect.

[R60, §2978; C73, §2690; C97, §3601; C24, 27, 31, 35, 39, §**11228;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §619.16]

Immaterial exceptions, §624.15

619.17 Contributory fault — burden.

A plaintiff does not have the burden of pleading and proving the plaintiff's freedom from contributory fault. If a defendant relies upon contributory fault of a plaintiff to diminish the amount to be awarded as compensatory damages, the defendant has the burden of pleading and proving fault of the plaintiff, if any, and that it was a proximate cause of the injury or damage. As used in this section, *"plaintiff"* includes a defendant filing a counterclaim or cross-petition, and the term *"defendant"* includes a plaintiff against whom a counterclaim or cross-petition has been filed.

[C66, 71, 73, 75, 77, 79, 81, §619.17]

84 Acts, ch 1293, §13

Comparative fault; see chapter 668

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619.18 Money damages not to be stated.

In an action for personal injury or wrongful death, the amount of money damages demanded shall not be stated in the petition, original notice, or any counterclaim or cross-petition. However, a party filing the petition, original notice, counterclaim, or cross-petition shall certify to the court that the action meets applicable jurisdictional requirements for amount in controversy.

[C77, 79, 81, §619.18]

86 Acts, ch 1211, §37

619.19 Verification not required — affidavits.

1. Pleadings need not be verified unless otherwise required by statute. Where a pleading is verified, it is not necessary that subsequent pleadings be verified unless otherwise required by statute.

2. The signature of a party, the party's legal counsel, or any other person representing the party, to a motion, pleading, or other paper is a certificate that:

a. The person has read the motion, pleading, or other paper.

b. To the best of the person's knowledge, information, and belief, formed after reasonable inquiry, it is grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.

c. It is not interposed for any improper purpose, such as to harass or cause an unnecessary delay or needless increase in the cost of litigation.

3. If a motion, pleading, or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant.

4. If a motion, pleading, or other paper is signed in violation of this section, the court, upon motion or upon its own initiative, shall impose upon the person signing, the represented party, or both, an appropriate sanction, which may include an order to pay the other party or parties the amount of the reasonable expenses incurred because of the filing of the motion, pleading, or other paper, including a reasonable attorney fee.

86 Acts, ch 1211, §38; 2013 Acts, ch 30, §186

CHAPTER 620

MOTIONS AND ORDERS

For Iowa court rules concerning motions,
see R.C.P. 1.431 – 1.435
For Iowa court rules concerning court action,
see R.C.P. 1.451 – 1.458
For Iowa court rules concerning pretrial procedure,
see R.C.P. 1.601 – 1.604

CHAPTER 621

SECURITY FOR COSTS

Deferral of costs in civil and criminal proceedings; see chapter 610

621.1	Bond for costs.	621.5	Becoming nonresident.
621.2	Nonresident intervenor — action in probate.	621.6	Additional security.
621.3	Procedure.	621.7	Prohibited sureties.
621.4	Dismissal for failure to furnish.	621.8	Judgment on bond.
		621.9	Cash in lieu of bond.

621.1 Bond for costs.

If a defendant, at any time before answering shall make and file an affidavit stating that the defendant has a good defense in whole or in part, the plaintiff, or party bringing the

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action or proceeding, if the plaintiff or party is a nonresident of this state, or a private or foreign corporation, before any other proceedings in the action, must file in the clerk's office a bond with sureties to be approved by the clerk, in an amount to be fixed by the court, for the payment of all costs which may legally be adjudged against plaintiff.

[R60, §3442; C73, §2927; C97, §3847; S13, §3847; C24, 27, 31, 35, 39, §**11245;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §621.1]

Referred to in §602.8102(96), 621.4, 621.5

621.2 Nonresident intervenor — action in probate.

A nonresident intervenor or party bringing an action in probate shall be required in like manner to give bond on motion of any party required to answer or defend.

[S13, §3847; C24, 27, 31, 35, 39, §**11246;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §621.2]

Referred to in §621.4, 621.5

621.3 Procedure.

The application for such security shall be by motion, filed with the case, and the facts supporting it must be shown by affidavits annexed thereto, which may be responded to by counter affidavits on or before the hearing of the motion, and each party shall file all the affidavits at once, and none thereafter.

[R60, §3448; C73, §2927; C97, §3847; S13, §3847; C24, 27, 31, 35, 39, §**11247;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §621.3]

Referred to in §621.4, 621.5

621.4 Dismissal for failure to furnish.

An action in which a bond for costs is required by sections 621.1 through 621.3 shall be dismissed, if a bond is not given in such time as the court allows.

[R60, §3443; C73, §2928; C97, §3848; C24, 27, 31, 35, 39, §**11248;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §621.4]

2021 Acts, ch 76, §142

Referred to in §621.5

621.5 Becoming nonresident.

If the plaintiff or any intervenor in an action, after its institution and at any time before its final determination, becomes a nonresident of this state, the plaintiff or intervenor may be required to give security for costs in the manner provided in sections 621.1 through 621.4.

[R60, §3444; C73, §2929; C97, §3849; S13, §3849; C24, 27, 31, 35, 39, §**11249;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §621.5]

2021 Acts, ch 76, §143

621.6 Additional security.

In an action in which a bond for costs has been given, the defendant may, at any time before trial, make a motion for additional security, and if on such motion the court is satisfied that the surety in the plaintiff's bond has removed from the state, or it is not sufficient for the amount thereof, it may dismiss the action unless, in a reasonable time to be fixed by the court, sufficient security is given by the plaintiff.

[R60, §3445; C73, §2930; C97, §3850; C24, 27, 31, 35, 39, §**11250;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §621.6]

621.7 Prohibited sureties.

No attorney or other officer of the court shall be received as security in any proceeding in court.

[R60, §3446; C73, §2931; C97, §3851; C24, 27, 31, 35, 39, §**11251;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §621.7]

Similar provision, §636.5

621.8 Judgment on bond.

After final judgment has been rendered in an action in which security for costs has been given as above required, the court may, on motion of the defendant or any other person

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having the right to such costs or any part thereof, render judgment summarily, in the name of the defendant or the defendant's legal representatives, against the sureties for costs, for the amount of costs adjudged against the plaintiff, or so much thereof as may remain unpaid.

[R60, §3447; C73, §2932; C97, §3852; C24, 27, 31, 35, 39, §**11252;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §621.8]

621.9 Cash in lieu of bond.

In all cases in which a bond for security for costs is required, the party required to give such security may deposit in cash the amount fixed in said bond with the clerk of the district court in lieu of said bond.

[S13, §3852-a; C24, 27, 31, 35, 39, §**11253;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §621.9]

CHAPTER 622

EVIDENCE

Referred to in §522B.16A, 522C.12, 522F.18, 622A.9, 622B.6

For Iowa court rules concerning depositions, see R.C.P. 1.701 – 1.717
For Iowa court rules concerning perpetuation of testimony, see R.C.P. 1.721 – 1.728
For Iowa court rules concerning evidence, see R.C.P. 5.101 – 5.1103
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SUBCHAPTER I

GENERAL PRINCIPLES

622.1 Certification under penalty of perjury.

1. When the laws of this state or any lawful requirement made under them requires or permits a matter to be supported by a sworn statement written by the person attesting the matter, the person may attest the matter by an unsworn written statement if that statement recites that the person certifies the matter to be true under penalty of perjury under the laws of this state, states the date of the statement's execution and is subscribed by that person. This section does not apply to acknowledgments where execution is required by law, to a document which is to be recorded under chapter 558 or to a self-proved will under section 633.279, subsection 2.

2. The certification described in subsection 1 may be in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct.

....
Date Signature

84 Acts, ch 1048, §1
Referred to in §252F.3

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622.2 Credibility.

Facts which have caused the exclusion of testimony may still be shown for the purpose of lessening the credibility of the testimony.

[C51, §2389; R60, §3979; C73, §3637; C97, §4602; C24, 27, 31, 35, 39, §**11255;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.2]

2019 Acts, ch 59, §202

622.3 Interest.

No person offered as a witness in any action or proceeding in any court, or before any officer acting judicially, shall be excluded by reason of the person's interests in the event of the action or proceeding, or because the person is a party thereto, except as provided in this chapter.

[R60, §3980; C73, §3638; C97, §4603; C24, 27, 31, 35, 39, §**11256;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.3]

622.4 Medical expenses.

Evidence offered to prove past medical expenses shall be limited to evidence of the amounts actually paid to satisfy the bills that have been satisfied, regardless of the source of payment, and evidence of the amounts actually necessary to satisfy the bills that have been incurred but not yet satisfied. Evidence of the amounts actually necessary to satisfy the bills that have been incurred shall not exceed the amount by which the bills could be satisfied by the claimant's health insurance, regardless of whether such health insurance is used or will be used to satisfy the bills. This section does not impose upon any party an affirmative duty to seek a reduction in billed charges to which the party is not contractually entitled.

2020 Acts, ch 1070, §1

622.5 through 622.7 Reserved.

622.8 Witness for each other.

In all civil and criminal cases the husband and wife may be witnesses for each other.

[C51, §2391; R60, §3983; C73, §3641; C97, §4606; S13, §4606; C24, 27, 31, 35, 39, §**11261;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.8]

622.9 Communications between husband and wife.

Neither husband nor wife can be examined in any case as to any communication made by the one to the other while married, nor shall they, after the marriage relation ceases, be permitted to reveal in testimony any such communication made while the marriage subsisted.

[C51, §2392; R60, §3984; C73, §3642; C97, §4607; C24, 27, 31, 35, 39, §**11262;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.9]

Referred to in §232.74

Husband or wife may be witness in certain criminal cases, see §726.4

622.10 Communications in professional confidence — exceptions — required consent to release of medical records after commencement of legal action — application to court.

1. A practicing attorney, counselor, physician, surgeon, physician associate, advanced registered nurse practitioner, mental health professional, or the stenographer or confidential clerk of any such person, who obtains information by reason of the person's employment, or a member of the clergy shall not be allowed, in giving testimony, to disclose any confidential communication properly entrusted to the person in the person's professional capacity, and necessary and proper to enable the person to discharge the functions of the person's office according to the usual course of practice or discipline.

2. The prohibition does not apply to cases where the person in whose favor the prohibition is made waives the rights conferred; nor does the prohibition apply to physicians or surgeons, physician associates, advanced registered nurse practitioners, mental health professionals, or to the stenographer or confidential clerk of any physicians or surgeons, physician associates, advanced registered nurse practitioners, or mental health professionals, in a civil action in which the condition of the person in whose favor the prohibition is made is an element or

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factor of the claim or defense of the person or of any party claiming through or under the person. The evidence is admissible upon trial of the action only as it relates to the condition alleged.

3. *a.* In a civil action in which the condition of the plaintiff in whose favor the prohibition is made is an element or factor of the claim or defense of the adverse party or of any party claiming through or under the adverse party, the adverse party shall make a written request for records relating to the condition alleged upon the plaintiff's attorney for a legally sufficient patient's waiver under federal and state law. Upon receipt of a written request, the plaintiff shall execute a legally sufficient patient's waiver and release it to the adverse party making the request within sixty days of receipt of the written request. The patient's waiver may require a physician or surgeon, physician associate, advanced registered nurse practitioner, or mental health professional to do all of the following:

(1) Provide a complete copy of the patient's records including but not limited to any reports or diagnostic imaging relating to the condition alleged.

(2) Consult with the attorney for the adverse party prior to providing testimony regarding the plaintiff's medical history and the condition alleged and opinions regarding health etiology and prognosis for the condition alleged subject to the limitations in paragraphs "*c*" and "*e*".

b. If a plaintiff fails to sign a waiver within the prescribed time period, the court may order disclosure or compliance. The failure of a party to comply with the court's order may be grounds for dismissal of the action or any other relief authorized under the rules of civil procedure.

c. Any physician or surgeon, physician associate, advanced registered nurse practitioner, or mental health professional who provides records, provides information during consultation, or otherwise responds in good faith to a request pursuant to paragraph "*a*" shall be immune with respect to all civil or criminal penalties, claims, or actions of any kind with respect to this section.

d. Any physician or surgeon, physician associate, advanced registered nurse practitioner, or mental health professional who provides records or consults with the attorney for any party shall be entitled to charge a reasonable fee for production of the records, diagnostic imaging, and consultation. Any party seeking consultation shall be responsible for payment of all charges. The fees for copies of any records shall be as specified in subsection 6.

e. Defendant's counsel shall provide a written notice to plaintiff's attorney in a manner consistent with the Iowa rules of civil procedure providing for notice of deposition at least ten days prior to any meeting with plaintiff's physician or surgeon, physician associate, advanced registered nurse practitioner, or mental health professional. Plaintiff's attorney has the right to be present at all such meetings, or participate in telephonic communication with the physician or surgeon, physician associate, advanced registered nurse practitioner, or mental health professional and the attorney for the defendant. Prior to scheduling any meeting or engaging in any communication with the physician or surgeon, physician associate, advanced registered nurse practitioner, or mental health professional, the attorney for the defendant shall confer with plaintiff's attorney to determine a mutually convenient date and time for such meeting or telephonic communication. Plaintiff's attorney may seek a protective order structuring all communication by making application to the court at any time.

f. The provisions of this subsection do not apply to actions or claims brought pursuant to chapter 85, 85A, or 85B, or to court orders issued pursuant to section 633.552.

4. *a.* Except as otherwise provided in this subsection, the confidentiality privilege under this section shall be absolute with regard to a criminal action and this section shall not be construed to authorize or require the disclosure of any privileged records to a defendant in a criminal action unless either of the following occur:

(1) The privilege holder voluntarily waives the confidentiality privilege.

(2) (a) The defendant seeking access to privileged records under this section files a motion demonstrating in good faith a reasonable probability that the information sought is likely to contain exculpatory information that is not available from any other source and for which there is a compelling need for the defendant to present a defense in the case. Such

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a motion shall be filed not later than forty days after arraignment under seal of the court. Failure of the defendant to timely file such a motion constitutes a waiver of the right to seek access to privileged records under this section, but the court, for good cause shown, may grant relief from such waiver.

(b) Upon a showing of a reasonable probability that the privileged records sought may likely contain exculpatory information that is not available from any other source, the court shall conduct an in camera review of such records to determine whether exculpatory information is contained in such records.

(c) If exculpatory information is contained in such records, the court shall balance the need to disclose such information against the privacy interest of the privilege holder.

(d) Upon the court's determination, in writing, that the privileged information sought is exculpatory and that there is a compelling need for such information that outweighs the privacy interests of the privilege holder, the court shall issue an order allowing the disclosure of only those portions of the records that contain the exculpatory information. The court's order shall also prohibit any further dissemination of the information to any person, other than the defendant, the defendant's attorney, and the prosecutor, unless otherwise authorized by the court.

b. Privileged information obtained by any means other than as provided in paragraph *"a"* shall not be admissible in any criminal action.

5. If an adverse party desires the oral deposition, either discovery or evidentiary, of a physician or surgeon, physician associate, advanced registered nurse practitioner, or mental health professional to which the prohibition would otherwise apply or the stenographer or confidential clerk of a physician or surgeon, physician associate, advanced registered nurse practitioner, or mental health professional or desires to call a physician or surgeon, physician associate, advanced registered nurse practitioner, or mental health professional to which the prohibition would otherwise apply or the stenographer or confidential clerk of a physician or surgeon, physician associate, advanced registered nurse practitioner, or mental health professional as a witness at the trial of the action, the adverse party shall file an application with the court for permission to do so. The court upon hearing, which shall not be ex parte, shall grant permission unless the court finds that the evidence sought does not relate to the condition alleged. At the request of any party or at the request of the deponent, the court shall fix a reasonable fee to be paid to a physician or surgeon, physician associate, advanced registered nurse practitioner, or mental health professional by the party taking the deposition or calling the witness.

6. At any time, upon a written request from a patient, a patient's legal representative or attorney, or an adverse party pursuant to subsection 3, any provider shall provide copies of the requested records or images to the requester within thirty days of receipt of the written request. The written request shall be accompanied by a legally sufficient patient's waiver unless the request is made by the patient or the patient's legal representative or attorney.

a. The fee charged for the cost of producing the requested records or images shall be based upon the actual cost of production. If the written request and accompanying patient's waiver, if required, authorizes the release of all of the patient's records for the requested time period, including records relating to the patient's mental health, substance use disorder, and acquired immune deficiency syndrome-related conditions, the amount charged shall not exceed the rates established by the workers' compensation commissioner for copies of records in workers' compensation cases. If requested, the provider shall include an affidavit certifying that the records or images produced are true and accurate copies of the originals for an additional fee not to exceed ten dollars.

b. A patient or a patient's legal representative or a patient's attorney is entitled to one copy free of charge of the patient's complete billing statement, subject only to a charge for the actual costs of postage or delivery charges incurred in providing the statement. If requested, the provider or custodian of the record shall include an affidavit certifying the billing statements produced to be true and accurate copies of the originals for an additional fee not to exceed ten dollars.

c. Fees charged pursuant to this subsection are exempt from the sales tax pursuant to section 423.3, subsection 96. A provider providing the records or images may require

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payment in advance if an itemized statement demanding such is provided to the requesting party within fifteen days of the request. Upon a timely request for payment in advance, the time for providing the records or images shall be extended until the greater of thirty days from the date of the original request or ten days from the receipt of payment.

d. If a provider does not provide to the requester all records or images encompassed by the request or does not allow a patient access to all of the patient's medical records encompassed by the patient's request to examine the patient's records, the provider shall give written notice to the requester or the patient that providing the requested records or images would be a violation of the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

e. As used in this subsection:

(1) *"Records"* and *"images"* include electronic media and data containing a patient's health or billing information and *"copies"* includes patient records or images provided in electronic form, regardless of the form of the originals. If consented to by the requesting party, records and images produced pursuant to this subsection may be produced on electronic media.

(2) *"Provider"* means any physician or surgeon, physician associate, advanced registered nurse practitioner, mental health professional, hospital, nursing home, or other person, entity, facility, or organization that furnishes, bills, or is paid for health care in the normal course of business.

7. For the purposes of this section, *"mental health professional"* means a psychologist licensed under chapter 154B, a registered nurse licensed under chapter 152, a social worker licensed under chapter 154C, a marital and family therapist licensed under chapter 154D, a mental health counselor licensed under chapter 154D, or an individual holding at least a master's degree in a related field as deemed appropriate by the board of behavioral health professionals.

8. A qualified school guidance counselor, who is licensed by the board of educational examiners under chapter 256, subchapter VII, part 3, and who obtains information by reason of the counselor's employment as a qualified school guidance counselor, shall not be allowed, in giving testimony, to disclose any confidential communications properly entrusted to the counselor by a pupil or the pupil's parent or guardian in the counselor's capacity as a qualified school guidance counselor and necessary and proper to enable the counselor to perform the counselor's duties as a qualified school guidance counselor.

9. *a.* A peer support group counselor or individual present for a group crisis intervention who obtains information from an officer or a civilian employee of a law enforcement agency or fire department by reason of the counselor's capacity as a peer support group counselor or an individual's presence for a group crisis intervention shall not be allowed, in giving testimony, to disclose any confidential communication properly entrusted to the counselor or individual present for a group crisis intervention by the officer or civilian employee while receiving counseling or group crisis intervention.

b. The prohibition in this subsection does not apply where the officer or civilian employee has consented to the disclosure of the information specified in paragraph *"a"* or where the peer support group counselor or individual present for a group crisis intervention was an initial responding officer, a witness, or a party to the incident which prompted the delivery of peer support group counseling services or the group crisis intervention to the officer or civilian employee.

c. For purposes of this subsection:

(1) *"Officer"* means a certified law enforcement officer, fire fighter, emergency medical technician, paramedic, corrections officer, detention officer, jailer, probation or parole officer, public safety telecommunicator, dispatcher, emergency management coordinator under chapter 29C, or any other law enforcement officer certified by the Iowa law enforcement academy and employed by a city, county, or state agency.

(2) *"Peer support group counselor"* means a law enforcement officer, fire fighter, civilian employee of a law enforcement agency or fire department, or a nonemployee counselor who has been designated as a peer support group counselor by a sheriff, police chief, fire chief, or department head of a law enforcement agency, fire department, or emergency medical

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services agency and who has received training to provide emotional and moral support and counseling to an officer who needs those services as a result of an incident in which the officer was involved while acting in the officer's official capacity.

[C51, §2393, 2394; R60, §3985, 3986; C73, §3643; C97, §4608; S13, §4608; C24, 27, 31, 35, 39, §**11263;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.10; 82 Acts, ch 1242, §1]

88 Acts, ch 1134, §107; 88 Acts, ch 1262, §10; 91 Acts, ch 229, §11; 97 Acts, ch 197, §8, 16; 2007 Acts, ch 10, §179; 2008 Acts, ch 1031, §67; 2008 Acts, ch 1191, §81 – 83; 2011 Acts, ch 8, §2, 3; 2012 Acts, ch 1110, §22; 2015 Acts, ch 32, §1; 2019 Acts, ch 57, §5, 43, 44; 2021 Acts, ch 76, §144; 2021 Acts, ch 183, §8; 2023 Acts, ch 19, §1270, 2600; 2024 Acts, ch 1058, §2; 2024 Acts, ch 1170, §512; 2026 Acts, ch 1008, §3

Referred to in §2C.9, 228.6, 232.68, 232.74, 235A.15, 272C.6, 423.3, 514B.30
Wounds and burn injuries connected to criminal offenses; §147.112 and 147.113A
Disclosures of mental health and psychological information, see chapter 228
Code editor directive applied

622.10A Tax advice — confidential communications.

1. With respect to communications involving tax advice between a taxpayer and a federally authorized tax practitioner, the same protections of confidentiality which apply to a communication between a taxpayer and an attorney shall also apply to that communication to the extent the communication would be considered a privileged communication if it were between a taxpayer and an attorney.

2. The confidentiality privilege under this section applies to either of the following:

a. A noncriminal tax matter before the Iowa department of revenue.

b. A noncriminal tax proceeding in federal or state court brought by or against the state of Iowa.

3. As used in this section:

a. "Federally authorized tax practitioner" means an individual who is authorized under federal law to practice before the internal revenue service if such practice is subject to federal regulation under 31 U.S.C. §330.

b. "Tax advice" means advice given by an individual with respect to a matter which is within the scope of the individual's authority to practice described in paragraph *"a"*.

4. The confidentiality privilege under this section shall not apply to a written communication between a federally authorized tax practitioner and a director, shareholder, officer, employee, agent, or representative of a corporation in connection with the promotion of the direct or indirect participation of that corporation in a tax shelter as defined in section 6662(d)(2)(C)(iii) of the Internal Revenue Code.

99 Acts, ch 25, §1; 2003 Acts, ch 145, §286

622.11 Public officers.

A public officer cannot be examined as to communications made to the public officer in official confidence, when the public interests would suffer by the disclosure.

[C51, §2395; R60, §3987; C73, §3644; C97, §4609; C24, 27, 31, 35, 39, §**11264;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.11]

Referred to in §462A.7

622.12 Reserved.

622.13 Civil liability.

No witness is excused from answering a question upon the mere ground that the witness would be thereby subjected to a civil liability.

[C51, §2396; R60, §3988; C73, §3646; C97, §4611; C24, 27, 31, 35, 39, §**11266;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.13]

622.14 through 622.20 Reserved.

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622.21 Writing and printing.

When an instrument consists partly of written and partly of printed form, the former controls the latter, if the two are inconsistent.

[C51, §2400; R60, §3993; C73, §3651; C97, §4616; C24, 27, 31, 35, 39, §**11274;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.21]

622.22 Understanding of parties to agreement.

When the terms of an agreement have been intended in a different sense by the parties to it, that sense is to prevail against either party in which a party had reason to suppose the other understood it.

[C51, §2401; R60, §3994; C73, §3652; C97, §4617; C24, 27, 31, 35, 39, §**11275;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.22]

622.23 Historical and scientific works.

Historical works, books of science or art, and published maps or charts, when made by persons indifferent between the parties, are presumptive evidence of facts of general notoriety or interest therein stated.

[C51, §2402; R60, §3995; C73, §3653; C97, §4618; C24, 27, 31, 35, 39, §**11276;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.23]

622.24 Subscribing witness — substitute proof.

When a subscribing witness denies or does not recollect the execution of the instrument to which the witness' name is subscribed as such witness, its execution may be proved by other evidence.

[C51, §2403; R60, §3996; C73, §3654; C97, §4619; C24, 27, 31, 35, 39, §**11277;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.24]

622.25 Handwriting.

Evidence respecting handwriting may be given by experts, by comparison, or by comparison by the jury, with writings of the same person which are proved to be genuine.

[C51, §2404; R60, §3997; C73, §3655; C97, §4620; C24, 27, 31, 35, 39, §**11278;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.25]

622.26 Private writing — acknowledgment.

Every private writing, except a last will and testament, after being acknowledged or proved and certified in the manner prescribed for the proof or acknowledgment of conveyances of real property, may be read in evidence without further proof.

[C51, §2407; R60, §4000; C73, §3656; C97, §4621; C24, 27, 31, 35, 39, §**11279;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.26]

622.27 Entries and writings of deceased person.

The entries and other writings of a person deceased, who was in a position to know the facts therein stated, made at or near the time of the transaction, are presumptive evidence of such facts, when the entry was made against the interest of the person so making it, or when made in a professional capacity or in the ordinary course of professional conduct, or when made in the performance of a duty specially enjoined by law.

[C51, §2405; R60, §3998; C73, §3657; C97, §4622; C24, 27, 31, 35, 39, §**11280;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.27]

622.28 Writing or record — when admissible — absence of record — effect.

1. Any writing or record, whether in the form of an entry in a book or otherwise, including electronic means and interpretations thereof, offered as memoranda or records of acts, conditions, or events to prove the facts stated therein, shall be admissible as evidence if the judge finds that they were made in the regular course of a business at or about the time of the act, condition, or event recorded; that the sources of information from which made and the method and circumstances of their preparation were such as to indicate

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their trustworthiness; and that they are not excludable as evidence because of any rule of admissibility of evidence other than the hearsay rule.

2. Evidence of the absence of a memorandum or record from the memoranda or records of a business of an asserted act, event, or condition, shall be admissible as evidence to prove the nonoccurrence of the act or event, or the nonexistence of the condition, if the judge finds that it was in the regular course of that business to make memoranda or records of all such acts, events, or conditions at the time thereof or within a reasonable time thereafter, and to preserve the memoranda or records.

3. The term *"business"*, as used in this section, includes a business, profession, occupation, or calling of every kind.

[C51, §2406; R60, §3999; C73, §3658; C97, §4623; S13, §4623; C24, 27, 31, 35, 39, §**11281, 11282;** C46, 50, 54, 58, §622.28, 622.29; C62, 66, 71, 73, 75, 77, 79, 81, §622.28]

2016 Acts, ch 1073, §164; 2017 Acts, ch 29, §160

Referred to in §622.30

622.29 Facsimiles of signatures. Repealed by 2006 Acts, ch 1174, §6. See §602.1614.

622.30 Photographic copies — originals destroyed.

1. In all cases where depositions are taken by either method provided by law, outside of the county in which the case is for trial where books of account are competent evidence in the case, the party desiring to offer the entries of said books as evidence may cause the same to be photographed by or under the direction of the officer taking the deposition and such photographic copy when certified by such officer with the officer's seal attached shall be attached to the deposition, and if the record shows affirmatively the preliminary proof required by section 622.28, such copy shall be admitted in evidence with the same force and effect as the original.

2. If any business, institution, member of a profession or calling, or any department or agency of government, in the regular course of business or activity has kept or recorded any memorandum, writing, entry print, representation or combination thereof, of any act, transaction, occurrence or event and in the regular course of business has caused any or all of the same to be recorded, copied, or reproduced by any photographic, photostatic, microfilm, microcard, miniature photographic, electronic imaging, electronic data processing, or other process which accurately reproduces or forms a durable medium for accurately and legibly reproducing an unaltered image or reproduction of the original, the original may be destroyed in the regular course of business unless held in a custodial or fiduciary capacity or unless its preservation is required by law, except if the originals are records, reports, or other papers of a county officer they shall not be destroyed until they have been preserved for ten years. Such reproduction, when satisfactorily identified, is as admissible in evidence as the original itself in any judicial or administrative proceeding whether the original is in existence or not and an enlargement or facsimile of such reproduction is likewise admissible in evidence if the original recording, copy, or reproduction is in existence and available for inspection under direction of court. The introduction of a reproduced record, enlargement or facsimile, does not preclude admission of the original.

[S13, §4623; C24, 27, 31, 35, 39, §**11283;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.30]

91 Acts, ch 83, §1

Referred to in §452A.80

622.31 Evidence of regret or sorrow.

In any civil action for professional negligence, personal injury, or wrongful death or in any arbitration proceeding for professional negligence, personal injury, or wrongful death against a person in a profession regulated by one of the boards listed in section 272C.1 or in any other licensed profession recognized in this state, a hospital licensed pursuant to chapter 135B, or a health care facility licensed pursuant to chapter 135C, based upon the alleged negligence in the practice of that profession or occupation, that portion of a statement, affirmation, gesture, or conduct expressing sorrow, sympathy, commiseration, condolence, compassion, or a general sense of benevolence that was made by the person to the plaintiff, relative of

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the plaintiff, or decision maker for the plaintiff that relates to the discomfort, pain, suffering, injury, or death of the plaintiff as a result of an alleged breach of the applicable standard of care is inadmissible as evidence. Any response by the plaintiff, relative of the plaintiff, or decision maker for the plaintiff to such statement, affirmation, gesture, or conduct is similarly inadmissible as evidence.

2006 Acts, ch 1128, §4; 2007 Acts, ch 10, §180; 2007 Acts, ch 126, §102

622.31A Evidence — victims of sexual abuse.

1. The provision of rule of evidence 5.412 involving a victim of sexual abuse shall apply to discovery conducted in a criminal case or in a postconviction relief proceeding under chapter 822 including but not limited to depositions.

2. If a defendant in a criminal action or an applicant for postconviction relief wishes to conduct discovery involving evidence subject to rule of evidence 5.412, the defendant or applicant shall comply with substantially the same procedural requirements for evidence sought to be offered at trial including timelines, offers of proof, service, purpose of proposed discovery, in camera hearings, relevancy, and the balancing of the probative value of the evidence with the danger of unfair prejudice.

3. Discovery, by deposition or otherwise, shall not be permitted for evidence that would not be admissible at trial under rule of evidence 5.412.

2022 Acts, ch 1095, §1

Admissibility of victim's sexual conduct in civil actions, see §668.15

622.31B Admissibility of evidence in certain physical abuse and sexual offense cases.

1. As used in this section:

a. "Child" means a person under fourteen years of age.

b. "Cognitive impairment" means a deficiency in a person's short-term or long-term memory; orientation as to person, place, and time; deductive or abstract reasoning; or judgment as it relates to safety awareness.

c. "Developmental disability" means the same as defined under the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, Pub. L. No. 106-402, as codified in 42 U.S.C. §15002(8).

d. "Intellectual disability" means a disability of children and adults who as a result of inadequately developed intelligence have a significant impairment in ability to learn or to adapt to the demands of society.

2. In a prosecution for physical abuse or a sexual offense including but not limited to a sexual offense in violation of section 709.2, 709.3, 709.4, 709.11, 709.12, 709.14, 709.15, 709.16, or 709.23, upon or against a child, a person with an intellectual disability, person with a cognitive impairment, or person with a developmental disability, the following evidence shall be admitted as an exception to the hearsay rule if all of the requirements in subsection 3 apply:

a. Testimony by the victim concerning an out-of-court statement, whether consistent or inconsistent, made by the victim to another person that is an initial disclosure of the offense.

b. Testimony by another concerning an out-of-court statement, whether consistent or inconsistent, made by the victim that is an initial disclosure of an offense charged for physical abuse or a sexual offense against the victim.

3. The testimony described in subsection 2 shall be admitted into evidence at trial as an exception to the hearsay rule if all of the following apply:

a. The party intending to offer the statement does all of the following:

(1) Notifies the adverse party of the intent to offer the statement.

(2) Provides the adverse party with the name of the witness through whom the statement will be offered.

(3) Provides the adverse party with a written summary of the statement to be offered.

b. The court finds, in a hearing conducted outside the presence of the jury, that the timing of the statement, the content of the statement, and the circumstances surrounding the making of the statement provide sufficient safeguards of reliability.

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c. The child, person with an intellectual disability, person with a cognitive impairment, or a person with a developmental disability testifies at the trial.

4. If a statement is admitted pursuant to this section, the court shall instruct the jury that it is for the jury to determine the weight and credibility to be given to the statement, and in making that determination, the jury shall consider the age and maturity of the child or the disability of the person with an intellectual disability, person with a cognitive impairment, or person with a developmental disability; the nature of the statement; the circumstances under which the statement was made, and any other relevant factors.

5. This section shall not prevent the admission of any evidence based upon forfeiture by wrongdoing.

2022 Acts, ch 1095, §2

622.32 Statute of frauds.

Except when otherwise specially provided, no evidence of the following enumerated contracts is competent, unless it be in writing and signed by the party charged or by the party's authorized agent:

1. Those made in consideration of marriage.

2. Those wherein one person promises to answer for the debt, default, or miscarriage of another, including promises by executors to pay the debt of the decedent from their own estate.

3. Those for the creation or transfer of any interest in lands, except leases for a term not exceeding one year.

4. Those that are not to be performed within one year from the making thereof.

[C51, §2409, 2410; R60, §4006, 4007; C73, §3663, 3664; C97, §4625; C24, 27, 31, 35, 39, §**11285;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.32]

Referred to in §622.33, 622.34
Declarations of trust, §557.10
Party walls, §563.12

622.33 Exception.

The provisions of section 622.32, subsection 3, do not apply where the purchase money, or any portion thereof, has been received by the vendor, or when the vendee, with the actual or implied consent of the vendor, has taken and held possession of the premises under and by virtue of the contract, or when there is any other circumstance which, by the law heretofore in force, would have taken the case out of the statute of frauds.

[C51, §2411; R60, §4008; C73, §3665; C97, §4626; C24, 27, 31, 35, 39, §**11286;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.33]

Referred to in §622.34

622.34 Contract not denied in the pleadings.

The provisions of sections 622.32 and 622.33, relating merely to the proof of contracts, shall not prevent the enforcement of those not denied in the pleadings, except in cases when the contract is sought to be enforced, or damages recovered for the breach thereof, against some person other than the person who made it.

[C51, §2412; R60, §4009; C73, §3666; C97, §4627; C24, 27, 31, 35, 39, §**11287;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.34]

2013 Acts, ch 90, §173

622.35 Party made witness.

The oral evidence of the maker against whom the unwritten contract is sought to be enforced shall be competent to establish the same.

[C51, §2413; R60, §4010; C73, §3667; C97, §4628; C24, 27, 31, 35, 39, §**11288;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.35]

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622.36 Instruments affecting real estate — adoption of minors.

Every instrument in writing affecting real estate, or the adoption of minors, which is acknowledged or proved and certified as required, may be read in evidence without further proof.

[C51, §1227; R60, §2235, 4001; C73, §3659; C97, §4629; C24, 27, 31, 35, 39, §**11289;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.36]

622.37 through 622.40 Reserved.

622.41 United States and state patents.

United States and state patents for land in the state, and duly certified copies thereof from the general land office of the United States, or the state land office, that have been or may be recorded in the recorder's office of the county in which the land is situated, shall be matters of record and such record, and copies thereof, certified to by the recorder, may be received and read in evidence in all courts, with like effect as the record of other instruments, and other certified copies of original papers recorded in the recorder's office; and such patents and certified copies may be recorded without an acknowledgment.

[C97, §4633; S13, §4633; C24, 27, 31, 35, 39, §**11294;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.41]

Referred to in §622.51

622.42 Field notes and plats.

A copy of the field notes of any licensed professional land surveyor, or a plat made by the surveyor and certified under oath as correct, may be received as evidence to show the shape or dimensions of a tract of land, or any other fact the ascertainment of which requires the exercise of scientific skill or calculation only.

[C51, §2431; R60, §4046; C73, §3701; C97, §4634; C24, 27, 31, 35, 39, §**11295;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.42]

2012 Acts, ch 1009, §32

Referred to in §622.51

622.43 Records and entries in public offices.

Duly certified copies of all records and entries or papers belonging to any public office, or by authority of law filed to be kept therein, shall be evidence in all cases of equal credibility with the original record or papers so filed.

[C51, §2432; R60, §4047; C73, §3702; C97, §4635; C24, 27, 31, 35, 39, §**11296;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.43]

Referred to in §321.556, 622.51

See Authentication of Records, preceding United States Constitution in Vol I

Notarial acts, chapter 9B

Similar provision, §446.36

622.44 Copies of books of original entries.

Copies of entries made in the book of "copies of original entries", kept as a record in the office of the county recorder, when such book has been compared with the originals and certified as true copies by the register of the United States land office at which such original entries were made, may, when certified by the recorder to be true copies, be received and read in evidence in all of the courts, with like effect as certified copies of original papers recorded in the recorder's office.

[R60, §4049; C73, §3704; C97, §4636; C24, 27, 31, 35, 39, §**11297;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.44]

Referred to in §331.607, 622.45, 622.51

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622.45 Additional entries.

Copies of additional entries shall, from time to time, be procured as made, certified as required in section 622.44, and entered in the book of "copies of original entries", until all the lands in the county have been entered and so certified.

[R60, §4050; C73, §3705; C97, §4637; C24, 27, 31, 35, 39, §**11298;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.45]

Referred to in §622.51

622.46 Officer to give copies of records.

Every officer having the custody of a public record or writing shall furnish any person, upon demand and payment of the legal fees therefor, a certified copy thereof.

[C51, §2433; R60, §4051; C73, §3706; C97, §4638; C24, 27, 31, 35, 39, §**11299;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.46]

Referred to in §22.2, 321.11, 622.51

622.47 Maps in office of surveyor general.

Copies of all maps, official letters, and other documents in the office of the surveyor general of the United States, when certified by that officer according to law, shall be received by the courts of this state as presumptive evidence of the existence and contents of the originals, and that they are copies of the originals, notwithstanding such maps, official letters, or other papers, may themselves be copied.

[R60, §4052; C73, §3707; C97, §4639; C24, 27, 31, 35, 39, §**11300;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.47]

Referred to in §622.51

622.48 Certificate as to loss of paper.

The certificate of a public officer, that the public officer has made diligent and ineffectual search for a paper in the officer's office, is of the same efficacy in all cases as if such officer had personally appeared and sworn to such facts.

[C51, §2434; R60, §4053; C73, §3708; C97, §4640; C24, 27, 31, 35, 39, §**11301;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.48]

Referred to in §622.51

622.49 Duplicate receipt of receiver of land office.

The usual duplicate receipt of the receiver of any land office, or the certificate of such receiver that the books of the receiver's office show the sale of a tract of land to a certain individual, is proof of title, equivalent to a patent, against all but the holder of an actual patent.

[C51, §2435; R60, §4054; C73, §3709; C97, §4641; C24, 27, 31, 35, 39, §**11302;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.49]

Referred to in §622.51

622.50 Certificate of register or receiver.

The certificate of the register or receiver of any land office of the United States, as to the entry of land within the register's or receiver's district, shall be presumptive evidence of title, in the person entering, to the real estate therein named.

[R60, §4055; C73, §3710; C97, §4642; C24, 27, 31, 35, 39, §**11303;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.50]

Referred to in §622.51

622.51 Official signature presumed genuine.

In the cases contemplated in sections 622.41 through 622.50, the signature of the officer shall be presumed to be genuine until the contrary is shown.

[C51, §2436; R60, §4056; C73, §3711; C97, §4643; C24, 27, 31, 35, 39, §**11304;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.51]

2020 Acts, ch 1063, §330

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622.51A Computer printouts.

For purposes of chapters 714 and 716, computer printouts shall be admitted as evidence of any computer software, program, or data contained in or taken from a computer, notwithstanding an applicable rule of evidence to the contrary.

2000 Acts, ch 1201, §5

622.52 Effect on rules.

Sections 622.53 through 622.63, are not a limitation of the Iowa rules of evidence.

[C51, §2437; R60, §4057; C73, §3712; C97, §4644; C24, 27, 31, 35, 39, §**11305;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.52]

83 Acts, ch 37, §3

622.53 Judicial record — state or federal courts.

A judicial record of this state, including the filed certified shorthand notes of the official court reporter as transcribed or a court of the United States may be proved by the production of the original, or a copy of it certified by the clerk or person having the legal custody of it, authenticated by the custodian's seal of office, if there is a seal. That of another state may be proved by the attestation of the clerk and the seal of the court annexed, if there is a seal, together with a certificate of a judge, chief justice, or presiding magistrate that the attestation is in due form of law.

[C51, §2438; R60, §4058; C73, §3713; C97, §4645; C24, 27, 31, 35, 39, §**11306;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.53]

83 Acts, ch 37, §4

Referred to in §252D.20, 622.52

622.54 Of a justice of the peace.

The official certificate of a justice of the peace of any of the United States to any judgment and the preliminary proceedings before the justice of the peace, supported by the official certificate of the clerk of any court of record within the county in which such justice resides, stating that the justice is an acting justice of the peace of that county, and that the signature to the justice's certificate is genuine, is sufficient evidence of such proceedings and judgment.

[C51, §2439; R60, §4059; C73, §3714; C97, §4646; C24, 27, 31, 35, 39, §**11307;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.54]

Referred to in §622.52

622.55 Of a foreign country.

Copies of records and proceedings in the courts of a foreign country may be admitted in evidence upon being authenticated as follows:

1. By the official attestation of the clerk or officer in whose custody such records are legally kept.

2. By the certificate of one of the judges or magistrates of such court, that the person so attesting is the clerk or officer legally entrusted with the custody of such records, and that the signature to the clerk's or officer's attestation is genuine.

3. By the official certificate of the officer who has the custody of the principal seal of the government under whose authority the court is held, attested by said seal, stating that such court is duly constituted, specifying the general nature of its jurisdiction, and verifying the seal of the court.

[C51, §2440; R60, §4060; C73, §3715; C97, §4647; C24, 27, 31, 35, 39, §**11308;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.55]

Referred to in §622.52

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622.56 Presumption of regularity.

The proceedings of all officers and courts of limited and inferior jurisdiction within the state shall be presumed regular, except in regard to matters required to be entered of record, and except where otherwise expressly declared.

[C51, §2512; R60, §4120; C73, §3669; C97, §4648; C24, 27, 31, 35, 39, §**11309;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.56]

Referred to in §622.52

622.57 Executive acts.

Acts of the executive of the United States, or of this or any other state of the Union, or of a foreign government, are proved by the records of the state department of the respective governments, or by public documents purporting to have been printed by order of the legislatures of those governments, respectively, or by either branch thereof.

[C51, §2441; R60, §4061; C73, §3716; C97, §4649; C24, 27, 31, 35, 39, §**11310;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.57]

Referred to in §622.52

622.58 Proceedings of legislature.

The proceedings of the legislature of this or any other state of the Union, or of the United States, or of any foreign government, are proved by the journals of those bodies, respectively, or of either branch thereof, and either by copies officially certified by the clerk of the house in which the proceeding was had, or by a copy purporting to have been printed by its order.

[C51, §2442; R60, §4062; C73, §3717; C97, §4650; C24, 27, 31, 35, 39, §**11311;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.58]

Referred to in §622.52

622.59 Printed copies of statutes.

Printed copies of the statute laws of this or any other of the United States, or of Congress, or of any foreign government, purporting or proved to have been published under the authority thereof, or proved to be commonly admitted as evidence of the existing laws in the courts of such state or government, shall be admitted in the courts of this state as presumptive evidence of such laws.

[C51, §2443; R60, §4063; C73, §3718; C97, §4651; C24, 27, 31, 35, 39, §**11312;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.59]

Referred to in §622.52

622.60 Written law or public writing.

The public seal of the state or county, affixed to a copy of the written law or other public writing, is admissible as evidence of such law or writing, respectively.

[C51, §2444; R60, §4064; C73, §3719; C97, §4652; C24, 27, 31, 35, 39, §**11313;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.60]

Referred to in §622.52

622.61 Foreign unwritten law.

The unwritten laws of any other state or government may be proved as facts by parol evidence, or by the books of reports of cases adjudged in their courts.

[C51, §2444; R60, §4064; C73, §3719; C97, §4652; C24, 27, 31, 35, 39, §**11314;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.61]

Referred to in §622.52

622.62 Ordinances of city.

1. The printed copies of a city code and of supplements to it which are purported or proved to have been compiled pursuant to section 380.8 shall be admitted in the courts of this state as presumptive evidence of the ordinances contained therein. When properly pleaded, the courts of this state shall take judicial notice of ordinances contained in a city code or city code supplement.

2. The printed copies of an ordinance of any city which has not been compiled in a city code or a supplement pursuant to section 380.8 but which has been published by authority of

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the city, or transcripts of any ordinance, act, or proceeding thereof recorded in any book, or entries on any minutes or journals kept under direction of the city, and certified by the city clerk, shall be received in evidence for any purpose for which the original ordinances, books, minutes, or journals would be received, and with the same effect. The clerk shall furnish such transcripts, and be entitled to charge therefor at the rate that the clerk of the district court is entitled to charge for transcripts of records from that court.

3. The actions of any court of this state in taking judicial notice of the existence and content of a city ordinance in any proceeding which was commenced between the first day of July, 1973, and April 17, 1976, shall be conclusively presumed to be lawful, and to the extent required by this section, this section is retroactive.

[R60, §1076; C73, §3720; C97, §4653; C24, 27, 31, 35, 39, §**11315;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.62]

2011 Acts, ch 25, §71

Referred to in §622.52

622.63 Subpoenas.

The clerks of the several courts shall, on application of any person having a cause or matter pending in court, issue a subpoena for witnesses under the seal of the court, inserting all the names required by the applicant in one subpoena, if practicable, which may be served by the sheriff of the county, or by the party or any other person.

[R60, §4012; C73, §3671; C97, §4658; C24, 27, 31, 35, 39, §**11320;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.63]

Referred to in §602.8102(97), 622.52, 631.3

622.64 Proof of service — costs.

When a subpoena is served by any person other than the sheriff or constable, proof thereof shall be shown by affidavit; but no costs for serving the same shall be allowed.

[R60, §4012; C73, §3671; C97, §4658; C24, 27, 31, 35, 39, §**11321;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.64]

Referred to in §631.3

622.65 To whom directed — duces tecum.

The subpoena shall be directed to the person therein named, requiring the person to attend at a particular time or place to testify as a witness, and it may contain a clause directing the witness to bring with the witness any book, writing, or other thing under the witness' control, which the witness is bound by law to produce as evidence.

[C51, §2415; R60, §4013; C73, §3672; C97, §4659; C24, 27, 31, 35, 39, §**11322;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.65]

Referred to in §124.502, 631.3

622.66 How far compelled to attend.

Witnesses in civil cases cannot be compelled to attend the district or appellate court out of the state where they are served.

[C51, §2416; R60, §4014; C73, §3673; C97, §4660; C24, 27, 31, 35, 39, §**11323;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.66]

87 Acts, ch 137, §1

Referred to in §631.3

622.67 Deposit — effect.

The court, for good cause shown, upon deposit with the clerk of the court of sufficient money to pay the fee and mileage of a witness, may order the clerk to issue a subpoena requiring the attendance of the witness from a greater distance within the state. The subpoena shall show that it is issued under this section. If the party requesting the subpoena is a county or the state, the court may order the issuance of the subpoena without the deposit of the fee and mileage.

[C24, 27, 31, 35, 39, §**11324;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.67]

83 Acts, ch 186, §10113, 10201

Referred to in §631.3

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622.68 Reserved.

622.69 Witness fees.

1. Witnesses shall receive ten dollars for each full day's attendance, and five dollars for each attendance less than a full day, and mileage expenses pursuant to section 602.1509 for each mile actually traveled.

2. Witness fees to be received by an inmate, while in the custody of the department of corrections, shall be applied either toward payment of any restitution owed by the inmate or to the crime victim compensation program established in sections 915.80 through 915.94.

[C51, §2544; R60, §4153; C73, §3814; C97, §4661; C24, 27, 31, 35, 39, §**11326;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.69; 81 Acts, ch 191, §2]

93 Acts, ch 46, §3; 96 Acts, ch 1163, §3; 98 Acts, ch 1090, §74, 84; 2016 Acts, ch 1011, §121

Referred to in §10A.209, 602.11101, 631.3

622.70 Attorney, juror, or officer.

An attorney, juror, or officer, who is in habitual attendance on the court for the court session at which the attorney, juror, or officer is examined as a witness, shall be entitled to but one day's attendance.

[C51, §2544; R60, §4153; C73, §3814; C97, §4661; C24, 27, 31, 35, 39, §**11327;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.70]

622.71 Certain witness fees prohibited.

A peace officer who receives a regular salary, or any other public official, shall not receive fees as a witness in any case for testifying in regard to any matter coming to the officer's or official's knowledge in the discharge of the officer's or official's official duties in that case in a court in the county of the officer's or official's residence, except peace officers who are called as witnesses when not on duty.

[C97, §4661; C24, 27, 31, 35, 39, §**11328;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.71]

2016 Acts, ch 1073, §165

622.71A Volunteer fire fighters — witness compensation.

A volunteer fire fighter, as defined in section 85.61, who is subpoenaed to appear as a witness in connection with a matter regarding an event or transaction which the fire fighter perceived or investigated in the course of duty as a volunteer fire fighter, shall receive reasonable compensation as determined by the court from the party who subpoenaed the volunteer fire fighter. The daily compensation shall be equal to the average daily wage paid to full-time fire fighters of the same rank within the judicial district. However, the requirements of this section are not applicable if a volunteer fire fighter will receive the volunteer fire fighter's regular salary or other compensation pursuant to the policy of the volunteer fire fighter's regular employer, for the period of time required for travel to and from where the court or other tribunal is located and while the volunteer fire fighter is required to remain at that place pursuant to the subpoena.

95 Acts, ch 19, §1

622.72 Expert witnesses — fee.

Witnesses called to testify only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examinations and state the result thereof, shall receive additional compensation, to be fixed by the court, with reference to the value of the time employed and the degree of learning or skill required; but such additional compensation shall not exceed one hundred fifty dollars per day while so employed.

[C73, §3814; C97, §4661; C24, 27, 31, 35, 39, §**11329;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.72]

Referred to in §602.11101, 815.5
Superintendent of state hospital, §226.5

622.73 Reserved.

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622.74 Fees in advance.

Witnesses, except parties to the action, are entitled to receive in advance, if demanded when subpoenaed, their traveling fees to and from the court, with their fees for one day's attendance. At the commencement of each day after the first, they are further entitled, on demand, to receive the legal fees for that day in advance. If not thus paid, they are not compelled to attend or remain as witnesses.

[C51, §2417; R60, §4015; C73, §3674; C97, §4662; C24, 27, 31, 35, 39, §**11331;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.74]

622.75 Reimbursement to party, county, or city.

When a county or city or any party has paid the fees of any witness, and the same is afterward collected from the defendant or adverse party, the county, city, or person so paying the same shall, upon the production of the receipt of such witness or other satisfactory evidence, be entitled to such fee.

[C73, §3817; C97, §4663; C24, 27, 31, 35, 39, §**11332;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.75]

622.76 Failure to attend or testify — liability.

For a failure to obey a valid subpoena without a sufficient cause or excuse, or for a refusal to testify after appearance, the delinquent is guilty of a contempt of court and subject to be proceeded against by attachment. The delinquent is also liable to the party by whom the delinquent was subpoenaed for all consequences of such delinquency, with fifty dollars additional damages.

[C51, §2418; R60, §4016; C73, §3675; C97, §4664; C24, 27, 31, 35, 39, §**11333;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.76]

Referred to in §622.79, 631.3

Contempts, chapter 665

622.77 Proceedings for contempt.

Before a witness is so liable for a contempt for not appearing, the witness must be served personally with the process, by reading it to the witness, and leaving a copy thereof with the witness, if demanded, and it must be shown that the fees and traveling expenses allowed by law were tendered to the witness, if required; or it must appear that a copy of the subpoena, if left at the witness' usual place of residence, came into the witness' hands, with the fees and traveling expenses above mentioned.

[C51, §2419; R60, §4017; C73, §3676; C97, §4665; C24, 27, 31, 35, 39, §**11334;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.77]

Referred to in §622.79, 631.3

622.78 Serving subpoena.

If a witness hides, or in any manner attempts to avoid being personally served with a subpoena, any sheriff having the subpoena may use all necessary and proper means to serve the same, and may for that purpose break into any building or other place where the witness is to be found, having first made known the sheriff's business and demanded admission.

[C51, §2420; R60, §4018; C73, §3677; C97, §4666; C24, 27, 31, 35, 39, §**11335;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.78]

Referred to in §622.79

622.79 When party fails to obey subpoena.

In addition to the remedies provided in sections 622.76 through 622.78, if a party to an action in the party's own right, on being duly subpoenaed, fails to appear and give testimony, the other party may, at the other party's election, have a continuance of the cause at the cost of the delinquent party.

[C51, §2421; R60, §4024; C73, §3683; C97, §4667; C24, 27, 31,35, 39, §**11336;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.79]

2013 Acts, ch 90, §174; 2026 Acts, ch 1040, §109

Section amended

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622.80 Pleading taken as true.

If the delinquent party shows by the party's own testimony, or otherwise, that the party could not have a full personal knowledge of the transaction, the court may order the party's pleading to be taken as true; subject to be reconsidered by the court within a reasonable time thereafter, upon satisfactory reasons being shown for the delinquency.

[C51, §2422; R60, §4025; C73, §3684; C97, §4668; C24, 27, 31, 35, 39, §**11337;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.80]

2019 Acts, ch 59, §203

622.81 Authority to subpoena.

Any officer or board authorized to hear evidence shall have authority to subpoena witnesses and compel them to attend and testify, in the same manner as officers authorized to take depositions.

[C97, §4669; C24, 27, 31, 35, 39, §**11338;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.81]

Enforcing attendance, §622.84, 622.102

622.82 Prisoner produced.

A person confined in a penitentiary or jail in the state may, by order of any court of record, be required to be produced for oral examination in the county where the person is imprisoned, and in a criminal case in any county in the state; but in all other cases the person's examination must be by a deposition.

[R60, §4019; C73, §3678; C97, §4670; C24, 27, 31, 35, 39, §**11339;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.82]

622.83 Deposition of prisoner.

While a prisoner's deposition is being taken, the prisoner shall remain in the custody of the officer having the prisoner in charge, who shall afford reasonable facilities for the taking thereof.

[R60, §4020; C73, §3679; C97, §4671; C24, 27, 31, 35, 39, §**11340;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.83]

622.84 Subpoenas — enforcing obedience.

1. When, by the laws of this or any other state or country, testimony may be taken in the form of depositions to be used in any of the courts thereof, the person authorized to take the depositions may issue subpoenas for witnesses, which must be served by the same officers and returned in the same manner as is required in district court, and obedience to the subpoenas may be enforced in the same way and to the same extent, or the person may report the matter to the district court who may enforce obedience as though the action was pending in the district court.

2. If a witness is located in any other state or country and refuses to voluntarily submit to the deposition, the court of jurisdiction in this state may, upon the application of any party, petition the court of competent jurisdiction in the foreign jurisdiction where the witness is located to issue subpoenas or make other appropriate orders to compel the witness' attendance at the deposition.

[C51, §2477 – 2479; R60, §4021 – 4023; C73, §3680 – 3682; C97, §4672; C24, 27, 31, 35, 39, §**11341;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.84]

89 Acts, ch 230, §22; 90 Acts, ch 1041, §1

Similar provision, §622.102

622.85 Affidavits — before whom made.

An affidavit is a written declaration made under oath, without notice to the adverse party, before any person authorized to administer oaths within or without the state.

[R60, §4030, 4035; C73, §3689, 3690; C97, §4673; C24, 27, 31, 35, 39, §**11342;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.85]

Referred to in §435.26

Perpetuating testimony, R.C.P. 1.721 – 1.728

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622.86 Foreign affidavits.

An affidavit taken out of the state before any judge or clerk of a court of record, or before a notarial officer as provided in chapter 9B, or a commissioner appointed by the governor of this state to take acknowledgment of deeds in the state where the affidavit is taken, are of the same credibility as if taken within this state.

[C51, §2475; R60, §4036; C73, §3691; C97, §4674; C24, 27, 31, 35, 39, §**11343;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.86]

2012 Acts, ch 1050, §55, 60; 2013 Acts, ch 140, §102; 2019 Acts, ch 59, §204

622.87 How affidavits compelled.

When a person is desirous of obtaining the affidavit of another who is unwilling to make the same fully, the person may apply by petition to any officer competent to take depositions, stating the object for which the person desires the affidavit.

[C51, §2480; R60, §4038; C73, §3692; C97, §4675; C24, 27, 31, 35, 39, §**11344;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.87]

622.88 Subpoena issued.

If the officer is satisfied that the object is legal and proper, the officer shall issue a subpoena to bring the witness before the officer, and, if the witness fails then to make a full affidavit of the facts within the witness' knowledge to the extent required of the witness by the officer, the latter may proceed to take the witness' deposition by question and answer in the usual way, which may be used instead of an ordinary affidavit.

[C51, §2481; R60, §4039; C73, §3693; C97, §4676; C24, 27, 31, 35, 39, §**11345;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.88]

622.89 Notice.

The officer may, in the officer's discretion, require notice of the taking of such affidavit or deposition to be given to any person interested in the subject matter, and allow the person to be present and cross-examine such witness.

[C51, §2482; R60, §4040; C73, §3694; C97, §4677; C24, 27, 31, 35, 39, §**11346;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.89]

622.90 Cross-examination.

The court or officer to whom any affidavit is presented as a basis for some action, in relation to which any discretion is lodged with such court or officer, may require the witness to be brought before it or the officer and submit to a cross-examination by the opposite party.

[C51, §2483; R60, §4041; C73, §3695; C97, §4678; C24, 27, 31, 35, 39, §**11347;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.90]

622.91 Signature and seal — presumption.

The signature and seal of such officers as are authorized to take depositions or affidavits, having a seal, and the simple signature of such as have no seal, are presumptive evidence of the genuineness thereof, as well as of the official character of the officer, except as otherwise declared.

[C51, §2476; R60, §4037; C73, §3696; C97, §4679; C24, 27, 31, 35, 39, §**11348;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.91]

622.92 Newspaper publications — how proved.

Publications required to be made in a newspaper may be proved by the affidavit of any person having knowledge of the fact, specifying the times when and the paper in which the publication was made, but such affidavit must be made within six months after the last day of publication.

[C51, §2427; R60, §4042; C73, §3697; C97, §4680; C24, 27, 31, 35, 39, §**11349;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.92]

Proof of publication, R.C.P. 1.314

622.93 Applicability in certain counties. Repealed by 2026 Acts, ch 1192, §27.

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622.94 Proof of serving or posting notices.

The posting up or service of any notice or other paper required by law may be proved by the affidavit of any competent witness attached to a copy of said notice or paper, and made within six months of the time of such posting up.

[C51, §2428; R60, §4043; C73, §3698; C97, §4681; C24, 27, 31, 35, 39, §**11350;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.94]

622.95 Other facts.

Any other fact which is required to be shown by affidavit, and which may be required for future use in any action or other proceeding, may be proved by pursuing the course above indicated, as nearly as the circumstances of the case will admit.

[C51, §2429; R60, §4044; C73, §3699; C97, §4682; C24, 27, 31, 35, 39, §**11351;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.95]

622.96 How perpetuated — presumption of fact.

Proof so made may be perpetuated and preserved for future use by filing the papers above mentioned in the office of the clerk of the district court of the county where the act is done. The original affidavit appended to the notice or paper, if there is one, and, if not, the affidavit by itself is presumptive evidence of the facts stated therein, but does not preclude other modes of proof now held sufficient.

[C51, §2430; R60, §4045; C73, §3700; C97, §4683; C24, 27, 31, 35, 39, §**11352;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.96]

SUBCHAPTER II

REPORTER'S NOTES AS EVIDENCE

622.97 Authorized use.

The original shorthand notes of the evidence or any part thereof heretofore or hereafter taken upon the trial of any cause or proceeding, in any court of record of this state, by the shorthand reporter of such court, or any transcript thereof, duly certified by such reporter, when material and competent, shall be admissible in evidence on any retrial of the case or proceeding in which the same were taken, and for purposes of impeachment in any case, and shall have the same force and effect as a deposition, subject to the same objections so far as applicable.

[S13, §245-a; C24, 27, 31, 35, 39, §**11353;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.97]

622.98 Transcript must be complete.

No portion of the transcript of the shorthand notes of the evidence of any witness shall be admissible as such deposition, unless it shall appear from the certificate or verification thereof that the whole of the shorthand notes of the evidence of such witness, upon the trial or hearing in which the same was given, is contained in such transcript, but the party offering the same shall not be compelled to offer the whole of such transcript.

[S13, §245-a; C24, 27, 31, 35, 39, §**11354;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.98]

622.99 Certification.

It shall be the duty of any such reporter, upon demand by any party to any cause or proceeding, or by the attorney of such party, when such shorthand notes are offered in evidence, to read the same before the court, judge, referee, or jury, or to furnish to any person when demanded a certified transcript of the shorthand notes of the evidence of any one or more witnesses, upon payment of the reporter's fees therefor.

[S13, §245-a; C24, 27, 31, 35, 39, §**11355;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.99]

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622.100 Sworn verification.

When the reporter taking such notes in any case or proceeding in court has ceased to be the reporter of such court, any transcript by the reporter made therefrom and sworn to by the reporter before any person authorized to administer an oath as a full, true, and complete transcript of the notes of the testimony of the witness, a transcript of whose testimony is demanded, shall have the same force and effect as though duly certified by the reporter of said court.

[S13, §245-a; C24, 27, 31, 35, 39, §**11356;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.100]

622.101 Identification of exhibits.

When any exhibit, record, or document is referred to in such shorthand notes or transcript thereof, the identity of such exhibit, record, or document, as the one referred to by the witness, may be proven either by the reporter or any other person who heard the evidence of the witness given on the stand.

[S13, §245-a; C24, 27, 31, 35, 39, §**11357;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.101]

SUBCHAPTER III

DEPOSITIONS

622.102 Refusal to appear or testify.

Any witness who refuses to obey such subpoena or after appearance refuses to testify shall be reported by the officer or commissioner to the district court of the county where the subpoena was issued.

[C24, 27, 31, 35, 39, §**11367;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.102]
Similar provision, §622.84

622.103 Reserved.

622.104 Witness fees.

A witness appearing before an officer directed to take the witness' deposition is entitled to the same fees and mileage as a witness in the court in which the deposition is to be used. If subpoenaed, such a witness is entitled to fees and mileage in advance, as in other cases.

[C97, §4716; C24, 27, 31, 35, 39, §**11398;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.104]
Fees and mileage, §622.69 – 622.75

SUBCHAPTER IV

DOCUMENTS FILED WITH STATE OR DIVISIONS

622.105 Evidence of date mailed.

1. Any report, claim, tax return, statement, or any payment required or authorized to be filed or made to the state, or any political subdivision which is transmitted through the United States mail or mailed but not received by the state or political subdivision or received and the cancellation mark is illegible, erroneous or omitted, shall be deemed filed or made and received on the date it was mailed if the sender establishes by competent evidence that the report, claim, tax return, statement, or payment was deposited in the United States mail on or before the date for filing or paying. In the event of nonreceipt of any such report, tax return, statement, or payment, the sender shall file a duplicate within thirty days of receiving written notification of nonreceipt of such report, tax return, statement, or payment. Filing of a duplicate within thirty days of receiving written notification shall be considered to be a filing made on the date of the original filing.

2. For the purposes of this section "*competent evidence*" means evidence, in addition to

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the testimony of the sender, sufficient or adequate to prove that the document was mailed on a specified date which evidence is credible and of such a nature to reasonably support the determination that the letter was mailed on a specified date.

[C77, 79, 81, §622.105]

2016 Acts, ch 1011, §121

622.106 Certified or registered mail.

If any report, claim, tax return, statement, or payment is sent by United States mail and either registered or certified, a record authenticated by the United States post office shall be considered competent evidence that the report, claim, tax return, statement, or payment was delivered to the state or political subdivision to which addressed, and the date of registration or certification shall be deemed the postmarked date.

[C77, 79, 81, §622.106]

CHAPTER 622A

INTERPRETERS IN LEGAL PROCEEDINGS

622A.1	Definitions.	622A.5	Oath.
622A.2	Limited-English-proficient persons — when entitled to an interpreter or a translator.	622A.6	Qualifications, neutrality, and integrity.
622A.3	Costs — when taxed.	622A.7	Rules.
622A.4	Fee set by court or administrative agency.	622A.8	Electronic recording of testimony.
		622A.9	Privileged communications.

622A.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Administrative agency"* means any department, board, commission, or agency of the state or any political subdivision of the state.

2. *"Interpreter"* means a person who transfers the meaning of spoken or written words in one language into the equivalent meaning in another spoken language.

3. *"Legal proceeding"* means any action before any court, or any legal action preparatory to appearing before any court, whether civil, criminal, or juvenile in nature; and any proceeding before any administrative agency which is quasi-judicial in nature and which has direct legal implications to any person.

4. *"Limited English proficient"* means the inability to adequately understand or effectively communicate in the English language because a person's primary language is a language other than English.

5. *"Translator"* means a person who transfers the meaning of written or spoken words in one language into the equivalent meaning in the written words of another language.

[C71, 73, 75, 77, 79, 81, §622A.1]

2006 Acts, ch 1041, §7; 2007 Acts, ch 126, §103; 2021 Acts, ch 77, §2

622A.2 Limited-English-proficient persons — when entitled to an interpreter or a translator.

1. A limited-English-proficient person who is a party to any legal proceeding or a witness therein, shall be entitled to an interpreter to assist such person throughout the proceeding.

2. A limited-English-proficient person who is a party to any legal proceeding shall be entitled to a translator to produce a written translation of written or electronically recorded material only when a court determines that an oral or sign interpretation of the material is not sufficient to ensure due process under the circumstances.

[C71, 73, 75, 77, 79, 81, §622A.2]

2021 Acts, ch 77, §3

Referred to in §622A.3

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622A.3 Costs — when taxed.

1. An interpreter or translator shall be appointed without expense to a limited-English-proficient person in the following cases:

a. If the person requiring assistance is a witness in the civil legal proceeding.

b. If the person requiring assistance is indigent and financially unable to secure an interpreter.

2. The state court administrator shall receive, review, and pay fee claims from an interpreter or translator appointed under subsection 1, including all interpreter or translator claims formerly paid from the indigent defense fund. The fees shall be paid from the revolving fund created in section 602.1302, subsection 3, when a limited-English-proficient person is entitled to an interpreter or translator under section 622A.2 and the interpreter or translator services are not provided before an administrative agency.

3. In civil cases, every court shall tax the costs of an interpreter or translator the same as other court costs.

4. In criminal cases, where the defendant is indigent, the interpreter or translator shall be considered as a defendant's witness under rule of criminal procedure 2.15 for the purpose of receiving fees, except that subpoenas shall not be required.

5. An administrative agency shall pay an interpreter when a limited-English-proficient person is entitled to an interpreter under section 622A.2 and the interpreter services are provided before an administrative agency. The agency may require that the party to the proceeding pay the expense of the interpreter.

6. Moneys recovered as court costs for interpreters paid through the revolving fund established in section 602.1302, subsection 3, shall be deposited in that fund.

[C71, 73, 75, 77, 79, 81, §622A.3]

99 Acts, ch 144, §8; 2021 Acts, ch 77, §4 – 6

Referred to in §815.11

622A.4 Fee set by court or administrative agency.

Every interpreter appointed by a court or administrative agency shall receive a fee to be set by the court or administrative agency.

[C71, 73, 75, 77, 79, 81, §622A.4]

99 Acts, ch 144, §9; 2021 Acts, ch 77, §7

622A.5 Oath.

Every interpreter and translator in any legal proceeding shall take an oath consistent with the rules the supreme court adopts under this chapter.

[C71, 73, 75, 77, 79, 81, §622A.5]

2021 Acts, ch 77, §8

622A.6 Qualifications, neutrality, and integrity.

Any court or administrative agency may inquire into the qualifications, neutrality, and integrity of any interpreter or translator, and may disqualify any person from serving as an interpreter or translator.

[C71, 73, 75, 77, 79, 81, §622A.6]

2021 Acts, ch 77, §9

622A.7 Rules.

The supreme court, after consultation with the department of health and human services and other appropriate departments, shall adopt rules governing the qualifications and compensation of interpreters or translators appearing in legal proceedings under this chapter. However, an administrative agency which is subject to chapter 17A may adopt rules differing from those of the supreme court governing the qualifications and compensation of interpreters or translators appearing in proceedings before that agency.

84 Acts, ch 1137, §1; 2021 Acts, ch 77, §10; 2023 Acts, ch 19, §1271

Rules adopted by the supreme court are published in the compilation "Iowa Court Rules"

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622A.8 Electronic recording of testimony.

An electronic recording of the portion of proceedings where non-English testimony is given shall be made and maintained for one year after the entry of the final disposition or sentence or, if the final judgment is appealed, until one year after the final disposition of the appeal.

84 Acts, ch 1137, §2; 2021 Acts, ch 77, §11

622A.9 Privileged communications.

Communications between a limited-English-proficient person and a third party which are privileged under chapter 622 in which an interpreter or translator participates as an interpreter or translator shall be privileged with regard to the interpreter or translator.

2021 Acts, ch 77, §12

CHAPTER 622B

DEAF AND HARD-OF-HEARING PERSONS — INTERPRETERS

Procedures upon arrest of deaf or hard-of-hearing persons; see §804.31

622B.1	Definitions — rules.	622B.5	Oath.
622B.2	Interpreter appointed.	622B.6	Privileged communications.
622B.3	Notice of need.	622B.7	Fee.
622B.4	List.	622B.8	Disqualification.

622B.1 Definitions — rules.

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

a. "Administrative agency" means any department, board, commission, or agency of the state or any political subdivision of the state.

b. "Deaf person" means an individual who uses sign language as the person's primary mode of communication and who may use sign language interpreters to facilitate communication.

c. "Hard-of-hearing person" means an individual who is unable to hear and distinguish sounds within normal conversational range and who needs to use speechreading, assistive listening devices, or other reasonable accommodations to facilitate communication.

d. "Sign language interpreter" means a person who is able to interpret from sign language into an oral language and from an oral language into sign language.

2. The supreme court, after consultation with the department of health and human services, shall adopt rules governing the qualifications and compensation of sign language interpreters appearing in a legal proceeding or before an administrative agency under this chapter. However, an administrative agency which is subject to chapter 17A may adopt rules differing from those of the supreme court governing the qualifications and compensation of sign language interpreters appearing in proceedings before that agency.

[C81, §622B.1]

85 Acts, ch 131, §1; 88 Acts, ch 1134, §108; 93 Acts, ch 75, §7; 2021 Acts, ch 77, §13; 2023 Acts, ch 19, §1272

Referred to in §321.189, 321.190, 804.31

Rules adopted by the supreme court are published in the compilation "Iowa Court Rules"

622B.2 Interpreter appointed.

If a deaf or hard-of-hearing person is a party to, a witness at, or a participant in a proceeding before a grand jury, court, or administrative agency of this state, the court or administrative agency shall appoint a sign language interpreter without expense to the deaf or hard-of-hearing person to interpret or translate the proceedings to the deaf or

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hard-of-hearing person and to interpret or translate the person's testimony unless the deaf or hard-of-hearing person waives the right to a sign language interpreter.

[C81, §622B.2]

93 Acts, ch 75, §8; 2021 Acts, ch 77, §14

Referred to in §804.31

622B.3 Notice of need.

When a deaf or hard-of-hearing person is entitled to a sign language interpreter, the deaf or hard-of-hearing person shall notify the presiding official within three days after receiving notice of the proceeding, stating the disability and requesting the services of a sign language interpreter. If the deaf or hard-of-hearing person receives notification of an appearance less than five days prior to the proceeding, that person shall notify the presiding official requesting a sign language interpreter as soon as practicable or may apply for a continuance until a sign language interpreter is appointed.

[C81, §622B.3]

93 Acts, ch 75, §9; 2021 Acts, ch 77, §15

622B.4 List.

The department of health and human services shall prepare and continually update a listing of qualified and available sign language interpreters. The courts and administrative agencies shall maintain a directory of qualified interpreters for deaf and hard-of-hearing persons as furnished by the department of health and human services. The department of health and human services shall maintain a list of sign language interpreters which shall be made available to a court, administrative agency, or interested parties to an action using the services of a sign language interpreter.

[C81, §622B.4]

88 Acts, ch 1134, §109; 93 Acts, ch 75, §10; 96 Acts, ch 1162, §1; 2021 Acts, ch 77, §16; 2023 Acts, ch 19, §1273; 2024 Acts, ch 1170, §459

622B.5 Oath.

Before participating in a proceeding, a sign language interpreter shall take an oath that the sign language interpreter will make a true interpretation in an understandable manner to the person for whom the sign language interpreter is appointed and that the sign language interpreter will interpret or translate the statements of the deaf or hard-of-hearing person to the best of the sign language interpreter's skills and judgment.

[C81, §622B.5]

93 Acts, ch 75, §11; 2021 Acts, ch 77, §17

622B.6 Privileged communications.

Communication between a deaf or hard-of-hearing person and a third party which is privileged under chapter 622 in which the sign language interpreter participates as a sign language interpreter shall be privileged to the sign language interpreter.

[C81, §622B.6]

93 Acts, ch 75, §12; 2021 Acts, ch 77, §18

622B.7 Fee.

A sign language interpreter appointed under this chapter is entitled to a reasonable fee and expenses as determined by the rules applying to that proceeding. This schedule shall be furnished to all courts and administrative agencies and maintained by them. If the sign language interpreter is appointed by the court, the fee and expenses shall be paid by the county and if the sign language interpreter is appointed by an administrative agency, the fee and expenses shall be paid out of funds available to the administrative agency.

[C81, §622B.7]

83 Acts, ch 123, §199, 209; 93 Acts, ch 75, §13; 2021 Acts, ch 77, §19

Referred to in §331.424, 815.11

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622B.8 Disqualification.

On motion of a party or on its own motion, a court or administrative agency shall inquire into the qualifications, neutrality, and integrity of a sign language interpreter. A court or administrative agency may disqualify for good reason any person from serving as a sign language interpreter in that proceeding. If a sign language interpreter is disqualified, the court or administrative agency shall appoint another sign language interpreter.

[C81, §622B.8]

2021 Acts, ch 77, §20

CHAPTER 623

CHANGE OF VENUE — PROHIBITED TRANSFER OF CIVIL ACTIONS

For Iowa court rules concerning change of venue in civil actions, see R.C.P. 1.801 – 1.808

623.1 Prohibition on transfer of civil actions involving foreign law.

623.1 Prohibition on transfer of civil actions involving foreign law.

1. As used in this section, *"foreign law"* means any law, legal code, or legal system of a jurisdiction outside any state or territory of the United States, including but not limited to laws or rules of international organizations, tribunals, or courts.

2. A court of this state, an arbitration panel, a tribunal, or an administrative agency shall not transfer a civil action to another court or forum if the transfer would result in application of a foreign law that would violate or is likely to violate a fundamental liberty, right, or privilege guaranteed by the Constitution of the United States or the Constitution of the State of Iowa.

2026 Acts, ch 1185, §1, 3

Section applies to civil actions, contracts, arbitrations, and administrative proceedings commenced on or after July 1, 2026; 2026 Acts, ch 1185, §3

NEW section

CHAPTER 624

TRIAL AND JUDGMENT

For Iowa court rules concerning trials, see R.C.P. 1.901 – 1.947
For Iowa court rules concerning judgments generally, see R.C.P. 1.951 – 1.962
For Iowa court rules concerning defaults and judgments thereon, see R.C.P. 1.971 – 1.977
For Iowa court rules concerning summary judgments, see R.C.P. 1.981 – 1.983
For Iowa court rules concerning proceedings after judgment, see R.C.P. 1.1001 – 1.1020
For Iowa court rules concerning declaratory judgments, see R.C.P. 1.1101 – 1.1109

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MINOR'S LIABILITY

624.38 Minor's liability for own acts.

GENERAL PROVISIONS

624.1 Evidence in ordinary actions.

1. All issues of fact in ordinary actions shall be tried upon oral evidence taken in open court, except that depositions may be used as provided by law. *"Open court"* includes remote testimony of a witness by telephone, videoconference, or other remote means of communication approved by the court.

2. A party may interrogate any unwilling or hostile witness by leading questions.

3. A party may call an adverse party or an officer, director, or managing agent of a public or private corporation or of a partnership or association which is an adverse party, and interrogate the party or person by leading questions and contradict and impeach the party or person in all respects as if the party or person had been called by the adverse party, and the witness thus called may be contradicted and impeached by or on behalf of the adverse party also, and may be cross-examined by the adverse party only upon the subject matter of the examination in chief.

[R60, §2999; C73, §2741; C97, §3651; C24, 27, 31, 35, 39, §**11430;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.1]

2020 Acts, ch 1062, §64; 2024 Acts, ch 1104, §3

Depositions, R.C.P. 1.701 – 1.717

624.2 Ordinary actions — evidence on appeal.

Upon appeal, in ordinary actions no evidence shall go to the appellate court except such as may be necessary to explain any exception taken in the cause, and such court shall hear and try the case only on the legal errors so presented.

[R60, §2999; C73, §2741; C97, §3651; C24, 27, 31, 35, 39, §**11431;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.2]

Iowa Constitution, Art. V, §4

624.3 Evidence in equitable actions.

In actions cognizable in equity, wherein issues of fact are joined, the court may order the evidence or any part thereof to be taken in the form of depositions, or either party may take depositions as authorized by law, and may in the discretion of the court be granted a continuance for that purpose.

[R60, §2999; C73, §2742; C97, §3652; S13, §3652; C24, 27, 31, 35, 39, §**11432;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.3]

624.4 Equitable actions — evidence on appeal.

The evidence in actions cognizable in equity shall be presented on appeal to the appellate court, which shall try such causes anew. However, upon further review by the supreme court

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of equity actions heard by the court of appeals the review may be limited in scope as provided in the rules of appellate procedure.

[R60, §2999; C73, §2742; C97, §3652; S13, §3652; C24, 27, 31, 35, 39, §**11433;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.4]

624.5 Abstracts in equity causes.

In equitable causes, where the evidence is taken in the form of depositions, the district court may require to be submitted with the arguments an abstract of the pleadings and evidence, substantially as required by the rules of appellate procedure for abstracts in appeals in equitable causes, except that the same need not be printed.

[C97, §3653; C24, 27, 31, 35, 39, §**11434;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.5]

624.6 When triable.

Causes shall be triable at any time after the expiration of twenty days after legal and timely service has been made.

[C51, §1763; R60, §3007; C73, §2744; C97, §3655; C24, 27, 31, 35, 39, §**11436;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.6]

624.7 Exception.

If the action challenges the legality, validity, or constitutionality of a proposed constitutional amendment, the cause shall be tried within three days after the issues are made up.

[C31, 35, §11436-d1; C39, §**11436.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.7]

624.8 Calendar. Repealed by 2026 Acts, ch 1192, §27.

624.9 Detailed report of trial.

In all appealable actions triable by ordinary or equitable proceedings, any party thereto shall be entitled to have reported the whole proceedings upon the trial or hearing, and the court shall direct the reporter to make such report in writing or shorthand, which shall contain the date of the commencement of the trial, the proceedings impaneling the jury, and any objections thereto with the rulings thereon, the oral testimony at length, and all offers thereof, all objections thereto, the rulings thereon, the identification as exhibits, by letter or number or other appropriate mark, of all written or other evidence offered, and by sufficient reference thereto, made in the report, to make certain the object or thing offered, all objections to such evidence and the rulings thereon, all motions or other pleas orally made and the rulings thereon, the fact that the testimony was closed, the portions of arguments objected to, when so ordered by the court, all objections thereto with the rulings thereon, all oral comments or statements of the court during the progress of the trial, and any exceptions taken thereto, the fact that the jury is instructed, all objections and exceptions to instructions given by the court on its own motion, the fact that the case is given to the jury, the return of the verdict and action thereon of whatever kind, and any other proceedings before the court or jury which might be preserved and made of record by bill of exceptions, and shall note that exception was saved by the party adversely affected to every ruling made by the court.

[C97, §3675; C24, 27, 31, 35, 39, §**11456;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.9]

Referred to in §232.41, 232.94, 232.115, 602.8102(98)

624.10 Certification — ipso facto bill.

Such report shall be certified by the trial judge and reporter, when demanded by either party, to the effect that it contains a full, true, and complete report of all proceedings had that are required to be kept, and, when so certified, the same shall be filed by the clerk and, with all matters set out or identified therein, shall be a part of the record in such action, and constitute a complete bill of exceptions.

[C97, §3675; C24, 27, 31, 35, 39, §**11457;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.10]

Referred to in §602.8102(98)
When bill necessary, R.C.P. 1.1001(1)
Certification by successor, R.C.P. 1.1001(4)

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624.11 Matters excluded.

On a trial before a jury it shall not be necessary to take down arguments of counsel or statements of the court, except the rulings, when not made in the presence of the jury.

[C97, §3675; C24, 27, 31, 35, 39, §**11458;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.11]

Referred to in §602.8102(98)

624.11A Juror challenge — municipal taxpayers.

When selecting a jury in a trial in which a municipality is a defendant, a juror challenge based on the potential juror's status as a taxpayer of that municipality shall not be allowed unless a real, substantial, and immediate interest is shown which would unfairly prejudice the plaintiff.

84 Acts, ch 1181, §10

Referred to in §602.8102(98)

624.12 Panel exhausted.

If for any reason the regular panel is exhausted without a jury being selected, it shall be completed in the manner provided in the chapters upon selecting, drawing, and summoning juries.

[C97, §3698; C24, 27, 31, 35, 39, §**11482;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.12]

Referred to in §602.8102(98)
Juries, see chapter 607A

624.13 Interlocutory questions.

Upon interlocutory questions, the party moving the court or objecting to testimony shall be heard first; the respondent may then reply by one counsel, and the mover rejoining, confining remarks to the points first stated and a pertinent answer to respondent's argument. Argument on the questions shall then be closed, unless further requested by the court.

[R60, §3046; C73, §2779; C97, §3700; C24, 27, 31, 35, 39, §**11486;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.13]

Referred to in §602.8102(98)

624.14 Juror as witness — grounds to set aside verdict.

If a juror has personal knowledge respecting a fact in controversy in a cause, the juror must declare the fact of the knowledge in accordance with rule of evidence 5.606(a), and the juror may not testify in the trial of the case in which the juror is sitting. Proof of such a declaration may be made by any juror in support of a motion to set aside a verdict.

[C51, §3010; R60, §4801; C73, §4433; C97, §5381; C24, §13858; C27, 31, 35, §11496-b1, 13858; C39, §**11496.1, 13858;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §624.14, 780.17; C79, 81, §624.14]

83 Acts, ch 37, §5

Referred to in §602.8102(98)

624.15 Must be on material point.

No exception shall be regarded in an appellate court unless the ruling has been on a material point, and the effect thereof prejudicial to the rights of the party excepting.

[R60, §3111; C73, §2836; C97, §3754; C24, 27, 31, 35, 39, §**11548;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.15]

Referred to in §602.8102(98)
Errors disregarded, §619.16

624.16 Costs of new trial.

The cost of all new trials shall either abide the event of the action or be paid by the party to whom such new trial is granted, according to the order of the court, to be made at the time of granting such new trial.

[R60, §3117; C73, §2840; C97, §3762; C24, 27, 31, 35, 39, §**11560;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.16]

Referred to in §602.8102(98)

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624.17 Special execution — pleading.

Where any other than a general execution of the common form is required, the party must state in the pleading the facts entitling the party thereto, and the judgment may be entered in accordance with the finding of the court or jury thereon.

[R60, §3125; C73, §2852; C97, §3772; C24, 27, 31, 35, 39, §**11570;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.17]

Referred to in §602.8102(98)

624.18 Designation and calculation of damages.

1. In all actions where the plaintiff recovers a sum of money, the amount to which the plaintiff is entitled may be awarded the plaintiff by the judgment generally, without any distinction being therein made as to whether such sum is recovered by way of debt or damages.

2. In all personal injury actions where the plaintiff recovers a sum of money that, according to special verdict, is intended, in whole or in part, to address the future damages of the plaintiff, that portion of the judgment that reflects the future damages shall be adjusted by the court or the finder of fact to reflect the present value of the sum.

3. Under no circumstances shall there be a reduction to present value more than one time by either the trier of fact or the court.

[R60, §3144; C73, §2862; C97, §3782; C24, 27, 31, 35, 39, §**11580;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.18]

97 Acts, ch 197, §9, 16

Referred to in §602.8102(98), 668.3

624.19 Court acting as jury.

The provisions of this chapter relative to juries are intended to be applied to the court when acting as a jury on the trial of a cause, so far as they are applicable and not incompatible with other provisions herein contained.

[C51, §1823; R60, §3145; C73, §2863; C97, §3783; C24, 27, 31, 35, 39, §**11581;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.19]

Referred to in §602.8102(98)

624.20 Satisfaction of judgment.

Where a judgment is set aside or satisfied by execution or otherwise, the clerk shall at once enter a memorandum thereof on the column left for that purpose in the judgment docket. However, the clerk may enter satisfaction of judgment if the amount of the judgment that is unsatisfied is three dollars or less.

[C51, §1819; R60, §3141; C73, §2865; C97, §3785; C24, 27, 31, 35, 39, §**11583;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.20]

2000 Acts, ch 1032, §3; 2003 Acts, ch 151, §48

Referred to in §602.8102(98)

624.21 Reserved.

624.22 Personal judgment — when authorized.

A personal judgment may be rendered against a defendant, whether the defendant appears or not, who has been served in any mode provided in this Code other than by publication, whether served within or without this state, if such defendant is a resident of the state.

[R60, §3164; C73, §2881; C97, §3800; C24, 27, 31, 35, 39, §**11601;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.22]

624.23 Liens of judgments — real estate — homesteads — support judgments.

1. Judgments in the appellate or district courts of this state, or in the circuit or district court of the United States within the state, are liens upon the real estate owned by the defendant at the time of such rendition, and also upon all the defendant may subsequently acquire, for the period of ten years from the date of the judgment.

2. *a.* Judgment liens described in subsection 1 do not attach to real estate of the defendant,

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occupied as a homestead pursuant to chapter 561, except as provided in section 561.21 or if the real estate claimed as a homestead exceeds the limitations prescribed in sections 561.1 through 561.3.

b. A claim of lien against real estate claimed as a homestead is barred unless execution is levied within thirty days of the time the defendant, the defendant's agent, or a person with an interest in the real estate has served written demand on the owner of the judgment. The demand shall state that the lien and all benefits derived from the lien as to the real estate alleged to be or to have been a homestead shall be forfeited unless the owner of the judgment levies execution against that real estate within thirty days from the date of service of the demand. The demand shall contain an affidavit setting forth facts indicating why the judgment is not believed to be a lien against the real estate. A warranty of title by a former occupying homeowner in a conveyance for value constitutes a claim of exemption against all judgments against the current homeowner or the current homeowner's spouse not specifically exempted in the conveyance. Written demand shall be served in any manner authorized for service of original notice under the Iowa rules of civil procedure or in a manner provided in section 654.4A, subsections 1 through 3. A copy of the written demand and proof of service of the written demand shall be filed in the court file of the case in which the judgment giving rise to the alleged lien was entered.

c. A party serving a written demand under this subsection may obtain an immediate court order releasing the claimed lien by posting with the clerk of court a cash bond in an amount of at least one hundred twenty-five percent of the outstanding balance owed on the judgment. The court may order that in lieu of posting the bond with the clerk of court, the bond may be deposited in either the trust account of an attorney licensed to practice law in this state or in a federally insured depository institution, along with the restriction that the bond not be disbursed except as the court may direct. A copy of the court order shall be served along with a written demand under this subsection. Thereafter, any execution on the judgment shall be against the bond, subject to all claims and defenses which the moving party had against the execution against the real estate, including but not limited to a lack of equity in the property to support the lien in its proper priority. The bond shall be released upon demand of its principal or surety if no execution is ordered on the judgment within thirty days of completion of service of the written demand under this subsection.

3. Judgment liens described in subsection 1 shall not attach to subsequently acquired real estate owned by the defendant if the personal liability of the defendant on the judgment has been discharged under the bankruptcy laws of the United States.

4. *a.* In addition to other provisions relating to the attachment of liens, full faith and credit shall be afforded to liens arising for overdue support due on support judgments entered by a court or administrative agency of another state on real estate in this state owned by the obligor, for the period of ten years from the date of the judgment. Notwithstanding any other provisions of law, including but not limited to the formatting of forms or requirement of signatures, the lien attaches on the date that a notice of interstate lien promulgated by the United States secretary of health and human services is filed with the clerk of district court in the county where the real estate is located.

b. The lien shall apply only prospectively as of the date of attachment to all real estate the obligor may subsequently acquire and does not retroactively apply to the chain of title for any real estate that the obligor had disposed of prior to the date of attachment.

5. A judgment lien attaching to the real estate of a city may be discharged at any time by the city filing with the clerk of the district court in which the judgment was entered a bond in the amount for which the judgment was entered, including court costs and accruing interest, with surety or sureties to be approved by the clerk, conditioned for the payment of the judgment amount, interest, and court costs. If the real estate is located in a county other than that in which the judgment was entered, the clerk of the district court in which the judgment was entered shall certify to the clerk of the district court of the county in which the real estate is located that the bond has been filed.

6. A judgment against a city shall not give rise to a lien attaching to the streets, alleys, or utility easements of a city or attaching to the real estate of a city which is used by the city for transportation, health, safety, or utility purposes.

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7. If a case file has been sealed by the court, or if by law the court records in a case are not available to the general public, any judgments entered in the case shall not become a lien on real property until either the identity of the judgment creditor becomes public record, or until the judgment creditor, in a public document in the case in which judgment is entered, designates an agent and office, consistent with the requirements of section 490.501, on which process on the judgment creditor may be served. Service may be made on the agent in the same manner as service may be made on a corporate agent pursuant to section 490.504. An agent who has resigned without designating a successor agent and office and who is otherwise unavailable for service may be served in the manner provided in section 490.504, subsection 2, at the agent's office of record.

[C51, §2485, 2489; R60, §4105, 4109; C73, §2882; C97, §3801; C24, 27, 31, 35, 39, §**11602;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.23; 82 Acts, ch 1002, §1 – 3]

85 Acts, ch 100, §8; 86 Acts, ch 1014, §1; 89 Acts, ch 102, §8; 97 Acts, ch 175, §202; 2002 Acts, ch 1089, §1; 2006 Acts, ch 1132, §4, 16; 2010 Acts, ch 1021, §1; 2011 Acts, ch 6, §1

Referred to in §232.141, 631.1
Judgment lien for alcoholic beverage violations, §123.113
Special limitations on judgments, chapter 615

624.24 When judgment lien attaches.

When the real estate lies in the county wherein the judgment of the district court of this state or of the circuit or district courts of the United States was entered in the judgment docket and lien index kept by the clerk of the court having jurisdiction, the lien shall attach from the date of such entry of judgment, but if in another it will not attach until an attested copy of the judgment is filed in the office of the clerk of the district court of the county in which the real estate lies except for a foreign judgment pursuant to chapter 626A, foreign-country money judgment pursuant to chapter 626B, or tribal court judgment pursuant to chapter 626D, which shall not attach until proceedings to challenge such judgment as authorized by its chapter have been concluded, and the district court finds that any such judgment is entitled to recognition. In such cases, the lien shall attach on the date the clerk of court files an attested copy of the judgment in the office of the clerk of the district court of the county in which the real estate lies.

[C51, §2486, 2487; R60, §4106, 4107; C73, §2883, 2884; C97, §3802; S13, §3802; C24, 27, 31, 35, 39, §**11603;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.24]

85 Acts, ch 100, §9; 86 Acts, ch 1014, §2; 2007 Acts, ch 192, §1; 2010 Acts, ch 1053, §12, 13

Referred to in §626A.3, 626D.3

624.24A Liens of support judgments — titled personal property.

1. In addition to other provisions relating to the attachment of liens, support judgments in the appellate or district courts of this state are liens upon the personal property titled in this state and owned by the obligor at the time of such rendition or subsequently acquired by the obligor.

2. The lien shall attach from the date of the notation on the title.

3. *a.* In addition to other provisions relating to the attachment of liens, full faith and credit shall be afforded to a lien arising for overdue support due on support judgments entered by a court or administrative agency of another state on personal property titled in this state and owned by the obligor. In this state a lien attaches on the date that a notice of interstate lien promulgated by the United States secretary of health and human services is filed with the clerk of district court in the county where the personal property is titled and the lien is noted on the title.

b. The lien shall apply only prospectively as of the date of attachment, shall attach to any titled personal property the obligor may subsequently acquire, and does not retroactively apply to the chain of title for any personal property that the obligor had disposed of prior to the date of attachment.

97 Acts, ch 175, §203; 2013 Acts, ch 30, §261

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624.25 Appellate court judgments.

The lien of judgments of the appellate courts of Iowa shall not attach to any real estate until an attested copy of the judgment is filed in the office of the clerk of the district court of the county in which the real estate lies.

[S13, §3802; C24, 27, 31, 35, 39, §**11604;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.25]

624.26 Docketing transcript.

Such clerk shall, on the filing of such transcript of the judgment of the appellate or district court of this state or of the circuit or district court of the United States in the clerk's office, immediately proceed to docket and index the same, in the same manner as though rendered in the court of the clerk's own county.

[C51, §2488; R60, §4108; C73, §2885; C97, §3803; C24, 27, 31, 35, 39, §**11605;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.26]

624.27 Judgment against railway.

A judgment against any railway, interurban railway, or street railway corporation or partnership, for an injury to any person or property, and any claim for compensation under the workers' compensation Act for personal injuries sustained by their employees arising out of and in the course of their employment, shall be a lien upon the property of such corporation or partnership within the county where the judgment was recovered or in which occurred the injury for which compensation is due.

[C73, §1309; C97, §2075; C24, 27, 31, 35, 39, §**11606;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.27]

2008 Acts, ch 1032, §106

Referred to in §624.28

624.28 Priority.

The lien under section 624.27 shall be prior and superior to the lien of any mortgage or trust deed executed since July 4, 1862, by any railway corporation or partnership, and prior and superior to the lien of any mortgage or trust deed executed after August 9, 1897, by any interurban railway or street railway corporation or partnership.

[C73, §1309; C97, §2075; C24, 27, 31, 35, 39, §**11607;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.28]

2008 Acts, ch 1032, §106; 2021 Acts, ch 80, §356

624.29 Conveyance by commissioner.

Real property may be conveyed by a commissioner appointed by the court:

1. Where, by judgment in an action, a party is ordered to convey such property to another.
2. Where such property has been sold under a judgment or order of the court, and the purchase price has been paid.

[R60, §3165; C73, §2886; C97, §3805; C24, 27, 31, 35, 39, §**11613;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.29]

624.30 Deed.

The deed of the commissioner shall refer to the judgment, orders, and proceedings authorizing the conveyance.

[R60, §3166; C73, §2887; C97, §3806; C24, 27, 31, 35, 39, §**11614;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.30]

624.31 Conveys title.

A conveyance made in pursuance of a judgment shall pass to the grantee the title of the parties ordered to convey the land.

[R60, §3167; C73, §2888; C97, §3807; C24, 27, 31, 35, 39, §**11615;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.31]

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624.32 Other parties.

A conveyance made in pursuance of a sale ordered by the court shall pass to the grantee the title of all the parties to the action or proceeding.

[R60, §3168; C73, §2889; C97, §3808; C24, 27, 31, 35, 39, §**11616;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.32]

624.33 Approval by court.

A conveyance by a commissioner shall not pass any right until it has been approved by the court, which approval shall be endorsed on the conveyance and recorded with it.

[R60, §3169; C73, §2890; C97, §3809; C24, 27, 31, 35, 39, §**11617;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.33]

624.34 Form.

The conveyance shall be signed by the commissioner only, without affixing the names of the parties whose title is conveyed, but the names of such parties shall be recited in the body of the conveyance.

[R60, §3170; C73, §2891; C97, §3810; C24, 27, 31, 35, 39, §**11618;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.34]

624.35 Recorded.

The conveyance shall be recorded in the office in which, by law, it should have been recorded had it been made by the parties whose title is conveyed by it.

[R60, §3171; C73, §2892; C97, §3811; C24, 27, 31, 35, 39, §**11619;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.35]

Referred to in §331.602

624.36 Reserved.

624.37 Satisfaction of judgment — penalty.

1. When the amount due upon judgment is paid off, or satisfied in full, the party entitled to the proceeds thereof, or those acting for that party, must acknowledge satisfaction of the judgment by the execution of an instrument referring to it, duly acknowledged or notarized in the manner prescribed in chapter 9B, and filed in the office of the clerk in every county wherein the judgment is a lien. A failure to acknowledge satisfaction of the judgment in such manner within thirty days after having been requested to do so in a writing containing a draft release of the judgment shall subject the delinquent party to a penalty of four hundred dollars to be recovered by a motion filed in the court that rendered the original judgment requesting that the payor of the judgment, if different from the judgment debtor, be subrogated to the rights of the judgment creditor, that the court determine the amount currently owed on the judgment, or any other relief as may be necessary to accomplish payment and satisfaction of the judgment. If the motion relates to a lien of judgment as to specific property, the motion may be filed by a person with an interest in the property.

2. Upon the filing of an affidavit to the motion that a judgment creditor cannot be located or is unresponsive to requests to accept payment within the thirty-day period described in subsection 1, and upon court order, payment upon a judgment may be made to the treasurer of state as provided in chapter 556 and the treasurer's receipt for the funds is conclusive proof of payment on the judgment.

[C97, §3804; C24, 27, 31, 35, 39, §**11621;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.37]

90 Acts, ch 1030, §1; 99 Acts, ch 144, §10; 2011 Acts, ch 6, §2; 2012 Acts, ch 1050, §56, 60

Referred to in §602.8102(98), 631.1

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MINOR'S LIABILITY

624.38 Minor's liability for own acts.

The provisions of section 613.16 shall not limit any liability of any minor for the minor's own acts and shall not limit any liability imposed by the common law or by any other provision of the Code.

[C71, 73, 75, 77, 79, 81, §624.38]

CHAPTER 624A

PROCEDURE TO VACATE OR MODIFY JUDGMENTS

For Iowa court rules concerning proceedings after judgment, see R.C.P. 1.1001 – 1.1020

624A.1 Time limit.
624A.2 Cause of action or defense — necessity.
624A.3 Injunction.

624A.1 Time limit.

Such proceedings must be commenced within one year after the judgment or order was made, unless the party entitled thereto is a minor or person of unsound mind, and then within one year after the removal of such disability.

[R60, §3501; C73, §3157; C97, §4094; C24, 27, 31, 35, 39, §**12793;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §683.1]

C93, §624A.1

624A.2 Cause of action or defense — necessity.

The judgment shall not be vacated on motion or petition until it is adjudged there is a cause of action or defense to the action in which the judgment is rendered.

[R60, §3503; C73, §3159; C97, §4096; C24, 27, 31, 35, 39, §**12796;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §683.2]

C93, §624A.2

624A.3 Injunction.

The party seeking to vacate or modify a judgment or order may have an injunction suspending proceedings on the whole or part thereof, which shall be granted by the court upon its being rendered probable, by affidavit or verified petition, or by exhibition of the record, that the party is entitled to the relief asked.

[R60, §3505; C73, §3161; C97, §4098; C24, 27, 31, 35, 39, §**12799;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §683.3]

C93, §624A.3

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CHAPTER 625

COSTS

Referred to in §602.8102(99)

Deferral of costs in civil and criminal proceedings; see chapter 610

625.1 Recoverable by successful party.
625.2 Witness fees — limitation.
625.3 Apportionment generally.
625.4 Apportionment among numerous parties.
625.5 Liability of successful party.
625.6 Cost of procuring testimony.
625.7 Postage.
625.8 Jury and reporter fees.
625.9 Transcripts — retaxation.
625.10 Defense arising after action brought.
625.11 Dismissal of action or abatement.
625.12 Between coparties.
625.13 Dismissal for want of jurisdiction.
625.14 Costs taxable.
625.15 Liability of nonparty.
625.16 Retaxation.
625.17 Liability of clerk.
625.18 Bill of costs on appeal.
625.19 Costs in appellate courts.
625.20 Reserved.
625.21 Interest.
625.22 Attorney fees — costs.
625.23 Limitations.
625.24 Affidavit required.
625.25 Opportunity to pay.
625.26 and 625.27 Reserved.
625.28 Definitions.
625.29 Fees — expenses.

625.1 Recoverable by successful party.

Costs shall be recovered by the successful against the losing party.

[C51, §1811; R60, §3449; C73, §2933; C97, §3853; S13, §3853; C24, 27, 31, 35, 39, §**11622;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.1]

625.2 Witness fees — limitation.

The losing party, however, shall not be assessed with the cost of mileage of any witness for a distance of more than one hundred miles from the place of trial, unless otherwise ordered by the court at the time of entering judgment.

[S13, §3853; C24, 27, 31, 35, 39, §**11623;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.2]

625.3 Apportionment generally.

Where the party is successful as to a part of the party's demand, and fails as to part, unless the case is otherwise provided for, the court on rendering judgment may make an equitable apportionment of costs.

[C51, §1811; R60, §3449; C73, §2933; C97, §3853; S13, §3853; C24, 27, 31, 35, 39, §**11624;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.3]

625.4 Apportionment among numerous parties.

In actions where there are several plaintiffs or several defendants, the costs shall be apportioned according to the several judgments rendered; and where there are several causes of action embraced in the same petition, or several issues, the plaintiff shall recover costs upon the issues determined in the plaintiff's favor, and the defendant upon those determined in the defendant's favor.

[R60, §3451; C73, §2934; C97, §3854; C24, 27, 31, 35, 39, §**11625;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.4]

Apportionment between heirs and devisees, §633.476

625.5 Liability of successful party.

All costs accrued at the instance of the successful party, which cannot be collected of the other party, may be recovered on motion by the person entitled to them against the successful party.

[R60, §3452; C73, §2935; C97, §3855; C24, 27, 31, 35, 39, §**11626;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.5]

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625.6 Cost of procuring testimony.

The necessary fees paid by the successful party in procuring copies of deeds, bonds, wills, or other records filed as a part of the testimony shall be taxed in the bill of costs.

[R60, §3453; C73, §2936; C97, §3856; C24, 27, 31, 35, 39, §**11627;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.6]

625.7 Postage.

Postage paid by the officers of the court, or by the parties, in sending process, depositions, and other papers being part of the record, by mail, shall be taxed in the bill of costs.

[R60, §3454; C73, §2937; C97, §3857; C24, 27, 31, 35, 39, §**11628;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.7]

625.8 Jury and reporter fees.

1. The clerk of the district court shall tax as a court cost a jury fee of one hundred dollars in every action tried to a jury.

2. The clerk of the district court shall tax as a court cost a fee of forty dollars per day for the services of a court reporter.

3. Revenue from the fees required by this section shall be deposited in the account established under section 602.8108.

[C73, §3812; C97, §3872; C24, 27, 31, 35, 39, §**11629;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.8]

83 Acts, ch 186, §10114, 10201; 94 Acts, ch 1074, §8; 2002 Acts, ch 1126, §2; 2009 Acts, ch 179, §62, 72

625.9 Transcripts — retaxation.

The fees of shorthand reporters for making transcripts of the notes in any case or any portion thereof, as directed by any party thereto, shall be taxed as costs, as shall also the fees of the clerk for making any transcripts of the record required on appeal, but such taxation may be revised by an appellate court on motion on the appeal, without any motion in the lower court for the retaxation of costs.

[C97, §3875; C24, 27, 31, 35, 39, §**11631;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.9]

625.10 Defense arising after action brought.

When a pleading contains as a defense matter which arose after the commencement of the action, whether such matter of defense is pleaded alone or with other matter of defense which arose before the action, the party affected by such matter may confess the same, and shall be entitled to the costs of the action to the time of such pleading.

[R60, §3455; C73, §2938; C97, §3858; C24, 27, 31, 35, 39, §**11632;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.10]

625.11 Dismissal of action or abatement.

When a plaintiff dismisses the action or any part thereof, or suffers it to abate by the death of the defendant or other cause, or where the action abates by the death of the plaintiff, and the plaintiff's representatives fail to revive the same, judgment for costs may be rendered against such plaintiff or representative, and, if against a representative, shall be paid as other claims against the estate.

[R60, §3456; C73, §2939; C97, §3859; C24, 27, 31, 35, 39, §**11633;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.11]

625.12 Between coparties.

Coparties against whom judgment has been recovered are entitled, as between themselves, to a taxation of the costs of witnesses whose testimony was obtained at the instance of one of the coparties and inured exclusively to a coparty's benefits.

[R60, §3457; C73, §2940; C97, §3860; C24, 27, 31, 35, 39, §**11634;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.12]

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625.13 Dismissal for want of jurisdiction.

Where an action is dismissed from any court for want of jurisdiction the costs shall be adjudged against the party attempting to institute or bring up the same.

[R60, §3458; C73, §2941; C97, §3861; C24, 27, 31, 35, 39, §**11635;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.13]

625.14 Costs taxable.

The clerk shall tax in favor of the party recovering costs the allowance of the party's witnesses, the fees of officers, the compensation of referees, the necessary expenses of taking depositions by commission or otherwise, and any further sum for any other matter which the court may have awarded as costs in the progress of the action, or may allow.

[R60, §3459; C73, §2942; C97, §3862; C24, 27, 31, 35, 39, §**11636;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.14]

625.15 Liability of nonparty.

In actions in which the cause of action shall, by assignment after the commencement thereof, or in any other manner, become the property of a person not a party to the action, such party shall be liable for the costs in the same manner as if the person were a party.

[R60, §3460; C73, §2943; C97, §3863; C24, 27, 31, 35, 39, §**11637;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.15]

625.16 Retaxation.

Any person aggrieved by the taxation of a bill of costs may, upon application, have the same retaxed by the court, or by a referee appointed by the court in which the application or proceeding was had, and in such retaxation all errors shall be corrected.

[C51, §1813; R60, §3461; C73, §2944; C97, §3864; C24, 27, 31, 35, 39, §**11638;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.16]

625.17 Liability of clerk.

If the party aggrieved shall have paid any unlawful charge by reason of the first taxation, the clerk shall pay the costs of retaxation, and also to the party aggrieved the amount which the party may have paid by reason of the allowing of such unlawful charges.

[C51, §1813; R60, §3461; C73, §2944; C97, §3864; C24, 27, 31, 35, 39, §**11639;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.17]

625.18 Bill of costs on appeal.

In cases of appeals from a trial court, the supreme court clerk, if judgment is rendered in the supreme court or court of appeals or both, shall make a complete bill of costs in that court which shall be filed in the office of the clerk of the trial court and taxed with the costs in the action therein.

[R60, §3462; C73, §2945; C97, §3865; C24, 27, 31, 35, 39, §**11640;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.18]

625.19 Costs in appellate courts.

When the costs accrued in the appellate courts and the trial court are paid to the clerk of the trial court, the clerk shall pay them to the persons entitled thereto.

[R60, §3463; C73, §2946; C97, §3866; C24, 27, 31, 35, 39, §**11641;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.19]

625.20 Reserved.

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625.21 Interest.

Except for an action brought pursuant to chapter 668, when the judgment is for the recovery of money, interest from the time of the verdict or report until judgment is finally entered shall be added to the costs of the party entitled to the costs.

[R60, §3466; C73, §2948; C97, §3868; C24, 27, 31, 35, 39, §**11643;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.21]

87 Acts, ch 157, §4; 91 Acts, ch 116, §17

Interest on judgments, §535.3

625.22 Attorney fees — costs.

1. When judgment is recovered upon a written contract containing an agreement to pay an attorney fee, the court shall allow and tax as a part of the costs a reasonable attorney fee to be determined by the court.

2. In an action against the maker to recover payment on a dishonored check or draft, as defined in section 554.3104, the plaintiff, if successful, may recover, in addition to all other costs or surcharges provided by law, all court costs incurred, including a reasonable attorney fee, or an individual's cost of processing a small claims recovery such as lost time and transportation costs from the maker of the check or draft. However, lost time and transportation costs of an assignee shall not be awarded under section 631.14 to a person who in the regular course of business takes assignments of instruments or accounts pursuant to chapter 539. Only actual out-of-pocket expenses incurred in obtaining the small claim recovery may be awarded to the assignee. Any additional charges shall be determined by the court. If the defendant is successful in the action and the court determines the action was frivolous, the court may award the defendant reasonable attorney fees.

[C97, §3869; C24, 27, 31, 35, 39, §**11644;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.22]

84 Acts, ch 1217, §2; 87 Acts, ch 137, §2; 2021 Acts, ch 76, §150

Referred to in §554.3513, 625.24, 631.17

625.23 Limitations.

If action is commenced and the claim paid off before return day, the amount shall be one-half of the sum above provided, and if it is paid after the return day but before judgment, three-fourths of said sum; but no fee shall be allowed in any case if an action has not been commenced, or expense incurred, nor shall any greater sum be allowed, any agreement in the contract to the contrary notwithstanding.

[C97, §3869; C24, 27, 31, 35, 39, §**11645;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.23]

Referred to in §625.24

625.24 Affidavit required.

The attorney fee allowed in sections 625.22 and 625.23 shall not be taxed in any case unless it appears by affidavit of the attorney that there is not and has not been an agreement between the attorney and the attorney's client or any other person, express or implied, for any division or sharing of the fee to be taxed. This limitation does not apply to a practicing attorney engaged with the attorney as an attorney in the cause. The affidavit shall be filed prior to any attorney fees being taxed. When fees are taxed, they shall be only in favor of a regular attorney and as compensation for services actually rendered in the action.

[C97, §3870; C24, 27, 31, 35, 39, §**11646;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.24]

85 Acts, ch 72, §1

625.25 Opportunity to pay.

No such attorney fee shall be taxed if the defendant is a resident of the county and the action is not aided by an attachment, unless it shall be made to appear that such defendant had information of and a reasonable opportunity to pay the debt before action was brought. This

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provision, however, shall not apply to contracts made payable by their terms at a particular place, the maker of which has not tendered the sum due at the place named in the contract.

[C97, §3871; C24, 27, 31, 35, 39, §**11647;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.25]

Referred to in §654.4B

625.26 and 625.27 Reserved.

625.28 Definitions.

As used in section 625.29, unless the context otherwise requires:

1. *"Fees and other expenses"* include the reasonable attorney fees and reasonable expenses of expert witnesses plus court costs, but they do not include any portion of an attorney's fees or salary paid by a unit of local, state, or federal government for the attorney's services in the case.

2. *"State"* includes the state of Iowa, an agency of the state, or any official of the state acting in an official capacity.

83 Acts, ch 107, §1, 3

Referred to in §23A.4

625.29 Fees — expenses.

1. Unless otherwise provided by law, and if the prevailing party meets the eligibility requirements of subsection 2, the court in a civil action brought by the state or an action for judicial review brought against the state pursuant to chapter 17A other than for a rulemaking decision, shall award fees and other expenses to the prevailing party unless the prevailing party is the state. However, the court shall not make an award under this section if it finds one of the following:

a. The position of the state was supported by substantial evidence.

b. The state's role in the case was primarily adjudicative.

c. Special circumstances exist which would make the award unjust.

d. The action arose from a proceeding in which the role of the state was to determine the eligibility or entitlement of an individual to a monetary benefit or its equivalent or to adjudicate a dispute or issue between private parties or to establish or fix a rate.

e. The proceeding was brought by the state pursuant to Title XVI.*

f. The proceeding involved eminent domain, foreclosure, collection of judgment debts, or was a proceeding in which the state was a nominal party.

g. The proceeding involved the department of administrative services under chapter 8A, subchapter IV.

h. The proceeding is a tort claim.

2. To be eligible for an award of fees and other expenses under this section, the prevailing party shall be one of the following:

a. A natural person.

b. A sole proprietorship, partnership, corporation, association, or public or private organization, any of which meets the following criteria:

(1) Its average daily employment was twenty persons or less for the twelve months preceding the filing of the action.

(2) Its gross receipts for the twelve-month period preceding the filing of the action were one million dollars or less, or its average gross receipts for the three twelve-month periods preceding the filing of the action were two million dollars or less.

3. A party seeking an award for fees and other expenses under this section must file a claim for relief as a part of the civil action or as a part of the action for judicial review brought against the state pursuant to chapter 17A. If the amount sought includes an attorney's fees or fees for an expert, the application shall include an itemized statement for these fees indicating the actual time expended in representing the party and the rate at which the fees were computed. The party seeking relief must establish that the state's case was not supported by substantial evidence.

4. The court, in its discretion, may reduce the amount to be awarded pursuant to this

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section, or deny an award, to the extent that the prevailing party, during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy.

5. An award pursuant to this section shall not personally obligate any officer or employee of this state for payment.

6. Fees and other expenses awarded under this section may be ordered in addition to any compensation awarded in a judgment. When awarding fees and other expenses against the state under this section, the court shall order the auditor of state to issue a warrant drawn on the state general fund for the amount of the award. The treasurer of state shall pay the warrant. However, if the court finds that an agency of state government, against which fees and other expenses are awarded for an action for judicial review of an agency proceeding under chapter 17A, has acted in bad faith in initiating an action deemed frivolous or without merit, then the agency shall make the payment ordered from the moneys appropriated to that agency.

7. Each agency that pays fees or other expenses for an action for judicial review of an agency proceeding under chapter 17A shall report annually to the chairs and ranking members of the appropriate appropriations subcommittees of the general assembly the amount of fees or other expenses paid during the preceding fiscal year by that agency. In its report the agency shall describe the number, nature, and amount of the awards, the claims involved in the action, and other relevant information which might aid the general assembly in evaluating the scope and impact of these awards.

83 Acts, ch 107, §2, 3; 88 Acts, ch 1134, §110; 2003 Acts, ch 145, §275

Referred to in §625.28

*This provision does not include chapters 709A, 718A, 822, 904, 913, and 914, which were moved into Title XVI by the Code editor. Chapters 709A, 718A, 822, 904, 913, and 914 contain the applicable provisions pertaining to those chapters.

CHAPTER 625A

APPELLATE COURT PROCEDURE

See Rules of Appellate Procedure in the publication "Iowa Court Rules"

625A.1 Mistake of clerk below.
625A.2 Motion for new trial.
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625A.18 Executions.
625A.19 Members of the general assembly as amicus curiae.

625A.1 Mistake of clerk below.

A mistake of the clerk shall not be ground for an appeal until the same has been presented to and acted upon by the court below.

[R60, §3498; C73, §3167; C97, §4104; C24, 27, 31, 35, 39, §**12826;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.1]

C93, §625A.1

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625A.2 Motion for new trial.

An appellate court on appeal may review and reverse any judgment or order of the district court, although no motion for a new trial was made in such court.

[C73, §3169; C97, §4106; C24, 27, 31, 35, 39, §**12828;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.2]

C93, §625A.2

625A.3 Time for appealing in re constitutional test.

If the action challenges the legality, validity, or constitutionality of a proposed constitutional amendment, notice of appeal may be taken within three days from and after the entry of the decree in district court, and not afterwards.

[C31, 35, §12832-d1; C39, §**12832.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.3]

C93, §625A.3

2025 Acts, ch 30, §97

625A.4 Coparties not joining.

Coparties, refusing to join in an appeal, cannot afterward appeal, or derive any benefit therefrom, unless from the necessity of the case, but they shall be held to have joined, and be liable for their proportion of the costs, unless they appear and object thereto.

[C51, §1980, 1981; R60, §3518, 3519; C73, §3175, 3176; C97, §4112; C24, 27, 31, 35, 39, §**12835;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.4]

C93, §625A.4

625A.5 Appeal from part of judgment or order — effect.

An appeal from part of an order, or from one of the judgments of a final adjudication, or from part of a judgment, shall not disturb, delay, or affect the rights of any party to any judgment or order, or part of a judgment or order, not appealed from.

[R60, §3510; C73, §3177; C97, §4113; C24, 27, 31, 35, 39, §**12836;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.5]

C93, §625A.5

625A.6 Filing in re action to test constitutionality.

If the action challenges the legality, validity, or constitutionality of a proposed constitutional amendment, an abstract of record shall be filed within five days after the service of notice of appeal, unless additional time, not to exceed three days, be granted by the chief justice.

[C31, 35, §12847-d1; C39, §**12847.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.6]

C93, §625A.6

2025 Acts, ch 30, §98

625A.7 Challenges to constitutionality of statutes — notice to general assembly.

1. In an action that challenges the constitutionality of a statute, the appellant shall do all of the following:

a. File a notice of constitutional question stating the question and identifying the pleading, motion, or petition that raises the challenge to the constitutionality of the statute.

b. Serve notice and a copy of the pleading, motion, or petition that raises the challenge to the constitutionality of the statute upon the general assembly by the chief clerk of the house and the secretary of the senate by personal service or by restricted certified mail at the time the pleading, motion, or petition that raises the challenge to the constitutionality of the statute is filed.

2. Failure to provide notice pursuant to subsection 1 shall not constitute grounds for a dismissal of the appeal.

2024 Acts, ch 1051, §1 – 3

Section applies to appeals filed on or after April 19, 2024; 2024 Acts, ch 1051, §3

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625A.8 Return of original papers.

If a new trial is granted by an appellate court, the clerk, as soon as the cause is at an end therein, shall transmit to the clerk of the court below all original papers or exhibits certified up from said court, and may at any time return any such papers when no new trial is awarded.

[C97, §4126; C24, 27, 31, 35, 39, §**12856;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.8]

C93, §625A.8

625A.9 Execution on unstayed part of judgment — supersedeas bond waived.

1. The taking of the appeal from part of a judgment or order, and the filing of a bond, does not stay execution as to that part of the judgment or order not appealed from.

2. *a.* (1) Except as provided in paragraph "*b*", if the judgment or order appealed from is for money, such bond shall not exceed one hundred ten percent of the amount of the money judgment.

(2) The court may set a bond in an amount in excess of one hundred ten percent of the amount of the money judgment upon making specific findings justifying such an amount, and in doing so, shall consider, but shall not be limited to consideration of, the following criteria:

(a) The availability and cost of the bond or other form of adequate security.

(b) The assets of the judgment debtor and of the judgment debtor's insurer or indemnitor, if any.

(c) The potential adverse effects of the bond on the judgment debtor, including, but not limited to, the potential adverse effects on the judgment debtor's employees, financial stability, and business operations.

(d) The potential adverse effects of the bond on the judgment creditor and third parties, including public entities.

(e) In a class action suit, the adequacy of the bond to compensate all members of the class.

b. Notwithstanding paragraph "*a*", in no case shall a bond exceed one hundred million dollars, regardless of the value of the money judgment. This limitation shall not apply in cases where the court finds that the defendant intentionally dissipated the defendant's assets outside the ordinary course of business for the purpose of evading payment of the judgment.

3. Upon motion and for good cause shown, the district court may stay all proceedings under the order or judgment being appealed and permit the state or any of its political subdivisions to appeal a judgment or order to the supreme court without the filing of a supersedeas bond.

[C51, §1985; R60, §3532; C73, §3191; C97, §4129; C24, 27, 31, 35, 39, §**12862;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.9]

C93, §625A.9

2003 Acts, 1st Ex, ch 1, §115, 133

[2003 Acts, 1st Ex, ch 1, §115, 133, amendments to this section stricken pursuant to *Rants v. Vilsack*, 684 N.W.2d 193]

2004 Acts, 1st Ex, ch 1001, §5, 6, 8; 2013 Acts, ch 30, §187

625A.10 Execution recalled.

If execution has issued prior to the filing of the bond, the clerk shall countermand the same.

[C51, §1987; R60, §3533; C73, §3192; C97, §4130; C24, 27, 31, 35, 39, §**12863;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.10]

C93, §625A.10

625A.11 Surrender of property.

Property levied upon and not sold at the time such countermand is received by the sheriff shall be at once delivered to the judgment debtor.

[C51, §1988; R60, §3534; C73, §3193; C97, §4131; C24, 27, 31, 35, 39, §**12864;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.11]

C93, §625A.11

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625A.12 Bond for costs.

The appellant may be required to give security for costs under the same circumstances and upon the same showing as plaintiffs in civil actions in the inferior court may be.

[R60, §3526; C73, §3210; C97, §4135; C24, 27, 31, 35, 39, §**12868;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.12]

C93, §625A.12

Security for costs, chapter 621

625A.13 Arguments in re constitutional test.

If the action challenges the legality, validity or constitutionality of a proposed constitutional amendment, the appellant shall file a written argument with the supreme court within ten days after the filing of the abstract and appellee shall file an argument within ten days thereafter, and appellant shall then file a reply within three days. The cause shall then be submitted to the supreme court in regular or special en banc session as soon thereafter as the chief justice may order.

[C31, 35, §1287-d1; C39, §**12871.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.13]

C93, §625A.13

625A.14 Remand — process.

If an appellate court affirms the judgment or order of an inferior court, it may send the cause to the appropriate court below to have the same carried into effect, or may issue the necessary process for this purpose, directed to the sheriff of the proper county, as the party may require.

[C51, §1991; R60, §3539; C73, §3197; C97, §4143; C24, 27, 31, 35, 39, §**12875;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.14]

C93, §625A.14

Referred to in §331.653

625A.15 Restitution of property.

If, by the decision of an appellate court, the appellant becomes entitled to a restoration of any part of the money or property that was taken from the appellant by means of a judgment or order, either the appellate court or the court below may direct execution or writ of restitution to issue for the purpose of restoring to the appellant such property or its value.

[C51, §1992; R60, §3540; C73, §3198; C97, §4145; C24, 27, 31, 35, 39, §**12877;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.15]

C93, §625A.15

625A.16 Title not affected.

Property acquired by a purchaser in good faith under a judgment subsequently reversed shall not be affected thereby.

[C51, §1993; R60, §3541; C73, §3199; C97, §4146; C24, 27, 31, 35, 39, §**12878;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.16]

C93, §625A.16

625A.17 Death of party — continuance.

The death of one or all of the parties shall not cause the proceedings to abate, but the names of the proper persons shall be substituted, as is provided in such cases in the district court, and the case may proceed. The court may also, in such case, grant a continuance when such a course will be calculated to promote the ends of justice.

[R60, §3520; C73, §3211; C97, §4150; C24, 27, 31, 35, 39, §**12884;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.17]

C93, §625A.17

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625A.18 Executions.

Executions issued from the appellate courts shall be like those from the district court, attended with the same consequences, and returnable in the same time.

[R60, §3552; C73, §3215; C97, §4153; C24, 27, 31, 35, 39, §**12888;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.18]

C93, §625A.18

Execution generally, chapter 626

625A.19 Members of the general assembly as amicus curiae.

1. When the constitutionality of an Act of the general assembly is drawn into question in any appellate proceeding or further review proceeding to which the general assembly or an officer, agency, or employee thereof is not a party, the majority leader of the senate, the minority leader of the senate, the speaker of the house of representatives, and minority leader of the house of representatives shall each be permitted to file an amicus curiae brief on the constitutionality of the Act. Other members of the general assembly may sign an amicus curiae brief filed pursuant to this subsection. The form of the brief shall be as provided in rule of appellate procedure 6.906.

2. A member of the general assembly shall not sign more than one amicus curiae brief in an appellate proceeding or further review proceeding, including briefs filed pursuant to this section and pursuant to other provisions of law.

2024 Acts, ch 1049, §1; 2026 Acts, ch 1040, §110

Subsection 1 amended

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CHAPTER 626

EXECUTION

Referred to in §10A.108, 96.14, 252B.6A, 331.653, 356.7, 422.26, 521A.14, 602.8102(101), 602.8105, 809A.12

For Iowa court rules concerning execution and duty of officer, endorsement, and levy on personalty, see R.C.P. 1.1018 – 1.1020

See also reference in §639.23

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626.1 Enforcement of judgments and orders.

Judgments or orders requiring the payment of money, or the delivery of the possession of property, are to be enforced by execution. Obedience to those requiring the performance of any other act is to be coerced by attachment as for a contempt.

[C51, §1885; R60, §3247; C73, §3026; C97, §3954; C24, 27, 31, 35, 39, §**11648;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.1]

Exemptions, chapter 627
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626.2 Within what time — to what counties.

Executions may issue at any time before the judgment is barred by the statute of limitations; and upon those in the district and appellate courts, into any county which the party ordering may direct.

[C51, §1886, 1888; R60, §3246, 3248; C73, §3025, 3027; C97, §3955; S13, §3955; C24, 27, 31, 35, 39, §**11649;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.2]

Limitations on judgments, chapter 615

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626.3 Limitation on number.

Only one execution shall be in existence at the same time.

[R60, §3246; C73, §3025; C97, §3955; S13, §3955; C24, 27, 31, 35, 39, §**11650;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.3]

626.4 Lost writ.

When the plaintiff in judgment shall file in any court in which a judgment has been entered an affidavit made by the plaintiff, the plaintiff's agent or attorney, or by the officer to whom the execution was issued, that an outstanding execution has been lost or destroyed, the clerk of such court may issue a duplicate execution as of the date of the lost execution, which shall have the same force and effect as the original execution, and any levy made under the execution so lost shall have the same force and effect under the duplicate execution as under the original.

[S13, §3955; C24, 27, 31, 35, 39, §**11651;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.4]

626.5 Expiration of lost writ — effect.

When the lost execution shall have expired by limitation and such affidavit is filed, an execution may issue as it might if such lost execution had been duly returned.

[S13, §3955; C24, 27, 31, 35, 39, §**11652;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.5]

626.6 Issuance on Sunday.

An execution may be issued and executed on Sunday, when an affidavit is filed by the plaintiff, or some person in the plaintiff's behalf, stating that the plaintiff or person believes the plaintiff or person will lose the plaintiff's judgment unless process issues on that day.

[R60, §3263; C73, §3028; C97, §3956; C24, 27, 31, 35, 39, §**11653;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.6]

Analogous provisions, §639.5, 643.3, and 667.3

626.7 Issuance on demand.

Upon the rendition of judgment, execution may be at once issued by the clerk on the demand of the party entitled thereto.

[R60, §3265; C73, §3029; C97, §3957; C24, 27, 31, 35, 39, §**11654;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.7]

626.8 Record kept.

The clerk shall enter on the judgment docket the date of its issuance and to what county and officer issued, the return of the officer, with the date thereof; the dates and amount of all moneys received or paid out of the office thereon; which entries shall be made at the time each act is done.

[R60, §3265; C73, §3029; C97, §3957; C24, 27, 31, 35, 39, §**11655;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.8]

626.9 Entries in foreign county.

In case execution is issued to a county other than that in which judgment is rendered, and is levied upon real estate in such county, an entry thereof shall be made upon the encumbrance book of that county by the officer making it, showing the same particulars as are required in case of the attachment of real estate, which shall be bound from the time of such entry.

[R60, §3249; C73, §3031; C97, §3958; S13, §3958; C24, 27, 31, 35, 39, §**11656;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.9]

626.10 Duplicate returns and record.

If real estate is sold under said execution the officer shall make return thereof in duplicate, one of which shall be appended to the execution and returned to the court from which it is issued, the other with a copy of the execution to the district court of the county in which the

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real estate is situated, which shall be filed by the clerk and handled in the same manner as if such judgment had been rendered and execution issued from the court.

[S13, §3958; C24, 27, 31, 35, 39, §**11657;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.10]

95 Acts, ch 91, §5

626.11 Return from foreign county.

When sent into any county other than that in which the judgment was rendered, return may be made by mail. Money cannot thus be sent, except by direction of the party entitled thereto, or the party's attorney.

[C51, §1889; R60, §3250; C73, §3032; C97, §3959; C24, 27, 31, 35, 39, §**11658;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.11]

626.12 Form of execution.

The execution must intelligibly refer to the judgment, stating the time when and place at which it was rendered, the names of the parties to the action as well as to the judgment, its amount, and the amount still to be collected thereon, if for money; if not, it must state what specific act is required to be performed. If it is against the property of the judgment debtor, it shall require the sheriff to satisfy the judgment and interest out of property of the debtor subject to execution.

[C51, §1890; R60, §3251; C73, §3033; C97, §3960; C24, 27, 31, 35, 39, §**11659;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.12]

626.13 Property in hands of others.

If it is against real or personal property in the hands of personal representatives, heirs, devisees, legatees, tenants of real property, or trustees, it shall require the sheriff to satisfy the judgment and interest out of such property.

[R60, §3252; C73, §3034; C97, §3961; C24, 27, 31, 35, 39, §**11660;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.13]

626.14 Delivery of possession and money recovery.

1. If the judgment requires the delivery of the possession of real or personal property, execution shall require the sheriff to deliver the possession of the property, particularly describing it, to the party entitled to the property, and may, at the same time, require the party to satisfy any costs, damages, or rents and profits, with interest, recovered by the same judgment, out of the property of the party against whom judgment was rendered subject to execution.

2. The value of the property for which judgment was recovered shall be specified in the execution, if a delivery of the property cannot be had, and it shall in that respect be regarded as an execution against property.

[R60, §3253; C73, §3035; C97, §3962; C24, 27, 31, 35, 39, §**11661;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.14]

2020 Acts, ch 1063, §331

626.15 Performance of other acts.

When it requires the performance of any other act, a certified copy of the judgment may be served on the person against whom it is rendered, or upon the person or officer who is required thereby, or by law, to obey the same, and the person's obedience thereto enforced.

[R60, §3254; C73, §3036; C97, §3963; C24, 27, 31, 35, 39, §**11662;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.15]

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626.16 Receipt and return.

Every officer who receives an execution shall provide a receipt, if required, stating the hour when the same was received, and shall make sufficient return of the execution, together with the money collected, on or before the one hundred twentieth day from the date of its issuance.

[R60, §3255; C73, §3037; C97, §3964; C24, 27, 31, 35, 39, §**11663;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.16]

2006 Acts, ch 1081, §1; 2006 Acts, ch 1129, §10

Referred to in §642.23

626.17 Principal and surety — order of liability.

The clerk issuing an execution on a judgment against principal and surety shall state in the execution the order of liability recited in the judgment, and the officer serving it shall exhaust the property of the principal first, and of the other defendants in the order of liability thus stated. To obtain the benefits of this section, the order of liability must be recited in the execution, and the officer holding it must separately return thereon the amount collected from the principal debtor and surety.

[C51, §1915; R60, §3258, 3260, 3261, 3303; C73, §3039, 3041, 3042, 3071; C97, §3966; C24, 27, 31, 35, 39, §**11665;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.17]

Referred to in §626.18

Analogous provision, R.C.P. 1.956

626.18 Duty to point out property.

Each person subsequently liable shall, if requested by the officer, point out property owned by the party liable, before that person, to obtain the benefits of the provision of section 626.17.

[R60, §3259; C73, §3040; C97, §3966; C24, 27, 31, 35, 39, §**11666;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.18]

626.19 Surety subrogated.

When the principal and surety are liable for any claim, such surety may pay the same, and recover thereon against all liable to the surety. If a judgment against principal and surety has been paid by the surety, the surety shall be subrogated to all the rights of the creditor, and may take an assignment thereof, and enforce the same by execution or otherwise, as the creditor could have done. All questions between the parties thereto may be heard and determined on motion by the court upon such notice as may be prescribed by it.

[C97, §3967; C24, 27, 31, 35, 39, §**11667;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.19]

See R.C.P. 1.982

626.20 Entry on encumbrance book.

If real estate is levied upon, except by virtue of a special execution issued in cases foreclosing recorded liens, the officer making the levy shall make an entry in the encumbrance book in the office of the clerk of the district court of the county where the real estate is located, which entry shall constitute notice to all persons of such levy. Such entry shall contain the number and title of the case, date of levy, date of the entry, amount claimed, description of the real estate levied upon, and signature of the officer.

[C31, 35, §11668-c1; C39, §**11668.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.20]

Analogous provision, §639.28

626.21 Choses in action.

Judgments, money, bank bills, and other things in action may be levied upon, and sold or appropriated thereunder, and an assignment thereof by the officer shall have the same effect as if made by the defendant.

[C51, §1893; R60, §3272; C73, §3046; C97, §3971; C24, 27, 31, 35, 39, §**11672;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.21]

626.22 Levy on judgment.

The levy upon a judgment shall be made by entering upon the judgment docket a memorandum of such fact, giving the names of the parties plaintiff and defendant, the court

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from which the execution issued, and the date and hour of such entry, which shall be signed by the officer serving the execution, and a return made on the execution of the officer's doings in the premises.

[C97, §3971; C24, 27, 31, 35, 39, §**11673;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.22]

626.23 Persons indebted may pay officer.

After the rendition of judgment, any person indebted to the defendant in execution may pay to the sheriff the amount of such indebtedness, or so much thereof as is necessary to satisfy the execution, and the person's receipt shall be a sufficient discharge therefor.

[C51, §1894; R60, §3273; C73, §3047; C97, §3972; C24, 27, 31, 35, 39, §**11674;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.23]

626.24 Levy against municipal corporation — tax.

If no property of a municipal corporation against which execution has issued can be found, or if the judgment creditor elects not to issue execution against such corporation, a tax must be levied as early as practicable to pay off the judgment. When a tax has been so levied and any part thereof shall be collected, the treasurer of such corporation shall pay the same to the clerk of the court in which the judgment was rendered, in satisfaction thereof.

[C51, §1896; R60, §3275; C73, §3049; C97, §3973; C24, 27, 31, 35, 39, §**11675;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.24]

626.25 Unsecured interest in hands of third persons.

Any interest which is not represented by a security as defined in the uniform commercial code, section 554.8102, owned by the defendant in any company or corporation, and also debts due the defendant and property of the defendant in the hands of third persons, may be levied upon in the manner provided for attaching the same.

[C51, §1892; R60, §3269; C73, §3050; C97, §3974; C24, 27, 31, 35, 39, §**11676;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.25]

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626.26 Garnishment.

Property of the defendant in the possession of another, or debts due the defendant, may be reached by garnishment.

[R60, §3270; C73, §3051; C97, §3975; C24, 27, 31, 35, 39, §**11677;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.26]

Garnishment, chapter 642

626.27 Expiration or return of execution.

Proceedings by garnishment on execution shall not be affected by its expiration or its return.

[R60, §3271; C73, §3052; C97, §3976; C24, 27, 31, 35, 39, §**11678;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.27]

Garnishment, chapter 642

626.28 Return of garnishment — action docketed.

Where parties have been garnished under it, the officer shall return to the clerk of court a copy of the execution with all the officer's doings thereon, so far as they relate to the garnishments, and the clerk shall docket an action thereon without fee, and thereafter the proceedings shall conform to proceedings in garnishment under attachments as nearly as may be.

[R60, §3271; C73, §3052; C97, §3976; C24, 27, 31, 35, 39, §**11679;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.28]

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626.29 Distress warrant by director of revenue, director of inspections, appeals, and licensing, or director of workforce development.

In the service of a distress warrant issued by the director of revenue for the collection of taxes administered by or debts to be collected by the department of revenue, in the service of a distress warrant issued by the director of inspections, appeals, and licensing for the collection of overpayment debts owed to the department of health and human services, or in the service of a distress warrant issued by the director of the department of workforce development for the collection of employment security contributions, the property of the taxpayer or the employer in the possession of another, or debts due the taxpayer or the employer, may be reached by garnishment.

[C39, §**11679.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.29; 81 Acts, ch 192, §1]

93 Acts, ch 53, §3; 94 Acts, ch 1165, §41; 96 Acts, ch 1186, §23; 2003 Acts, ch 145, §286; 2023 Acts, ch 19, §1274, 2034

Garnishment, chapter 642

626.30 Expiration or return of distress warrant.

Proceedings by garnishment under a distress warrant issued by the director of revenue or the director of inspections, appeals, and licensing shall not be affected by the expiration or return of the warrant.

[C39, §**11679.2;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.30]

93 Acts, ch 53, §4; 2003 Acts, ch 145, §286; 2019 Acts, ch 24, §84; 2023 Acts, ch 19, §2035

Garnishment, chapter 642

626.31 Return of garnishment — action docketed — distress action.

Where parties have been garnished under a distress warrant issued by the director of revenue or the director of inspections, appeals, and licensing, the officer shall make return thereof to the court in the county where the garnishee lives, if the garnishee lives in Iowa, otherwise in the county where the taxpayer resides, if the taxpayer lives in Iowa; and if neither the garnishee nor the taxpayer lives in Iowa, then to the district court in Polk county, Iowa; the officer shall make return in the same manner as a return is made on a garnishment made under a writ of execution so far as they relate to garnishments, and the clerk of the district court shall docket an action thereon without fee the same as if a judgment had been recovered against the taxpayer in the county where the return is made, an execution issued thereon, and garnishment made thereunder, and thereafter the proceedings shall conform to proceedings in garnishment under attachments as nearly as may be. The warrant shall be considered in all respects as a final judgment.

[C39, §**11679.3;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.31]

93 Acts, ch 53, §5; 2003 Acts, ch 145, §286; 2021 Acts, ch 86, §35; 2023 Acts, ch 19, §2036

Garnishment, chapter 642

626.32 Joint or partnership property.

When an officer has an execution against a person who owns property jointly or in common with another, such officer may levy on and take possession of the property owned jointly or in common, sufficiently to enable the officer to appraise and inventory the same, and for that purpose shall call to the officer's assistance three disinterested persons, which inventory and appraisement shall be returned by the officer with the execution, and shall state in the officer's return who claims to own the property.

[C51, §1917; R60, §3287; C73, §3053; C97, §3977; C24, 27, 31, 35, 39, §**11680;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.32]

Analogous provisions, §639.37 et seq.

626.33 Lien — equitable proceeding — receiver.

The plaintiff shall, from the time such property is so levied on, have a lien on the interest of the defendant therein, and may commence an action by equitable proceedings to ascertain the nature and extent of such interest and to enforce the lien; and, if deemed necessary or

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proper, the court may appoint a receiver under the circumstances provided in the chapter relating to receivers.

[R60, §3289 – 3291; C73, §3054; C97, §3978; C24, 27, 31, 35, 39, §**11681;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.33]

Receivers, chapter 680

626.34 Personal property subject to security interest — payment.

Personal property subject to a security interest not exempt from execution may be taken on attachment or execution issued against the debtor, if the officer, or the attachment or execution creditor, within ten days after such levy, shall pay to the secured party the amount of the secured debt and interest accrued, or deposit the same with the clerk of the district court of the county from which the attachment or execution issued, for the use of the secured party, or secure the same as in this chapter provided.

[C97, §3979; C24, 27, 31, 35, 39, §**11682;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.34]

Applicable to attachments, §639.40

626.35 Interest on secured debt.

When the secured debt is not due as shown by the security agreement, the officer or the attachment or execution creditor, must also pay or deposit with the clerk interest on the principal sum at the rate specified in the security agreement for the term of sixty days from the date of the deposit, unless the debt secured falls due in a less time, in which case interest shall be deposited for such shorter period.

[C97, §3980; C24, 27, 31, 35, 39, §**11683;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.35]

626.36 Failure to pay, deposit, or give security.

If within ten days after such levy the attachment or execution creditor does not pay the amount, make the deposit, or give the security required, the levy shall be discharged, and the property restored to the possession of the person from whom it was taken and the creditor shall be liable to the secured party for any damages sustained by reason of such levy.

[C97, §3981; C24, 27, 31, 35, 39, §**11684;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.36]

626.37 Creditor subrogated.

When such sum is paid to the secured party or deposited with the clerk, the attachment or execution creditor shall be subrogated to all the rights of such holder, and the proceeds of the sale of the collateral shall be first applied to the discharge of such indebtedness and the costs incurred under the writ of attachment or execution.

[C97, §3982; C24, 27, 31, 35, 39, §**11685;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.37]

626.38 Holder reinstated.

If, for any reason, the levy upon the collateral is discharged or released without a sale thereof, the attachment or execution creditor who has paid or deposited the amount of the secured debt shall have all the rights under such security agreement possessed by the secured party at the time of the levy. If the secured party thereof desires to be reinstated in the party's rights thereunder, the party may repay the money received by the party, with interest thereon at the rate borne by the secured debt for the time it has been held by the party, and demand the return of the security agreement, whereupon the party's rights thereunder shall revest in the party, and the attachment or execution creditor shall be entitled to the deposit made, or any part thereof remaining in the hands of the clerk, or any money returned to the clerk by the secured party.

[C97, §3983; C24, 27, 31, 35, 39, §**11686;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.38]

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626.39 Statement of amount due.

The secured party, before receiving the money tendered to the party by the attaching or execution creditor or which was deposited with the clerk, shall state by a signed memorandum the amount due or to become due and deliver the same along with the security agreement, unless it has been filed as the financing statement, to the person paying the said amount or the clerk with whom the deposit is made, and the secured party shall only receive the amount so stated to be due, and the surplus, if any, shall be returned to the person making the deposit.

[C97, §3984; C24, 27, 31, 35, 39, §**11687;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.39]

626.40 Indemnifying bond.

When the attaching or execution creditor thus pays or deposits the amount of the claim under the security agreement, the creditor shall not be required to give an indemnifying bond on notice to the sheriff by the holder of the security agreement of the holder's right to the property thereunder, or if one has been given, it shall be released.

[C97, §3985; C24, 27, 31, 35, 39, §**11688;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.40]

626.41 Sale — costs — surplus.

If under execution sale the collateral does not sell for enough to pay the secured debt, interest, and costs of sale, the judgment creditor shall be liable for all costs thus made, but if a greater sum is realized, the officer conducting the sale shall at once pay to the secured party the amount due thereunder, and apply the surplus on the execution.

[C97, §3986; C24, 27, 31, 35, 39, §**11689;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.41]

626.42 Statement of indebtedness.

For the purpose of enabling the attaching or execution creditor to determine the amount to be tendered or deposited to hold the levy under the writ of attachment or execution, the person entitled to receive payment of the secured debt shall deliver to any such person, upon written demand therefor, a statement in writing under oath, showing the nature and amount of the original debt, the date and the amount of each payment, if any, which has been made thereon, and an itemized statement of the amount then due and unpaid.

[C97, §3987; C24, 27, 31, 35, 39, §**11690;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.42]

626.43 Contest as to validity or amount.

If the right of the secured party to receive such or any sum is for any reason questioned by the levying creditor, the party may, within ten days after levy, or after demand is made for a statement of the amount due as above provided, commence an action in equity or contest such right upon filing a bond in a penalty double the amount of such security interest, or double the value of the property levied upon, conditioned either for the payment of any sum found due on said security interest to the person entitled thereto, or for the value of the property levied upon, as the party ordering the levy may elect, with sureties to be approved by the clerk.

[C97, §3988; S13, §3988; C24, 27, 31, 35, 39, §**11691;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.43]

626.44 Nonresident — service — transfer of action.

If such secured party is a nonresident or the party's residence is unknown, service may be made by publication as in other actions, but if such residence becomes known before final submission, the court may order personal service to be made. If commenced at law, the court may transfer the same to the equity side as in other cases.

[C97, §3988; S13, §3988; C24, 27, 31, 35, 39, §**11692;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.44]

Service by publication, R.C.P. 1.310

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626.45 Receiver — decree — costs.

The court may appoint a receiver, and shall determine the amount due on the security agreement, the value of the property levied upon, and all other questions properly presented, and may continue and preserve or dismiss the lien of the levy, the costs to be taxed to the losing party as in other cases.

[C97, §3988; S13, §3988; C24, 27, 31, 35, 39, §**11693;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.45]

Costs, chapter 625

626.46 Various security agreements — priority.

If there are two or more security agreements, the creditor may admit the validity of one or more, and make the required deposit as to such, and contest the other, and where there are two or more such security agreements, each of which is questioned, a failure to establish the invalidity of all shall not defeat the rights of the levying creditor, but in such case the decree shall determine the priority of liens, and direct the order of payment out of the proceeds of the property which shall be sold under special execution to be awarded in said cause.

[C97, §3988; S13, §3988; C24, 27, 31, 35, 39, §**11694;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.46]

626.47 Other remedies.

Nothing in this chapter contained shall be construed to forbid or in any way affect the right of a creditor to contest in any other way the validity of any security agreement.

[C97, §3988; S13, §3988; C24, 27, 31, 35, 39, §**11695;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.47]

626.48 Failure to make statement — effect.

A failure to make the statement, when required as above provided, shall have the effect to postpone the priority of the security interest and give the levy of the writ of attachment or execution priority over the claim of the holder thereof.

[C97, §3989; C24, 27, 31, 35, 39, §**11696;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.48]

626.49 Where secured party garnished.

If the secured party, before the levy of a writ of attachment or execution, has been garnished at the suit of a creditor of a debtor, a creditor desiring to seize the collateral under a writ of attachment or execution shall pay to the secured party, or deposit with the clerk, in addition to the secured debt, the sum claimed under the garnishment, and the provisions of this chapter, so far as applicable, in all respects shall govern proceedings relating thereto.

[C97, §3990; C24, 27, 31, 35, 39, §**11697;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.49]

Garnishment, chapter 642

626.50 Duty to levy — notice of ownership or exemption — notice to defendant.

1. An officer is bound to levy an execution on any personal property in the possession of, or that the officer has reason to believe belongs to, the defendant, or on which the plaintiff directs the officer to levy, after having received written instructions for the levy from the plaintiff or the attorney who had the execution issued to the sheriff, unless the officer has received notice in writing under oath from some other person, or that person's agent or attorney, that the property belongs to the person, stating the nature of the person's interests in the property, how and from whom the person acquired the property, and the consideration paid for the property; or from the defendant, that the property is exempt from execution.

2. *a.* The officer making the levy in subsection 1 shall promptly serve written notice of the levy on the defendant. The notice shall be served in the same manner as provided for original notice.

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b. This subsection is not applicable to garnishment proceedings.

[C51, §1916; R60, §3277; C73, §3055; C97, §3991; C24, 27, 31, 35, 39, §**11698;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.50]

88 Acts, ch 1062, §1; 88 Acts, ch 1133, §3; 92 Acts, ch 1092, §1; 2015 Acts, ch 79, §1

Applicable to attachments, §639.41

Garnishment proceedings, see chapter 642

626.51 Failure to give notice — effect.

Failure to give notice of ownership or exemption shall not deprive the party of any other remedy.

[C97, §3991; C24, 27, 31, 35, 39, §**11699;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.51]

2016 Acts, ch 1073, §166

626.52 Right to release levy.

If after levy the officer receives notice of ownership or exemption, such officer may release the property unless a bond is given as provided in section 626.54.

[C51, §1916; R60, §3277; C73, §3055; C97, §3991; C24, 27, 31, 35, 39, §**11700;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.52]

2016 Acts, ch 1073, §167

626.53 Exemption from liability.

The officer shall be protected from all liability by reason of such levy until the officer receives written notice of ownership or exemption.

[C51, §1916; R60, §3277; C73, §3055; C97, §3991; C24, 27, 31, 35, 39, §**11701;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.53]

2016 Acts, ch 1073, §168

626.54 Indemnifying bond — sale and return.

When the officer receives notice of ownership or exemption, the officer may forthwith give the plaintiff, the plaintiff's agent, or attorney, notice that an indemnifying bond is required. Bond may be given by or for the plaintiff, with one or more sufficient sureties, to be approved by the officer, to the effect that the obligors will indemnify the officer against the damages which the officer may sustain in consequence of the seizure or sale of the property, and will pay to any claimant the damages the claimant may sustain in consequence of the seizure or sale, and will warrant to any purchaser of the property such estate or interest therein as is sold. After the bond has been given and approved, the officer shall proceed to subject the property to the execution, and shall return the indemnifying bond to the court from which the execution issued.

[R60, §3277; C73, §3056; C97, §3992; C24, 27, 31, 35, 39, §**11702;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.54]

2016 Acts, ch 1073, §169

Referred to in §626.52

Applicable to attachments, §639.41

626.55 Failure to give bond.

If such bond is not given, the officer may refuse to levy, or if the officer has done so, and the bond is not given in a reasonable time after it is required by the officer, the officer may restore the property to the person from whose possession it was taken, and the levy shall stand discharged.

[R60, §3278; C73, §3057; C97, §3993; C24, 27, 31, 35, 39, §**11703;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.55]

626.56 Application of proceeds.

Where property for the sale of which the officer is indemnified sells for more than enough to satisfy the execution under which it was taken, the surplus shall be paid into the court to which the indemnifying bond is directed to be returned. The court may order such disposition

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or payment of the money to be made, temporarily or absolutely, as may be proper in respect to the rights of the parties interested.

[R60, §3280; C73, §3059; C97, §3994; C24, 27, 31, 35, 39, §**11704;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.56]

626.57 Reserved.

626.58 Stay of execution — exceptions.

On all judgments for the recovery of money, except those rendered on any appeal or writ of error, or in favor of a laborer or mechanic for wages, or against one who is surety in the stay of execution, or against any officer, person, or corporation, or the sureties of any of them, for money received in a fiduciary capacity, or for the breach of any official duty, there may be a stay of execution, if the defendant therein shall, within ten days from the entry of judgment, procure one or more sufficient freehold sureties to enter into a bond, acknowledging themselves security for the defendant for the payment of the judgment, interest, and costs from the time of rendering judgment until paid, as follows:

1. If the sum for which judgment was rendered, inclusive of costs, does not exceed one hundred dollars, three months.
2. If such sum and costs exceed one hundred dollars, six months.

[R60, §3293; C73, §3061; C97, §3996; C24, 27, 31, 35, 39, §**11706;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.58]

626.59 Affidavit of surety.

Officers approving stay bonds shall require the affidavit of the signers thereof, unless waived in writing by the party in whose favor the judgment is rendered, that they own property not exempt from execution, and aside from encumbrance, to the value of twice the amount of the judgment.

[C73, §3062; C97, §3997; C24, 27, 31, 35, 39, §**11707;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.59]

626.60 Stay waives appeal.

No appeal shall be allowed after a stay of execution has been obtained.

[R60, §3294; C73, §3063; C97, §3998; C24, 27, 31, 35, 39, §**11708;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.60]

626.61 Bond — approval — recording — effect.

The sureties for stay of execution may be taken and approved by the clerk, and the bond shall be recorded in a book kept for that purpose, and have the force and effect of a judgment confessed from the date thereof against their property, and shall be indexed in the proper judgment docket, as in case of other judgments.

[R60, §3295, 3298; C73, §3064; C97, §3999; C24, 27, 31, 35, 39, §**11709;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.61]

626.62 Execution recalled.

When the bond is accepted and approved after execution has been issued, the clerk shall immediately notify the sheriff of the stay, and the officer shall forthwith return the execution with the officer's doings thereon.

[R60, §3296; C73, §3065; C97, §4000; C24, 27, 31, 35, 39, §**11710;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.62]

626.63 Property released.

All property levied on before stay of execution, and all written undertakings for the delivery of personal property to the sheriff, shall be relinquished by the officer, upon stay of execution being entered.

[R60, §3297; C73, §3066; C97, §4001; C24, 27, 31, 35, 39, §**11711;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.63]

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626.64 Execution against principal and sureties.

At the expiration of the stay, the clerk shall issue a joint execution against the property of all the judgment debtors and sureties, describing them as debtors or sureties therein, and the liability of such sureties shall be subject to that of their principal as provided in this chapter.

[R60, §3299; C73, §3067; C97, §4002; C24, 27, 31, 35, 39, §**11712;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.64]

Analogous provision, R.C.P. 1.956

626.65 Objections by surety.

When any court shall render judgment against two or more persons, any of whom is surety for any other in the contract on which judgment is founded, there shall be no stay of execution allowed, if the surety objects thereto at or before the time of rendering the judgment, whereupon it shall be ordered by the court that there be no stay, unless the surety for the stay of execution will undertake specifically to pay the judgment in case the amount thereof cannot be levied of the principal defendant, and the judgment shall recite that the liability of such stay is prior to that of the objecting surety.

[R60, §3300; C73, §3068; C97, §4003; C24, 27, 31, 35, 39, §**11713;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.65]

626.66 Stay terminated by surety.

Any surety for the stay of execution may file with the clerk an affidavit, stating that the surety verily believes the surety will be compelled to pay the judgment, interest, and costs thereon unless execution issues immediately, and gives notice thereof in writing to the party for whom the surety is surety; and the clerk shall thereupon issue execution forthwith, unless other sufficient surety be entered before the clerk within five days after such notice is given as in other cases.

[R60, §3301; C73, §3069; C97, §4004; C24, 27, 31, 35, 39, §**11714;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.66]

626.67 Other security given.

If other sufficient surety is given, it shall have the force of the original surety entered before the filing of the affidavit, and shall discharge the original surety.

[R60, §3302; C73, §3070; C97, §4005; C24, 27, 31, 35, 39, §**11715;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.67]

626.68 Lien not released.

Where a stay of execution has been taken, such confessed judgment shall not release any judgment lien by virtue of the original judgment for the amount then due.

[R60, §3303; C73, §3071; C97, §4006; C24, 27, 31, 35, 39, §**11716;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.68]

626.69 Labor or wage claims preferred.

When the property of any company, corporation, firm, or person shall be seized upon by any process of any court, or placed in the hands of a receiver, trustee, or assignee, or seized by the action of creditors, for the purpose of paying or securing the payment of the debts of such company, corporation, firm, or person, the debts, or wages as defined under section 91A.2, subsection 7, owing to all laborers or employees other than officers of such companies, for labor or work performed or services rendered within six months preceding the seizure or transfer of such property, shall be considered and treated as a preferred debt and paid in full, or if there are insufficient funds realized from such property to pay the same in full, then, after the payment of costs, ratably out of the funds remaining.

[C97, §4019; S13, §4019; C24, 27, 31, 35, 39, §**11717;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.69]

2006 Acts, ch 1025, §1

Referred to in §626.71, 626.76, 680.7

Labor or wage claims preferred, §633.425, 680.7

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626.70 Exceptions.

Such preference shall be junior and inferior to mechanics' liens for labor in opening and developing coal mines.

[C97, §4019; S13, §4019; C24, 27, 31, 35, 39, §**11718;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.70]

626.71 Statement of claim — allowance.

Any employee desiring to enforce a claim for wages, at any time after the seizure of the property under execution or writ of attachment or under any other authority, and before sale thereof is ordered, shall present to the officer levying on such property or to such receiver, trustee, or assignee, or to the court having custody of such property or from which such process issued, or person charged with such property, a statement under oath, showing the amount due after allowing all just credits and setoffs, and the kind of work for which such wages are due, and when performed; and unless objection be made thereto as provided in section 626.72, such claim shall be allowed and paid to the person entitled thereto, after first paying all costs occasioned by the proceeding out of the proceeds of the sale of the property so seized or placed in the hands of a receiver, trustee, or assignee, or court, or person charged with the same, subject, however, to the provisions of section 626.69.

[C97, §4020; S13, §4020; C24, 27, 31, 35, 39, §**11719;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.71]

Referred to in §626.76

626.72 Contest.

Any person interested may contest any claim or part thereof by filing objections thereto, supported by affidavit, with such court, receiver, trustee, or assignee, and its validity shall be determined in the same way the validity of other claims are which are sought to be enforced against such property, provided that where the claim is filed with a person charged with the property other than the officers above enumerated and a contest is made, the cause shall be transferred to the district court, and there docketed and determined.

[C97, §4021; S13, §4021; C24, 27, 31, 35, 39, §**11720;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.72]

Referred to in §626.71

626.73 Priority.

Claims of employees for labor or wages, if not contested, or if allowed after contest, shall have priority, unless otherwise stated in this chapter, over all claims against or liens upon such property, except prior mechanics' liens for labor in opening or developing coal mines as allowed by law.

[C97, §4022; C24, 27, 31, 35, 39, §**11721;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.73]

2006 Acts, ch 1025, §2

626.74 Notice of sale.

The officer must give four weeks' notice of the time and place of selling real property, and three weeks' notice of personal property.

[C51, §1905; R60, §3310; C73, §3079; C97, §4023; C24, 27, 31, 35, 39, §**11722;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.74]

Referred to in §626.77

626.75 Posting and publication — compensation.

Notice shall be posted in at least three public places of the county, one of which shall be at the county courthouse. In addition to which, in case of the sale of real estate, or where personal property with a value of two hundred dollars or greater is to be sold, there shall be two weekly publications of such notice in some newspaper printed in the county, to be selected by the party causing the notice to be given, the first at least four weeks in the case of real estate, or three weeks in the case of personal property, before the date of sale, and the

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second at a later time before the date of sale. The compensation for such publication shall be the same as is provided by law for legal notices.

[C51, §1906; R60, §3311; C73, §3080; C97, §4024; S13, §4024; C24, 27, 31, 35, 39, §**11723;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.75]

90 Acts, ch 1058, §1
Referred to in §626.77

626.76 Department of inspections, appeals, and licensing director to represent.

The director of the department of inspections, appeals, and licensing, may, at the director's discretion, represent laborers or employees seeking payment for labor or wage claims from the receiver, trustee, or assignee, or the court, or the person charged with the property, in accordance with and subject to the provisions of sections 626.69 and 626.71.

2006 Acts, ch 1024, §1, 2; 2023 Acts, ch 19, §2037

626.77 Penalty for selling without notice.

An officer selling without the notice prescribed in sections 626.74 and 626.75, shall forfeit one hundred dollars to the defendant in execution, in addition to the actual damages sustained by either party; but the validity of the sale is not thereby affected.

[C51, §1907; R60, §3312; C73, §3081; C97, §4027; S13, §4027; C24, 27, 31, 35, 39, §**11725;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.77]

626.78 Notice to defendant.

If the debtor is in actual occupation and possession of any part of the land levied on, the officer having the execution shall, at least twenty days previous to such sale, serve the debtor with written notice, stating that the execution is levied on said land, and mentioning the time and place of sale, which notice shall be served in the manner provided by rule of civil procedure 1.305(1). However, upon the filing of an affidavit that the debtor is intentionally evading service of process or otherwise cannot be served despite repeated and diligent attempts, the notice may be served by placing the notice in a plain opaque envelope, addressed to the defendant and marked personal and confidential, by affixing the envelope to a main entrance of the premises subject to sale, and by mailing a copy of the notice to the debtor at the debtor's last known address by ordinary mail.

[R60, §3318; C73, §3087; C97, §4025; S13, §4025; C24, 27, 31, 35, 39, §**11726;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.78]

2006 Acts, ch 1132, §5, 16
Referred to in §626.79

626.79 Setting aside sale.

Sales made without the notice required in section 626.78 may be set aside on motion made within ninety days thereafter.

[R60, §3318; C73, §3087; C97, §4025; S13, §4025; C24, 27, 31, 35, 39, §**11727;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.79]

626.80 Time and manner.

1. The sale must be at public auction, between 9:00 a.m. and 4:00 p.m., and the hour of the commencement of the sale must be fixed in the notice.

2. The sheriff shall receive and give a receipt for a sealed written bid submitted prior to the public auction. The sheriff may require all sealed written bids to be accompanied by payment of any fees required to be paid at the public auction by the purchaser, to be returned if the person submitting the sealed written bid is not the purchaser. The sheriff shall keep all written bids sealed until the commencement of the public auction, at which time the sheriff shall open and announce the written bids as though made in person. A party who has appeared in the foreclosure may submit a written bid, which shall include a facsimile number or electronic mail address where the party can be notified of the results of the sale. If a party submitting a winning written bid does not pay the amount of the bid in certified funds in the manner in which the sheriff in the notice directs, such bid shall be deemed canceled and the sheriff shall certify the next highest bidder as the successful bidder of the sale either

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within twenty-four hours for an electronic funds transfer or forty-eight hours otherwise, of notification of the sale results. A sheriff may refuse to accept written bids from a bidder other than the judgment creditor if the bidder or the bidder's agent in the action has demonstrated a pattern of nonpayment on previously accepted bids.

[C51, §1908; R60, §3313; C73, §3082; C97, §4028; C24, 27, 31, 35, 39, §**11728;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.80]

89 Acts, ch 123, §1; 2006 Acts, ch 1132, §6, 16; 2015 Acts, ch 29, §106

State or municipality as purchaser, chapter 569

626.81 Sale postponed.

When there are no bidders, or when the amount offered is grossly inadequate, when from any cause the sale is prevented from taking place on the day fixed, when requested by the judgment creditor, or when the parties so agree, the officer may postpone the sale without being required to give any further notice thereof, which postponement shall be publicly announced at the time the sale was to have been made, but not more than two such adjournments of not more than sixty days in the aggregate shall be made, except by agreement of the parties in writing and made a part of the return upon the execution.

[C51, §1909; R60, §3314; C73, §3083; C97, §4029; C24, 27, 31, 35, 39, §**11729;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.81]

2009 Acts, ch 51, §3, 17

626.82 Overplus.

When the property sells for more than the amount required to be collected, the overplus must be paid to the debtor, unless the officer has another execution in the officer's hands on which said overplus may be rightfully applied, or unless there are liens upon the property which ought to be paid therefrom, and the holders thereof make claim to such surplus and demand application thereon, in which case the officer shall pay the same into the hands of the clerk of the district court, and it shall be applied as ordered by the court.

[C51, §1910; R60, §3315; C73, §3084; C97, §4030; C24, 27, 31, 35, 39, §**11730;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.82]

626.83 Deficiency — additional execution.

If the property levied on sells for less than sufficient to satisfy the execution, the judgment holder may order out another, which shall be credited with the amount of the previous sale. The proceedings under the second execution shall conform to those prescribed in this chapter for the first execution.

[C51, §1911; R60, §3316; C73, §3085; C97, §4031; C24, 27, 31, 35, 39, §**11731;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.83]

2021 Acts, ch 80, §357

626.84 Plan of division of land.

At any time before 9:00 a.m. of the day of the sale, the debtor may deliver to the officer a plan of division of the land levied on, subscribed by the debtor, and in that case the officer shall sell, according to said plan, so much of the land as may be necessary to satisfy the debt and costs, and no more. If no such plan is furnished, the officer may sell without any division.

[R60, §3319; C73, §3088; C97, §4032; C24, 27, 31, 35, 39, §**11732;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.84]

2015 Acts, ch 29, §107

626.85 Failure of purchaser to pay — optional procedure.

When the purchaser fails to pay the money when demanded, the judgment holder or the holder's attorney may elect to proceed against the purchaser for the amount; otherwise the sheriff shall treat the sale as a nullity, and may sell the property on the same day, or after postponement as above authorized.

[C51, §1913; R60, §3320; C73, §3089; C97, §4033; C24, 27, 31, 35, 39, §**11733;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.85]

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626.86 Sales vacated for lack of lien.

When any person shall purchase at a sheriff's sale any real estate on which the judgment upon which the execution issued was not a lien at the time of the levy, and which fact was unknown to the purchaser, the court shall set aside such sale on motion, notice having been given to the debtor as in case of action, and a new execution may be issued to enforce the judgment, and, upon the order being made to set aside the sale, the sheriff or judgment creditor shall pay over to the purchaser the purchase money; said motion may also be made by any person interested in the real estate.

[R60, §3321; C73, §3090; C97, §4034; C24, 27, 31, 35, 39, §**11734;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.86]

626.87 Money — things in action.

Money levied upon may be appropriated without being advertised or sold, and so may bank bills, drafts, promissory notes, or other papers of the like character, if the plaintiff will receive them at their par value as cash, or if the officer can exchange them for cash at that value.

[C51, §1914; R60, §3322; C73, §3091; C97, §4035; C24, 27, 31, 35, 39, §**11735;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.87]

626.88 Real estate of deceased judgment debtor.

When a judgment has been obtained against a decedent in the decedent's lifetime, the plaintiff may file a petition in the office of the clerk of the court where the judgment is rendered, against the executor, the heirs, and devisees of real estate, if such there be, setting forth the facts, and that there is real estate of the deceased, describing its location and extent, and praying the court to award execution against the same.

[C51, §1918; R60, §3323; C73, §3092; C97, §4036; C24, 27, 31, 35, 39, §**11736;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.88]

626.89 Notice.

The person against whom the petition is filed shall be notified by the plaintiff to appear within twenty days following completion of service and show cause, if any, why execution should not be awarded.

[C51, §1919; R60, §3324; C73, §3093; C97, §4037; C24, 27, 31, 35, 39, §**11737;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.89]

626.90 Service and return.

The notice must be served and returned in the ordinary manner, and the same length of time shall be allowed for appearance as in civil actions, and service of such notice on nonresident defendants may be had in such cases by publication.

[C51, §1920; R60, §3325; C73, §3094; C97, §4038; C24, 27, 31, 35, 39, §**11738;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.90]

See also R.C.P. 1.303
Service by publication, R.C.P. 1.310

626.91 Execution awarded.

At the proper time, the court shall award the execution, unless sufficient cause is shown to the contrary, but the nonage of the heirs or devisees shall not be held such sufficient cause.

[C51, §1921, 1922; R60, §3326, 3327; C73, §3095, 3096; C97, §4039; C24, 27, 31, 35, 39, §**11739;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.91]

626.92 Mutual judgments — setoff.

Mutual judgments, executions on which are in the hands of the same officer, may be set off the one against the other, except the costs, but if the amount collected on the large judgment is sufficient to pay the costs of both, such costs shall be paid therefrom.

[C51, §1923; R60, §3328; C73, §3097; C97, §4040; C24, 27, 31, 35, 39, §**11740;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.92]

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626.93 Personal property and leasehold interests — appraisement.

Personal property, and leasehold interests in real property having less than two years of an unexpired term, levied upon and advertised for sale on execution, must be appraised before sale by two disinterested householders of the neighborhood, one of whom shall be chosen by the execution debtor and the other by the plaintiff, or, in case of the absence of either party, or if either or both parties neglect or refuse to make choice, the officer making the levy shall choose one or both, as the case may be, who shall forthwith return to said officer a just appraisement, under oath, of said property if they can agree; if they cannot, they shall choose another disinterested householder, and with that householder's assistance shall complete such appraisement, and the property shall not, upon the first offer, be sold for less than two-thirds of said valuation; but if offered at the same place and hour of the day as advertised upon three successive days, and no bid is received equal to two-thirds of the appraised value thereof, then it may be sold for one-half of said valuation.

[C73, §3100; C97, §4041; C24, 27, 31, 35, 39, §**11741;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.93]

Referred to in §626.94

626.94 Property unsold — optional procedure.

Subject to the provisions of section 626.93, when property is unsold for want of bidders, the levy still holds good; and, if there be sufficient time, it may again be advertised, or the execution returned and one issued commanding the officer to sell the property, describing it, previously levied on, to which a clause may be added that, if such property does not produce a sum sufficient to satisfy such execution, the officer shall proceed to make an additional levy, on which the officer shall proceed as on other executions; or the plaintiff may, in writing filed with the clerk, abandon such levy, upon paying the costs thereof; in which case execution may issue with the same effect as if none had ever been issued.

[C51, §1912; R60, §3317; C73, §3086; C97, §4042; C24, 27, 31, 35, 39, §**11742;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.94]

626.95 Deed or certificate.

If the property sold is not subject to redemption, the sheriff must execute a deed therefor to the purchaser; but, if subject to redemption, a certificate, containing a description of the property and the amount of money paid by such purchaser, and stating that, unless redemption is made within one year thereafter, or such other time as may be specifically provided for particular actions according to law, the purchaser or the purchaser's heirs or assigns will be entitled to a deed for the same.

[C51, §1925; R60, §3331; C73, §3101; C97, §4044; C24, 27, 31, 35, 39, §**11743;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.95]

Referred to in §626.98

626.96 Duplicate issued in case of loss.

When any person, firm, or corporation to whom a sheriff's certificate of sale has been issued or an assignee thereof shall file in the office of the clerk of the district court in which the certificate was issued and in said action, a verified application signed by the purchaser or assignee, the purchaser's or assignee's agent, legal representative or attorney that the outstanding sheriff's certificate of sale in said action has been lost or destroyed, the court shall fix a time for hearing thereon and prescribe the notice therefor and the manner of service thereof on the parties to said action or their successors in interest, and on said hearing if the court finds that the sheriff's certificate of sale issued in said cause has been lost or destroyed, shall order the sheriff of said county to issue a duplicate certificate of sale as of the date of the original certificate which shall have the same force and effect as the original, and any deed executed thereunder shall have the same force and effect as if executed under the original certificate of sale.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.96]

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626.97 Cancellation after eight years.

After eight years have elapsed from the date of issuance of any sheriff's certificate of sale, and no action has been taken by the holder of such certificate to obtain a deed thereunder, it shall be the duty of the sheriff and clerk of the district court to cancel such sale and certificate of record and all rights thereunder shall be barred.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.97]

626.98 Deed.

If the debtor or the debtor's assignee fails to redeem, the sheriff then in office must, at the end of the period for redemption provided by law for the particular action, execute a deed to the person who is entitled to the certificate as provided in section 626.95, or to that person's assignee. If the person entitled is dead, the deed shall be made to the person's heirs.

[C51, §1946; R60, §3354; C73, §348, 3124; C97, §4062; C24, 27, 31, 35, 39, §**11744;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.98]

2021 Acts, ch 80, §358

626.99 Constructive notice — recording.

The purchaser of real estate at a sale on execution need not place any evidence of the person's purchase upon record until sixty days after the expiration of the full time of redemption. Up to that time the publicity of the proceedings is constructive notice of the rights of the purchaser.

[C51, §1947; R60, §3355; C73, §3125; C97, §4063; C24, 27, 31, 35, 39, §**11745;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.99]

626.100 Presumption.

Deeds executed by a sheriff in pursuance of the sales contemplated in this chapter are presumptive evidence of the regularity of all previous proceedings in the case, and may be given in evidence without preliminary proof.

[C51, §1948; R60, §3356; C73, §3126; C97, §4064; C24, 27, 31, 35, 39, §**11746;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.100]

626.101 Damages for injury to property.

When real estate has been sold on execution, the purchaser thereof, or any person who has succeeded to the purchaser's interest, may, after the estate becomes absolute, recover damages for any injury to the property committed after the sale and before possession is delivered under the conveyance.

[C51, §1949; R60, §3357; C73, §3127; C97, §4065; C24, 27, 31, 35, 39, §**11747;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.101]

Recovery for waste, §658.7

626.102 Reserved.

626.103 Death of holder of judgment.

The death of any or all of the joint owners of a judgment shall not prevent an execution being issued thereon, but on any such execution the clerk shall endorse the fact of the death of such of them as are dead, and if all are dead, the names of their personal representatives, if the judgment passed to the personal representatives, or the names of the heirs of such deceased person, if the judgment was for real property.

[R60, §3482; C73, §3130; C97, §4067; C24, 27, 31, 35, 39, §**11749;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.103]

626.104 Officer's duty.

In acting upon an execution, so endorsed, the sheriff shall proceed as if the surviving owners, or the personal representatives or heirs as above provided, were the only owners of the judgment upon which it was issued, and take bonds accordingly.

[R60, §3483; C73, §3131; C97, §4068; C24, 27, 31, 35, 39, §**11750;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.104]

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626.105 Affidavit required.

Before making the endorsements as above provided, an affidavit shall be filed with the clerk by one of the owners of such judgment, or one of such personal representatives or heirs, or their attorney, of the death of such owners as are dead, and that the persons named as such are the personal representatives or heirs, and in the case of personal representatives they shall file with the clerk a certificate of their qualification, unless their appointment is by the court from which the execution issues, in which case the record of such appointment shall be sufficient evidence of the fact.

[R60, §3484; C73, §3132; C97, §4069; C24, 27, 31, 35, 39, §**11751;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.105]

626.106 Execution quashed.

Any debtor in such a judgment may move the court to quash an execution on the ground that the personal representatives or heirs of a deceased judgment creditor are not properly stated in the endorsement on the execution.

[R60, §3486; C73, §3134; C97, §4070; C24, 27, 31, 35, 39, §**11752;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.106]

626.107 Death of part of defendants.

The death of part of the joint debtors in a judgment shall not prevent execution being issued thereon, but, when issued, it shall operate alone on the survivors and their property.

[R60, §3485; C73, §3133; C97, §4071; C24, 27, 31, 35, 39, §**11753;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.107]

626.108 Fee bill execution.

After the expiration of sixty days from the rendition of a final judgment not appealed, removed, or reversed, the clerk of the court may, and, upon demand of any party entitled to any part thereof, shall, issue a fee bill for all costs of such judgment, which shall have the same force and effect as an execution issued by such officer; and shall be served and executed in the same manner.

[C73, §3842; C97, §1299; C24, 27, 31, 35, 39, §**11754;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §626.108]

626.109 Public property — state.

A judgment against a department, agency, division, or official of the state does not create or constitute a lien against public property held by the state.

93 Acts, ch 87, §13, 14

Publicly owned buildings exempt from execution, see §627.18

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CHAPTER 626A

ENFORCEMENT OF FOREIGN JUDGMENTS

Referred to in §624.24

626A.1	Definition.	626A.5	Fee.
626A.2	Filing and status of foreign judgments.	626A.6	Optional procedure.
626A.3	Notice of filing.	626A.7	Uniformity of interpretation.
626A.4	Stay.	626A.8	Short title.

626A.1 Definition.

As used in this chapter unless the context otherwise requires, *"foreign judgment"* means a judgment, decree, or order of a court of the United States or of any other court which is entitled to full faith and credit in this state.

[C81, §626A.1]

626A.2 Filing and status of foreign judgments.

1. A copy of a foreign judgment authenticated in accordance with an Act of Congress or the statutes of this state may be filed in the office of the clerk of the district court of a county of this state which would have venue if the original action was being commenced in this state. The clerk shall treat the foreign judgment in the same manner as a judgment of the district court of this state. A judgment so filed has the same effect and is subject to the same procedures, defenses and proceedings for reopening, vacating, or staying as a judgment of the district court of this state and may be enforced or satisfied in like manner.

2. A proceeding to enforce a child support order is governed by 28 U.S.C. §1738B.

[C81, §626A.2]

96 Acts, ch 1141, §32; 97 Acts, ch 175, §236

626A.3 Notice of filing.

1. At the time of the filing of the foreign judgment, the judgment creditor or the creditor's lawyer shall make and file with the clerk of court an affidavit setting forth the name and last known post office address of the judgment debtor, and the judgment creditor.

2. Promptly upon the filing of the foreign judgment and the affidavit as provided in subsection 1, the clerk shall mail notice of the filing of the foreign judgment to the judgment debtor at the address given and shall make a note of the mailing in the docket. The notice shall include the name and post office address of the judgment creditor and the judgment creditor's lawyer, if any, in this state.

3. No execution or other process for enforcement of a foreign judgment filed under this chapter shall issue until the expiration of twenty days after the date the judgment is filed.

4. The filing of a foreign judgment under this chapter shall not create a lien upon any real estate until after the expiration of the time provided for in this chapter for challenging the conclusiveness of the foreign judgment and pursuant to section 624.24.

[C81, §626A.3]

2007 Acts, ch 192, §2

626A.4 Stay.

1. If the judgment debtor shows the district court in which the judgment is filed that an appeal from the foreign judgment is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated, upon proof that the judgment debtor has furnished the security for the satisfaction of the judgment required by the state in which it was rendered.

2. If the judgment debtor shows the district court in which the judgment is filed that grounds exist upon which enforcement of a judgment of the district court of this state would be stayed, the court shall stay enforcement of the foreign judgment for an appropriate period, upon requiring the same security for satisfaction of the judgment which is required in this state.

[C81, §626A.4]

626A.5 Fee.

For filing a foreign judgment, the clerk shall collect a fee in the amount collected for filing and docketing a petition under section 602.8105, subsection 1, paragraph "*a*".

[C81, §626A.5]

94 Acts, ch 1074, §9

626A.6 Optional procedure.

The right of a judgment creditor to bring an action to enforce the creditor's judgment instead of proceeding under this chapter remains unimpaired.

[C81, §626A.6]

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626A.7 Uniformity of interpretation.

This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

[C81, §626A.7]

626A.8 Short title.

This chapter may be cited as the *"Uniform Enforcement of Foreign Judgments Act"*.

[C81, §626A.8]

CHAPTER 626B

UNIFORM FOREIGN-COUNTRY MONEY JUDGMENTS RECOGNITION ACT

Referred to in §624.24

626B.1 through 626B.8 Repealed by 2010 Acts, ch 1053, §12, 14.
626B.101 Short title.
626B.102 Definitions.
626B.103 Applicability.
626B.104 Standards for recognition of foreign-country judgment.
626B.105 Personal jurisdiction.
626B.106 Procedure for recognition of foreign-country judgment.
626B.107 Effect of recognition of foreign-country judgment.
626B.108 Stay of proceedings pending appeal of foreign-country judgment.
626B.109 Statute of limitations.
626B.110 Uniformity of interpretation.
626B.111 Savings clause.

626B.1 through 626B.8 Repealed by 2010 Acts, ch 1053, §12, 14.

626B.101 Short title.

This chapter may be cited as the *"Uniform Foreign-Country Money Judgments Recognition Act"*.

2010 Acts, ch 1053, §1, 12

626B.102 Definitions.

As used in this chapter:

1. *"Foreign country"* means a government other than any of the following:

a. The United States.

b. A state, district, commonwealth, territory, or insular possession of the United States.

c. Any other government with regard to which the decision in this state as to whether to recognize a judgment of that government's courts is initially subject to determination under the full faith and credit clause of Article IV, section 1, of the Constitution of the United States.

d. Any Indian or Alaska native tribe, band, nation, pueblo, village, or community that the United States secretary of the interior recognizes as an Indian tribe.

2. *"Foreign-country judgment"* means a judgment of a court of a foreign country.

2010 Acts, ch 1053, §2, 12

626B.103 Applicability.

1. Except as otherwise provided in subsection 2, this chapter applies to a foreign-country judgment to the extent that all of the following apply to the judgment:

a. It grants or denies recovery of a sum of money.

b. Under the law of the foreign country where rendered, it is final, conclusive, and enforceable.

2. This chapter does not apply to a foreign-country judgment, even if the judgment grants or denies recovery of a sum of money, to the extent that the judgment is any of the following:

a. A judgment for taxes.

b. A fine or other penalty.

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c. A judgment for divorce, support, or maintenance, or other judgment rendered in connection with domestic relations.

3. A party seeking recognition of a foreign-country judgment has the burden of establishing that this chapter applies to the foreign-country judgment.

2010 Acts, ch 1053, §3, 12

626B.104 Standards for recognition of foreign-country judgment.

1. Except as otherwise provided in subsections 2 and 3, a court of this state shall recognize a foreign-country judgment to which this chapter applies.

2. A court of this state shall not recognize a foreign-country judgment if any of the following applies:

a. The judgment was rendered under a judicial system that does not provide impartial tribunals or procedures compatible with the requirements of due process of law.

b. The foreign court did not have personal jurisdiction over the defendant.

c. The foreign court did not have jurisdiction over the subject matter.

3. A court of this state need not recognize a foreign-country judgment if any of the following apply:

a. The defendant in the proceeding in the foreign court did not receive notice of the proceeding in sufficient time to enable the defendant to defend.

b. The judgment was obtained by fraud that deprived the losing party of an adequate opportunity to present its case.

c. The judgment or the cause of action on which the judgment is based is repugnant to the public policy of this state or of the United States.

d. The judgment conflicts with another final and conclusive judgment.

e. The proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be determined otherwise than by proceedings in that foreign court.

f. In the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action.

g. The judgment was rendered in circumstances that raise substantial doubt about the integrity of the rendering court with respect to the judgment.

h. The specific proceeding in the foreign court leading to the judgment was not compatible with the requirements of due process of law.

4. A party resisting recognition of a foreign-country judgment has the burden of establishing that a ground for nonrecognition stated in subsection 2 or 3 exists.

2010 Acts, ch 1053, §4, 12

626B.105 Personal jurisdiction.

1. A foreign-country judgment shall not be refused recognition for lack of personal jurisdiction if any of the following apply:

a. The defendant was served with process personally in the foreign country.

b. The defendant voluntarily appeared in the proceeding, other than for the purpose of protecting property seized or threatened with seizure in the proceeding or of contesting the jurisdiction of the court over the defendant.

c. The defendant, before the commencement of the proceeding, had agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved.

d. The defendant was domiciled in the foreign country when the proceeding was instituted or was a corporation or other form of business organization that had its principal place of business in, or was organized under the laws of, the foreign country.

e. The defendant had a business office in the foreign country and the proceeding in the foreign court involved a cause of action arising out of business done by the defendant through that office in the foreign country.

f. The defendant operated a motor vehicle or airplane in the foreign country and the proceeding involved a cause of action arising out of that operation.

2. The list of bases for personal jurisdiction in subsection 1 is not exclusive. The courts of

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this state may recognize bases of personal jurisdiction other than those listed in subsection 1 as sufficient to support a foreign-country judgment.

2010 Acts, ch 1053, §5, 12

626B.106 Procedure for recognition of foreign-country judgment.

1. If recognition of a foreign-country judgment is sought as an original matter, the issue of recognition shall be raised by filing an action seeking recognition of the foreign-country judgment.

2. If recognition of a foreign-country judgment is sought in a pending action, the issue of recognition may be raised by counterclaim, cross-claim, or affirmative defense.

2010 Acts, ch 1053, §6, 12
Referred to in §626B.107

626B.107 Effect of recognition of foreign-country judgment.

If the court in a proceeding under section 626B.106 finds that the foreign-country judgment is entitled to recognition under this chapter then, to the extent that the foreign-country judgment grants or denies recovery of a sum of money, the foreign-country judgment is all of the following:

1. Conclusive between the parties to the same extent as the judgment of a sister state entitled to full faith and credit in this state would be conclusive.

2. Enforceable in the same manner and to the same extent as a judgment rendered in this state.

2010 Acts, ch 1053, §7, 12

626B.108 Stay of proceedings pending appeal of foreign-country judgment.

If a party establishes that an appeal from a foreign-country judgment is pending or will be taken, the court may stay any proceedings with regard to the foreign-country judgment until the appeal is concluded, the time for appeal expires, or the appellant has had sufficient time to prosecute the appeal and has failed to do so.

2010 Acts, ch 1053, §8, 12

626B.109 Statute of limitations.

An action to recognize a foreign-country judgment must be commenced within the earlier of the time during which the foreign-country judgment is effective in the foreign country or fifteen years from the date that the foreign-country judgment became effective in the foreign country.

2010 Acts, ch 1053, §9, 12

626B.110 Uniformity of interpretation.

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact the *"Uniform Foreign-Country Money Judgments Recognition Act"*.

2010 Acts, ch 1053, §10, 12

626B.111 Savings clause.

This chapter does not prevent the recognition under principles of comity or otherwise of a foreign-country judgment not within the scope of this chapter.

2010 Acts, ch 1053, §11, 12

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CHAPTER 626C

REAL ESTATE TITLES AND BANKRUPTCY

626C.1	Definition.	626C.4	Stay.
626C.2	Filing and status of bankruptcy transcripts.	626C.5	Amendment.
		626C.6	Fee.
626C.3	Notice of filing.	626C.7	Optional procedure.

626C.1 Definition.

As used in this chapter, unless the context otherwise requires, *"bankruptcy transcript"* means a document or documents certified by the clerk or deputy clerk of any United States bankruptcy court as being true and correct copies of documents on file with the United States bankruptcy court of any district in the United States which is entitled to full faith and credit in this state. *"Bankruptcy transcript"* includes a bankruptcy court clerk's certificate of the proceedings that have transpired in a bankruptcy as is necessary to satisfy all applicable title standards of this state.

98 Acts, ch 1150, §1

626C.2 Filing and status of bankruptcy transcripts.

A bankruptcy transcript authenticated in accordance with an Act of Congress or the statutes of the state may be filed in the office of the clerk of the district court of a county in which real estate affected by the bankruptcy is located.

98 Acts, ch 1150, §2

626C.3 Notice of filing.

1. At the time of the filing of the bankruptcy transcript, the person filing the transcript shall make and file with the clerk of the district court an affidavit setting forth the name and last known post office address of the owner of the affected real estate and of the person filing the bankruptcy transcript.

2. Within three business days upon the filing of the bankruptcy transcript and the affidavit as provided in subsection 1, the clerk shall mail notice of the filing of the bankruptcy transcript to the owner of the affected real estate at the address given and shall make a note of the mailing in the docket. The notice shall include the name and post office address of the person filing the bankruptcy transcript and the attorney for that person, if any, in this state.

98 Acts, ch 1150, §3

626C.4 Stay.

1. If the real estate owner files an application for stay within twenty days of the date of mailing the notice of filing the bankruptcy transcript by the clerk with the district court in which the bankruptcy transcript is filed that an appeal from any portion of the bankruptcy transcript is pending or will be taken, or that a stay of execution has been granted, the court shall stay the effect of the bankruptcy transcript until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated.

2. The district court for the county in which the bankruptcy transcript is filed has no jurisdiction to stay the effects of the bankruptcy transcript either as initially filed or as amended if the transcript contains a certificate by the clerk of the bankruptcy court of any of the following:

a. The order affecting real estate has not been appealed and the time for filing an appeal has expired.

b. The order affecting real estate has been appealed and the order has been affirmed on appeal and is not further appealable.

c. An appeal from the order affecting real estate has been filed and no stay from that order has been granted by the bankruptcy court to the appealing party.

3. An amendment to the bankruptcy transcript demonstrating the finality of the

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bankruptcy court proceedings shall terminate any jurisdiction of the district court to stay the effects of the bankruptcy transcript.

98 Acts, ch 1150, §4

626C.5 Amendment.

A bankruptcy transcript may be amended as necessary to clear title to all real estate located in the county of filing which is affected by any bankruptcy without payment of any additional fee.

98 Acts, ch 1150, §5

626C.6 Fee.

For filing a bankruptcy transcript, the clerk shall collect a fee in the amount collected for filing and docketing a petition under section 602.8105, subsection 1, paragraph *"a"*.

98 Acts, ch 1150, §6

626C.7 Optional procedure.

The right of a party in interest or the owner of real estate to record all documents necessary to clear title to real estate involved in a bankruptcy case, instead of proceeding under this chapter, remains unimpaired.

98 Acts, ch 1150, §7

CHAPTER 626D

RECOGNITION AND ENFORCEMENT OF TRIBAL COURT CIVIL JUDGMENTS

Referred to in §624.24

626D.1 Title.
626D.2 Definitions.
626D.3 Filing procedures.
626D.4 Responses.
626D.5 Recognition and enforcement of tribal judgments.
626D.6 Stay — bond requirement on appeal.
626D.7 Contacting courts.
626D.8 Applicability.

626D.1 Title.

This chapter shall be cited as the *"Recognition and Enforcement of Tribal Court Civil Judgments Act"*.

2007 Acts, ch 192, §4

626D.2 Definitions.

As used in this chapter:

1. *"Tribal court"* means any court of any Indian or Alaska native tribe, band, nation, pueblo, village, or community that the United States secretary of the interior recognizes as an Indian tribe.

2. *"Tribal judgment"* means a written, civil judgment, order, or decree of a tribal court of record duly authenticated in accordance with the laws and procedures of the tribe or tribal court of record and in accordance with this chapter. For purposes of this subsection, a *"tribal court of record"* is considered a court of record if the court maintains a permanent record of the tribal court's proceedings, maintains either a transcript or electronic record of the tribal court's proceedings, and provides that a final judgment of a tribal court is reviewable on appeal.

2007 Acts, ch 192, §5

Referred to in §235B.6

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626D.3 Filing procedures.

1. A copy of any tribal judgment may be filed in the office of the clerk of court in any county in this state.

2. The person filing the tribal judgment shall make and file with the clerk of court an affidavit setting forth the name and last known address of the party seeking enforcement and the responding party. Upon the filing of the tribal judgment and accompanying affidavit, the enforcing party shall serve upon the responding party a notice of filing of the tribal judgment together with a copy of the tribal judgment in accordance with Iowa rule of civil procedure 1.442. The enforcing party shall file proof of service or mailing with the clerk of court. The notice of filing shall include the name and address of the enforcing party and the enforcing party's attorney, if any, and shall include the text contained in sections 626D.4 and 626D.5.

3. The filing of a tribal judgment shall not create a lien upon any real estate until such time as all challenges, if any, to the recognition and enforcement of the tribal judgment are concluded pursuant to sections 626D.4 and 626D.5. Upon a final and conclusive determination of enforceability of the tribal judgment, the judgment shall constitute a lien upon real estate pursuant to section 624.24.

4. The clerk of the district court shall collect a fee as provided in section 602.8105, subsection 1, for filing a tribal judgment.

2007 Acts, ch 192, §6; 2010 Acts, ch 1061, §76; 2010 Acts, ch 1159, §12
Referred to in §626D.7

626D.4 Responses.

Any objection to the enforcement of a tribal judgment shall be filed within thirty days of receipt of the mailing of the notice of filing the tribal judgment. If an objection is filed within such time period, the court shall set a time period for a formal response to the objection and may set the matter for hearing.

2007 Acts, ch 192, §7
Referred to in §626D.3, 626D.5

626D.5 Recognition and enforcement of tribal judgments.

1. Unless objected to pursuant to section 626D.4, a tribal judgment shall be recognized and enforced by the courts of this state to the same extent and with the same effect as any judgment, order, or decree of a court of this state.

2. If no objections are timely filed, the clerk shall issue a certification that no objections were timely filed and the tribal judgment shall be enforceable in the same manner as if issued by a valid court of this state.

3. A tribal judgment shall not be recognized and enforced if the objecting party demonstrates by a preponderance of the evidence at least one of the following:

a. The tribal court did not have personal or subject matter jurisdiction.

b. A party was not afforded due process.

4. The court may decline to recognize and enforce a tribal judgment on equitable grounds for any of the following reasons:

a. The tribal judgment was obtained by extrinsic fraud.

b. The tribal judgment conflicts with another filed judgment that is entitled to recognition in this state.

c. The tribal judgment is inconsistent with the parties' contractual choice of forum provided the contractual choice of forum issue was timely raised in the tribal court.

d. The tribal court does not recognize and enforce judgments of the courts of this state under standards similar to those provided in this chapter.

e. The cause of action or defense upon which the tribal judgment is based is repugnant to the fundamental public policy of the United States or this state.

2007 Acts, ch 192, §8; 2011 Acts, ch 34, §137
Referred to in §626D.3, 626D.7

626D.6 Stay — bond requirement on appeal.

1. If the objecting party demonstrates to the court that an appeal from the tribal judgment is pending or will be taken or that a stay of execution has been granted, the court may stay

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enforcement of the tribal judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated.

2. If a party appeals a district court's ruling on the recognition and enforcement of a tribal judgment, the court, upon application of the opposing party, shall require the same security for satisfaction of the judgment which is required in this state.

2007 Acts, ch 192, §9

626D.7 Contacting courts.

The district court, after notice to the parties, may attempt to resolve any issues raised regarding a tribal judgment pursuant to section 626D.3 or 626D.5, by contacting the tribal court judge who issued the judgment.

2007 Acts, ch 192, §10

626D.8 Applicability.

This chapter shall govern the procedures for the recognition and enforcement by the courts of this state of a civil judgment, order, or decree issued by a tribal court of any federally recognized Indian tribe emanating from a cause of action that accrued on or after July 1, 2007. The date that a cause of action accrues shall be determined under the appropriate laws of this state. This chapter does not impair the right of a party to seek enforcement under any other existing laws or procedures.

2007 Acts, ch 192, §11

CHAPTER 626E

APPLICATION OF FOREIGN LAW

626E.1 Application of foreign law.

626E.1 Application of foreign law.

1. As used in this section, "*foreign law*" means any law, legal code, or legal system of a jurisdiction outside any state or territory of the United States, including but not limited to laws or rules of international organizations, tribunals, or courts.

2. A ruling or decision of a court of this state, an arbitration panel, a tribunal, or an administrative agency that is based, in whole or in part, on a foreign law is void and unenforceable if application of the foreign law denies a party a fundamental liberty, right, or privilege guaranteed by the Constitution of the United States or the Constitution of the State of Iowa.

3. A contract, or a contractual provision if severable, that provides for the choice or application of a foreign law is void and unenforceable if application of the foreign law denies a party a fundamental liberty, right, or privilege guaranteed by the Constitution of the United States or the Constitution of the State of Iowa.

4. A contract, or a contractual provision if severable, that grants jurisdiction to a foreign tribunal or forum is void and unenforceable if exercise of jurisdiction by the foreign tribunal or forum results in application of a foreign law that denies a party a fundamental liberty, right, or privilege guaranteed by the Constitution of the United States or the Constitution of the State of Iowa.

5. This section shall not be construed to do any of the following:

a. Disapprove, abrogate, or overturn existing precedent of the supreme court.

b. Limit the adjudication of ecclesiastical or internal religious matters of a religious organization, including the selection, appointment, discipline, or removal of clergy, or the interpretation of religious doctrine.

c. Apply to a corporation, partnership, limited liability company, association, or any other type of business entity that voluntarily and knowingly subjects the corporation, partnership,

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limited liability company, association, or other type of business entity to foreign law or a foreign forum.

d. Apply in any circumstance in which federal law preempts state law, including obligations arising under treaties or international agreements to which the United States is a party.

2026 Acts, ch 1185, §2, 3

Section applies to civil actions, contracts, arbitrations, and administrative proceedings commenced on or after July 1, 2026; 2026 Acts, ch 1185, §3

NEW section

CHAPTER 627

EXEMPTIONS

Referred to in §10A.108, 64.15, 64.15A, 509.12

Proceeds from life and accident insurance, §633.333
Damages recovered from wrongful death, §633.336

627.1 Reserved.
627.2 Who deemed resident.
627.3 Failure to claim exemption.
627.4 Absconding debtor.
627.5 Purchase money.
627.6 General exemptions.
627.6A Exemptions for support — pensions and similar payments.
627.7 Motor vehicle.
627.8 Pension money.
627.9 Homestead bought with pension money.
627.10 Bankruptcy exemption.
627.11 Exception under decree for spousal support.
627.12 Exception under decree for child support.
627.13 Workers' compensation.
627.14 through 627.16 Reserved.
627.17 Sending claims out of state.
627.18 Public property.
627.19 Adopted child assistance.

627.1 Reserved.

627.2 Who deemed resident.

Any person coming into this state with the intention of remaining shall be considered a resident.

[C51, §1902; R60, §3308; C73, §3076; C97, §4014; C24, 27, 31, 35, 39, §**11756;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §627.2]

627.3 Failure to claim exemption.

Any person entitled to any of the exemptions mentioned in this chapter does not waive the person's rights thereto by failing to designate or select such exempt property, or by failing to object to a levy thereon, unless the person fails or neglects to do so when required in writing by the officer about to levy thereon.

[C51, §1898, 1899; R60, §3304, 3305, 3308; C73, §3072; C97, §4017; C24, 27, 31, 35, 39, §**11757;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §627.3]

627.4 Absconding debtor.

When a debtor absconds and leaves the debtor's family, such property as is exempt to the debtor under this chapter shall be exempt in the hands of the debtor's spouse and children, or either of them.

[R60, §3309; C73, §3078; C97, §4016; C24, 27, 31, 35, 39, §**11758;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §627.4]

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627.5 Purchase money.

None of the exemptions prescribed in this chapter shall be allowed against an execution issued for the purchase money of property claimed to be exempt, and on which such execution is levied.

[C73, §3077; C97, §4015; C24, 27, 31, 35, 39, §**11759;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §627.5]

627.6 General exemptions.

A debtor who is a resident of this state may hold exempt from execution the following property:

1. The debtor's interest in:

a. Any wedding or engagement ring owned or received by the debtor or the debtor's dependents. However, any interest acquired in one or more wedding or engagement rings owned or received by the debtor or the debtor's dependents after the date of marriage and within two years of the date the execution is issued or an exemption is claimed shall not exceed a value equal to seven thousand dollars in the aggregate minus the amount claimed by the debtor for any other jewelry claimed in paragraph *"b"*.

b. All jewelry of the debtor and the debtor's dependents owned or received by the debtor or the debtor's dependents, not to exceed in value two thousand dollars in the aggregate.

2. One shotgun, and either one rifle or one musket.

3. Private libraries, family bibles, portraits, pictures and paintings not to exceed in value one thousand dollars in the aggregate.

4. An interment space or an interest in a public or private burying ground, not exceeding one acre for any defendant.

5. The debtor's interest in all wearing apparel of the debtor and the debtor's dependents kept for actual use and the trunks or other receptacles necessary for the wearing apparel, musical instruments, household furnishings, and household goods which include, but are not limited to, appliances, radios, television sets, record or tape playing machines, compact disc players, satellite dishes, cable television equipment, computers, software, printers, digital video disc players, video players, and cameras held primarily for the personal, family, or household use of the debtor and the debtor's dependents, not to exceed in value seven thousand dollars in the aggregate.

6. The interest of an individual in any accrued dividend or interest, loan or cash surrender value of, or any other interest in a life insurance policy owned by the individual if the beneficiary of the policy is the individual's spouse, child, or dependent. However, the amount of the exemption shall not exceed ten thousand dollars in the aggregate of any interest or value in insurance acquired within two years of the date execution is issued or exemptions are claimed, or for additions within the same time period to a prior existing policy which additions are in excess of the amount necessary to fund the amount of face value coverage of the policies for the two-year period. For purposes of this unnumbered paragraph, acquisitions shall not include such interest in new policies used to replace prior policies to the extent of any accrued dividend or interest, loan or cash surrender value of, or any other interest in the prior policies at the time of their cancellation.

a. In the absence of a written agreement or assignment to the contrary, upon the death of the insured any benefit payable to the spouse, child, or dependent of the individual under a life insurance policy shall inure to the separate use of the beneficiary independently of the insured's creditors.

b. A benefit or indemnity paid under an accident, health, or disability insurance policy is exempt to the insured or in case of the insured's death to the spouse, child, or dependent of the insured, from the insured's debts.

c. In case of an insured's death the avails of all matured policies of life, accident, health, or disability insurance payable to the surviving spouse, child, or dependent are exempt from liability for all debts of the beneficiary contracted prior to death of the insured, but the amount thus exempted shall not exceed fifteen thousand dollars in the aggregate.

7. Professionally prescribed health aids for the debtor or a dependent of the debtor.

8. The debtor's rights in:

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a. A social security benefit, unemployment compensation, or any public assistance benefit.

b. A veteran's benefit.

c. A disability or illness benefit.

d. Alimony, support, or separate maintenance, to the extent reasonably necessary for the support of the debtor and dependents of the debtor.

e. A payment or a portion of a payment under a pension, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, unless the payment or a portion of the payment results from contributions to the plan or contract by the debtor within one year prior to the filing of a bankruptcy petition, which contributions are above the normal and customary contributions under the plan or contract, in which case the portion of the payment attributable to the contributions above the normal and customary rate is not exempt.

f. (1) Contributions and assets, including the accumulated earnings and market increases in value, in any of the plans or contracts as follows:

(a) All transfers, in any amount, from a trust forming part of a stock, bonus, pension, or profit-sharing plan of an employer defined in section 401(a) of the Internal Revenue Code and of which the trust assets are exempt from taxation under section 501(a) of the Internal Revenue Code and covered by the Employee Retirement Income Security Act of 1974 (ERISA), as codified at 29 U.S.C. §1001 et seq., to either of the following:

(i) A succeeding trust authorized under federal law on or after April 25, 2001.

(ii) An individual retirement account or individual retirement annuity established under section 408(d)(3) of the Internal Revenue Code, from which the total value, including accumulated earnings and market increases in value, may be contributed to a succeeding trust authorized under federal law on or after April 25, 2001. For purposes of this subparagraph division, transfers, in any amount, from an individual retirement account or individual retirement annuity established under section 408(d)(3) of the Internal Revenue Code to an individual retirement account or individual retirement annuity established under section 408(d)(3) of the Internal Revenue Code, or an individual retirement account established under section 408(a) of the Internal Revenue Code, or an individual retirement annuity established under section 408(b) of the Internal Revenue Code, or a Roth individual retirement account, or a Roth individual retirement annuity established under section 408A of the Internal Revenue Code are exempt.

(b) (i) All transfers, in any amount, from an eligible retirement plan to an individual retirement account, an individual retirement annuity, a Roth individual retirement account, or a Roth individual retirement annuity established under section 408A of the Internal Revenue Code shall be exempt from execution and from the claims of creditors.

(ii) As used in this subparagraph division, "*eligible retirement plan*" means the funds or assets in any retirement plan established under state or federal law that meet all of the following requirements:

(A) Can be transferred to an individual retirement account or individual retirement annuity established under sections 408(a) and 408(b) of the Internal Revenue Code or Roth individual retirement accounts and Roth individual retirement annuities established under section 408A of the Internal Revenue Code.

(B) Are either exempt from execution under state or federal law or are excluded from a bankruptcy estate under 11 U.S.C. §541(c)(2) et seq.

(c) Retirement plans established pursuant to qualified domestic relations orders, as defined in 26 U.S.C. §414. However, nothing in this section shall be construed as making any retirement plan exempt from the claims of the beneficiary of a qualified domestic relations order or from claims for child support or alimony.

(d) For simplified employee pension plans, self-employed pension plans (also known as Keogh plans or H.R. 10 plans), individual retirement accounts established under section 408(a) of the Internal Revenue Code, individual retirement annuities established under section 408(b) of the Internal Revenue Code, savings incentive matched plans for employees, salary reduction simplified employee pension plans (also known as SARSEPs), and similar plans for retirement investments authorized in the future under federal law, the exemption

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for contributions shall not exceed, for each tax year of contributions, the actual amount of the contribution deducted on the debtor's tax return or the maximum amount which could be contributed to an individual retirement account established under section 408(a) of the Internal Revenue Code and deducted in the tax year of the contribution, whichever is less. The exemption for accumulated earnings and market increases in value of plans under this subparagraph division shall be limited to an amount determined by multiplying all the accumulated earnings and market increases in value by a fraction, the numerator of which is the total amount of exempt contributions as determined by this subparagraph division, and the denominator of which is the total of exempt and nonexempt contributions to the plan.

(e) For Roth individual retirement accounts and Roth individual retirement annuities established under section 408A of the Internal Revenue Code and similar plans for retirement investments authorized in the future under federal law, the exemption for contributions shall not exceed, for each tax year of contributions, the actual amount of the contribution or the maximum amount which federal law allows to be contributed to such plans. The exemption for accumulated earnings and market increases in value of plans under this subparagraph division shall be limited to an amount determined by multiplying all of the accumulated earnings and market increases in value by a fraction, the numerator of which is the total amount of exempt contributions as determined by this subparagraph division, and the denominator of which is the total of exempt and nonexempt contributions to the plan.

(f) For all contributions to plans described in subparagraph divisions (d) and (e), the maximum contribution in each of the two tax years preceding the claim of exemption or filing of a bankruptcy shall be limited to the maximum deductible contribution to an individual retirement account established under section 408(a) of the Internal Revenue Code, regardless of which plan for retirement investment has been chosen by the debtor.

(g) Exempt assets transferred from any individual retirement account, individual retirement annuity, Roth individual retirement account, or Roth individual retirement annuity to any other individual retirement account, individual retirement annuity, Roth individual retirement annuity, or Roth individual retirement account established under section 408A of the Internal Revenue Code shall continue to be exempt regardless of the number of times transferred between individual retirement accounts, individual retirement annuities, Roth individual retirement annuities, or Roth individual retirement accounts.

(2) For purposes of this paragraph *"f"*, *"market increases in value"* shall include, but shall not be limited to, dividends, stock splits, interest, and appreciation. *"Contributions"* means contributions by the debtor and by the debtor's employer.

9. The debtor's interest in one motor vehicle, not to exceed in value seven thousand dollars.

10. In the event of a bankruptcy proceeding, the debtor's interest in accrued wages and in state and federal tax refunds as of the date of filing of the petition in bankruptcy, not to exceed one thousand dollars in the aggregate. This exemption is in addition to the limitations contained in sections 642.21 and 537.5105.

11. If the debtor is engaged in any profession or occupation other than farming, the proper implements, professional books, or tools of the trade of the debtor or a dependent of the debtor, not to exceed in value ten thousand dollars in the aggregate.

12. If the debtor is engaged in farming and does not exercise the delay of the enforceability of a deficiency judgment or general execution under section 654.6 in relation to the execution under which the exemption is claimed, any combination of the following, not to exceed a value of ten thousand dollars in the aggregate:

a. Implements and equipment reasonably related to a normal farming operation. This exemption is in addition to a motor vehicle held exempt under subsection 9.

b. Livestock and feed for the livestock reasonably related to a normal farming operation.

13. If the debtor is engaged in farming the agricultural land upon the commencement of an action for the foreclosure of a mortgage on the agricultural land or for the enforcement of an obligation secured by a mortgage on the agricultural land, if a deficiency judgment is issued against the debtor, and if the debtor does not exercise the delay of the enforceability of the deficiency judgment or general execution under section 654.6 in relation to the execution under which the exemption is claimed, the disposable earnings of the debtor are exempt

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from garnishment to enforce the deficiency judgment after two years from the entry of the deficiency judgment, sections 642.21 and 642.22 notwithstanding. However, earnings paid to the debtor directly or indirectly by the debtor are not exempt.

14. The debtor's interest, not to exceed one thousand dollars in the aggregate, in any cash on hand, bank deposits, credit union share drafts, or other deposits, wherever situated, or in any other personal property whether otherwise exempt or not under this chapter.

15. *a.* The debtor's interest, not to exceed five hundred dollars in the aggregate, in any combination of the following property:

(1) Any residential rental deposit held by a landlord as a security deposit, as well as any interest earned on such deposit as a result of any statute or rule requiring that such deposit be placed in an interest-bearing account.

(2) Any residential utility deposit held by any electric, gas, telephone, or water company as a condition for initiation or reinstatement of such utility service, as well as any interest earned on such deposit as a result of any statute or rule requiring that such deposit be placed in an interest-bearing account.

(3) Any rent paid to the landlord in advance of the date due under any unexpired residential lease.

b. Notwithstanding the provisions of this subsection, a debtor shall not be permitted to claim these exemptions against a landlord or utility company, with regard to sums held under the terms of a rental agreement, or for utility services furnished to the debtor.

16. The debtor's interest in payments reasonably necessary for the support of the debtor or the debtor's dependents to or for the benefit of the debtor or the debtor's dependents, including structured settlements, resulting from personal injury to the debtor or the debtor's dependents or the wrongful death of a decedent upon which the debtor or the debtor's dependents were dependent.

17. The debtor's interest, whether as participant or beneficiary, in contributions and assets, including the accumulated earnings and market increases in value, held in an account in the Iowa educational savings plan trust organized under chapter 12D.

18. The debtor's interest, whether as participant or beneficiary, in contributions and assets, including the accumulated earnings and market increases in value, held in an account in the FirstHome Iowa program trust organized under chapter 12L.

[C51, §1898, 1899; R60, §3304, 3305, 3308; C73, §3072; C97, §4008; C24, 27, 31, 35, 39, §**11760;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §627.6; 81 Acts, ch 182, §3]

86 Acts, ch 1216, §4 – 6; 88 Acts, ch 1255, §3 – 7; 92 Acts, ch 1061, §1, 2; 96 Acts, ch 1136, §1; 99 Acts, ch 131, §1 – 3; 2001 Acts, ch 80, §1 – 4; 2001 Acts, ch 176, §77; 2006 Acts, ch 1086, §1, 2; 2007 Acts, ch 114, §1; 2007 Acts, ch 126, §104; 2010 Acts, ch 1059, §1; 2013 Acts, ch 30, §188, 189, 261; 2018 Acts, ch 1161, §146 – 148; 2026 Acts, ch 1115, §38

Referred to in §627.6A
Exemptions denied for violators of alcoholic beverage laws, §123.113
Judgment for exempt property, §643.22
NEW subsection 18

627.6A Exemptions for support — pensions and similar payments.

1. Notwithstanding the provisions of section 627.6, a debtor shall not be permitted to claim exemptions with regard to payment or a portion of payment under a pension, annuity, individual retirement account, profit-sharing plan, universal life insurance policy, or similar plan or contract due to illness, disability, death, age, or length of service for child, spousal, or medical support.

2. In addition to subsection 1, if another provision of law otherwise provides that payments, income, or property are subject to attachment for child, spousal, or medical support, those provisions shall supersede section 627.6.

97 Acts, ch 175, §237

627.7 Motor vehicle.

No motor vehicle shall be held exempt from any order, judgment, or decree for damages occasioned by the use of said motor vehicle upon a public highway of this state.

[C31, 35, §11760-c1; C39, §**11760.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §627.7]

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627.8 Pension money.

All money received by any person, a resident of the state, as a pension from the United States government, whether the same shall be in the actual possession of such pensioner, or deposited, loaned, or invested by the pensioner, shall be exempt from execution, whether such pensioner shall be the head of a family or not.

[C97, §4009; C24, 27, 31, 35, 39, §**11761;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §627.8]

627.9 Homestead bought with pension money.

The homestead of every such pensioner, whether the head of a family or not, purchased and paid for with any such pension money, or the proceeds or accumulations thereof, shall also be exempt; and such exemption shall apply to debts of such pensioner contracted prior to the purchase of the homestead.

[C97, §4010; C24, 27, 31, 35, 39, §**11762;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §627.9]

627.10 Bankruptcy exemption.

A debtor to whom the law of this state applies on the date of filing of a petition in bankruptcy is not entitled to elect to exempt from property of the bankruptcy estate the property that is specified in 11 U.S.C. §522(d) (1979). This section is enacted for the purpose set forth in 11 U.S.C. §522(b)(1) (1979).

[81 Acts, ch 182, §2]

627.11 Exception under decree for spousal support.

If the party in whose favor the order, judgment, or decree for the support of a spouse was rendered has not remarried, the personal earnings of the debtor are not exempt from an order, judgment, or decree for temporary or permanent support, as defined in section 252D.16, of a spouse, nor from an installment of an order, judgment, or decree for the support of a spouse.

[C24, 27, 31, 35, 39, §**11764;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §627.11]

85 Acts, ch 178, §12; 97 Acts, ch 175, §238

Referred to in §512B.18

627.12 Exception under decree for child support.

The personal earnings of the debtor are not exempt from an order, judgment, or decree for the support, as defined in section 252D.16, of a child, nor from an installment of an order, judgment, or decree for the support of a child.

[C24, 27, 31, 35, 39, §**11765;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §627.12]

85 Acts, ch 178, §13; 97 Acts, ch 175, §239

Referred to in §512B.18, 642.21

627.13 Workers' compensation.

Notwithstanding the provisions of sections 554.9406 and 554.9408, any compensation due or that may become due an employee or dependent under chapter 85, 85A, or 85B is exempt from garnishment, attachment, execution, and assignment of income, except for the purposes of enforcing child, spousal, or medical support obligations. For the purposes of enforcing child, spousal, or medical support obligations, an assignment of income, garnishment or attachment of or the execution against compensation due an employee under chapter 85, 85A, or 85B is not exempt but shall be limited as specified in 15 U.S.C. §1673(b).

[C24, 27, 31, 35, 39, §**11766;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §627.13]

92 Acts, ch 1195, §511; 94 Acts, ch 1171, §50; 2001 Acts, ch 87, §8

627.14 through 627.16 Reserved.

627.17 Sending claims out of state.

Whoever, whether as principal, agent, or attorney, with intent to deprive a resident in good faith of the state of the benefit of the exemption laws thereof, sends a claim against such resident and belonging to a resident, to another state for action, or causes action to be brought on such claim in another state, or assigns or transfers such claim to a nonresident of the state, with intent that action thereon be brought in the courts of another state, the action in either

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case being one which might have been brought in this state, and the property or debt sought to be reached by such action being such as might, but for the exemptions laws of this state, have been reached by action in the courts of this state, shall be guilty of a simple misdemeanor.

[C97, §4018; C24, 27, 31, 35, 39, §**11770;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §627.17]

627.18 Public property.

Public buildings owned by the state, or any county, city, school district, or other municipal corporation, or any other public property which is necessary and proper for carrying out the general purpose for which such corporation is organized, are exempt from execution.

[C51, §1895; R60, §3274; C73, §3048; C97, §4007; C24, 27, 31, 35, 39, §**11771;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §627.18; 81 Acts, ch 182, §4]

Judgment against state does not constitute lien against public property, §626.109

627.19 Adopted child assistance.

Any financial assistance due or that may become due, under the provisions of sections 600.17 through 600.22, shall be exempt from garnishment, attachment, and execution.

[C73, 75, 77, 79, 81, §627.19]

CHAPTER 628

REDEMPTION

Referred to in §654.16, 654.25

628.1 Place of redemption.
628.1A Application of this chapter.
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628.3 Redemption by debtor.
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628.9 Senior creditor.
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628.17 Claim extinguished.
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628.21 Contest determined.
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628.23 Redemption of part of property.
628.24 Interest of tenant in common.
628.25 Transfer of debtor's right.
628.26 Agreement to reduce period of redemption.
628.26A Agreement to extend period of redemption — agricultural land.
628.27 Redemption where property abandoned.
628.28 Redemption of property not used for agricultural or certain residential purposes.
628.29 Redemption by creditor pursuant to alternative foreclosure.

628.1 Place of redemption.

All redemptions made under the provisions of this chapter shall be made in the county where the sale is had.

[S13, §4051; C24, 27, 31, 35, 39, §**11772;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §628.1]

628.1A Application of this chapter.

This chapter does not apply in an action to foreclose a real estate mortgage if the plaintiff has elected foreclosure without redemption under section 654.20.

87 Acts, ch 142, §16

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628.2 When sale absolute.

When real property has been levied upon, if the estate is less than a leasehold having two years of an unexpired term, the sale is absolute, but if of a larger amount, it is redeemable as prescribed in this chapter.

[C51, §1924; R60, §3329, 3330; C73, §3098, 3099; C97, §4043; C24, 27, 31, 35, 39, §**11773;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §628.2]

2019 Acts, ch 59, §205

628.3 Redemption by debtor.

The debtor may redeem real property at any time within one year from the day of sale, and will, in the meantime, be entitled to the possession thereof; and for the first six months thereafter such right of redemption is exclusive. Any real property redeemed by the debtor shall thereafter be free and clear from any liability for any unpaid portion of the judgment under which said real property was sold.

[C51, §1926, 1927; R60, §3332, 3333; C73, §3102, 3103; C97, §4045; C24, 27, 31, 35, 39, §**11774;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §628.3]

Referred to in §535.8, 628.5, 628.26, 628.26A

628.4 Redemption prohibited.

A party who has stayed execution on the judgment is not entitled to redeem.

[C73, §3102; C97, §4045; C24, 27, 31, 35, 39, §**11775;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §628.4]

83 Acts, ch 186, §10115, 10201; 87 Acts, ch 142, §1

628.5 Redemption by creditors.

If redemption is not made by the debtor as provided in section 628.3, thereafter, and at any time within nine months from the day of sale, redemption may be made by a mortgagee before or after the debt secured by the mortgage falls due, or by any creditor whose claim becomes a lien prior to the expiration of the time allowed for redemption.

[C51, §1927, 1928; R60, §3333, 3334; C73, §3103, 3104; C97, §4046; C24, 27, 31, 35, 39, §**11776;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §628.5]

2019 Acts, ch 59, §206

Referred to in §535.8, 628.26, 628.27, 628.28

628.6 Mechanic's lien before judgment.

A mechanic's lien before judgment thereon is not of such character as to entitle the holder to redeem.

[C51, §1927; R60, §3333; C73, §3103; C97, §4046; C24, 27, 31, 35, 39, §**11777;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §628.6]

628.7 Probate creditor.

The owner of a claim which has been allowed and established against the estate of a decedent may redeem as in this chapter provided, by making application to the district court of the district where the real estate to be redeemed is situated. Such application shall be heard after notice to such parties as said court may direct, and shall be determined with due regard to rights of all persons interested.

[C97, §4046; C24, 27, 31, 35, 39, §**11778;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §628.7]

628.8 Redemption by creditors from each other.

Creditors having the right of redemption may redeem from each other within the time and in the manner provided in this chapter.

[C51, §1929; R60, §3335; C73, §3105; C97, §4047; C24, 27, 31, 35, 39, §**11779;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §628.8]

2019 Acts, ch 59, §207

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628.9 Senior creditor.

When a senior creditor thus redeems from the senior creditor's junior, the senior creditor is required to pay off only the amount of those liens which are paramount to the senior creditor's own, with the interest and costs appertaining to those liens.

[C51, §1931; R60, §3337; C73, §3107; C97, §4048; C24, 27, 31, 35, 39, §**11780;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §628.9]

628.10 Junior may prevent.

The junior creditor may in all such cases prevent a redemption by the holder of the paramount lien by paying off the lien, or by leaving with the clerk beforehand the amount necessary therefor, and a junior judgment creditor may redeem from a senior judgment creditor.

[C51, §1932; R60, §3338, 3339; C73, §3108, 3109; C97, §4049; C24, 27, 31, 35, 39, §**11781;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §628.10]

628.11 Terms.

The terms of redemption, when made by a creditor, in all cases shall be the reimbursement of the amount bid or paid by the holder of the certificate, including all costs, with interest the same as the lien redeemed from bears on the amount of such bid or payment, from the time thereof.

[C51, §1930; R60, §3336; C73, §3106; C97, §4050; C24, 27, 31, 35, 39, §**11782;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §628.11]

Advancements to protect lien, §629.2

628.12 Mortgage not matured — interest.

Where a mortgagee whose claim is not yet due is the person from whom the redemption is thus to be made, the mortgagee shall receive on such mortgage only the amount of the principal thereby secured, with unpaid interest thereon to the time of such redemption.

[C51, §1930; R60, §3336; C73, §3106; C97, §4050; C24, 27, 31, 35, 39, §**11783;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §628.12]

628.13 By holder of title.

1. The terms of redemption, when made by the titleholder, shall be the payment into the clerk's office of the amount of the certificate, and all sums paid by the holder thereof in effecting redemptions, added to the amount of the holder's own lien, or the amount the holder has credited on the lien, if less than the whole, with interest at contract rate on the certificate of sale from its date, and upon sums so paid by way of redemption from date of payment, and upon the amount credited on the holder's own judgment from the time of the credit, in each case including costs.

2. Redemption may also be made by the titleholder presenting to the clerk of the district court the sheriff's certificate of sale properly assigned to the titleholder, whereupon the clerk of the district court shall cancel the certificate.

[C51, §1930; R60, §3336; C73, §3106; C97, §4051; S13, §4051; C24, 27, 31, 35, 39, §**11784;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §628.13]

95 Acts, ch 91, §6; 2019 Acts, ch 59, §208

Referred to in §602.8102(102)

628.14 By junior from senior creditor.

When a senior redeems from a junior creditor, the latter may, in return, redeem from the former, and so on, as often as the land is taken from the creditor by virtue of a paramount lien.

[C51, §1933; R60, §3341; C73, §3111; C97, §4052; C24, 27, 31, 35, 39, §**11785;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §628.14]

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628.15 After nine months.

After the expiration of nine months from the day of sale, the creditors can no longer redeem from each other, except as provided in the chapter.

[C51, §1934; R60, §3342; C73, §3112; C97, §4053; C24, 27, 31, 35, 39, §**11786;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §628.15]

2019 Acts, ch 59, §209

Referred to in §535.8, 628.26, 628.27, 628.28

628.16 Who gets property.

Unless the defendant redeems, the purchaser, or the creditor who has last redeemed prior to the expiration of the nine months from the day of sale, will hold the property absolutely.

[C51, §1935; R60, §3343; C73, §3113; C97, §4054; C24, 27, 31, 35, 39, §**11787;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §628.16]

2019 Acts, ch 59, §210

Referred to in §535.8, 628.26, 628.27, 628.28

628.17 Claim extinguished.

If the property is held by a redeeming creditor, the redeeming creditor's lien, and the claim out of which the lien arose, will be held to be extinguished, unless the redeeming creditor pursues the course pointed out in sections 628.18 through 628.20.

[C51, §1936; R60, §3344; C73, §3114; C97, §4055; C24, 27, 31, 35, 39, §**11788;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §628.17]

2019 Acts, ch 59, §211

628.18 Mode of redemption.

The mode of redemption by a lienholder shall be by paying into the clerk's office the amount necessary to effect the same, computed as above provided, and filing therein the lienholder's affidavit, or that of the lienholder's agent or attorney, stating as nearly as practicable the nature of the lien and the amount still due and unpaid thereon.

[C51, §1938, 1940; R60, §3346, 3348; C73, §3116, 3118; C97, §4056; C24, 27, 31, 35, 39, §**11789;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §628.18]

Referred to in §602.8102(102), 628.17

628.19 Credit on lien.

If the lienholder is unwilling to hold the property and credit the debtor with the full amount of the lienholder's lien, the lienholder must state the utmost amount that the lienholder is willing to credit the debtor.

[R60, §3345; C73, §3115; C97, §4056; C24, 27, 31, 35, 39, §**11790;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §628.19]

2019 Acts, ch 24, §85

Referred to in §628.17

628.20 Excess payment — credit.

If the amount paid to the clerk is in excess of the prior bid and liens, the clerk shall refund the excess to the party paying the amount. If the clerk is the clerk of the district court where the judgment giving rise to the lien was entered, the clerk shall credit upon the lien the full amount thereof, including interest and costs, or such less amount as the lienholder is willing to credit therein, as shown by the affidavit filed.

[C51, §1937, 1939, 1941; R60, §3340, 3347, 3349; C73, §3110, 3117, 3119; C97, §4056; C24, 27, 31, 35, 39, §**11791;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §628.20]

95 Acts, ch 91, §7

Referred to in §602.8102(102), 628.17

628.21 Contest determined.

In case any question arises as to the right to redeem, or the amount of any lien, the person claiming such right may deposit the necessary amount therefor with the clerk, accompanied with the affidavit above required, and also stating therein the nature of such question or objection, which question or objection shall be submitted to the court as soon as practicable

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thereafter, upon such notice as it shall prescribe of the time and place of the hearing of the controversy, at which time and place the matter shall be tried upon such evidence and in such manner as may be prescribed, and the proper order made and entered of record in the cause in which execution issued, and the money so paid in shall be held by the clerk subject to the order made.

[C97, §4057; C24, 27, 31, 35, 39, §**11792;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §628.21]

628.22 Assignment of certificate.

A creditor redeeming pursuant to this chapter is entitled to receive an assignment of the certificate issued by the sheriff to the original purchaser.

[C51, §1942; R60, §3350; C73, §3120; C97, §4058; C24, 27, 31, 35, 39, §**11793;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §628.22]

2019 Acts, ch 59, §212

628.23 Redemption of part of property.

When the property has been sold in parcels, any distinct portion may be redeemed by itself.

[C51, §1943; R60, §3351; C73, §3121; C97, §4059; C24, 27, 31, 35, 39, §**11794;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §628.23]

628.24 Interest of tenant in common.

When the interests of several tenants in common have been sold on execution, the undivided portion of any or either of them may be redeemed separately.

[C51, §1944; R60, §3352; C73, §3122; C97, §4060; C24, 27, 31, 35, 39, §**11795;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §628.24]

628.25 Transfer of debtor's right.

The rights of a debtor in relation to redemption are transferable, and the assignee has the like power to redeem.

[C51, §1945; R60, §3353; C73, §3123; C97, §4061; C24, 27, 31, 35, 39, §**11796;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §628.25]

628.26 Agreement to reduce period of redemption.

The mortgagor and the mortgagee of real property consisting of less than ten acres in size may agree and provide in the mortgage instrument that the period of redemption after sale on foreclosure of said mortgage as set forth in section 628.3 be reduced to six months, or reduced to three months if the property is not used for an agricultural purpose as defined in section 535.13, provided in all cases under this section that the mortgagee waives in the foreclosure action any rights to a deficiency judgment against the mortgagor which might arise out of the foreclosure proceedings. In such event the debtor will, in the meantime, be entitled to the possession of said real property; and if such redemption period is so reduced, for the first two months after sale such right of redemption shall be exclusive to the debtor, and the time periods in sections 628.5, 628.15, and 628.16, shall be reduced to three months.

[C62, 66, 71, 73, 75, 77, 79, 81, §628.26]

2018 Acts, ch 1148, §3

Referred to in §654.25

628.26A Agreement to extend period of redemption — agricultural land.

Notwithstanding section 628.3, the debtor and the mortgagee of agricultural land after the filing of the foreclosure petition, may enter into a written agreement to extend the debtor's period of redemption up to five years, and may set forth other terms and conditions of the extended redemption as agreed upon by the parties, including allowing the debtor to lease the property. However, the rights of the debtor and other parties who have a secured interest in the agricultural land shall not be reduced beyond those set forth in this chapter. The agreement entered into by the debtor and the mortgagee pursuant to this section must

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be approved by the court and shall be filed in the foreclosure proceedings. An agreement pursuant to this section does not constitute an equitable mortgage.

85 Acts, ch 252, §43
Referred to in §615.4

628.27 Redemption where property abandoned.

The mortgagor and the mortgagee of any tract of real property consisting of less than ten acres in size may also agree and provide in the mortgage instrument that the court in a decree of foreclosure may find affirmatively that the tract has been abandoned by the owners and those persons personally liable under the mortgage at the time of such foreclosure, and that should the court so find, and if the mortgagee shall waive any rights to a deficiency judgment against the mortgagor or the mortgagor's successors in interest in the foreclosure action, then the period of redemption after foreclosure shall be reduced to sixty days. If the redemption period is so reduced, the mortgagor or the mortgagor's successors in interest or the owner shall have the exclusive right to redeem for the first thirty days after such sale and the times of redemption by creditors provided in sections 628.5, 628.15 and 628.16 shall be reduced to forty days. Entry of appearance by pleading or docket entry by or on behalf of the mortgagor shall be a presumption that the property is not abandoned.

[C71, 73, 75, 77, 79, 81, §628.27]
Referred to in §654.25

628.28 Redemption of property not used for agricultural or certain residential purposes.

1. If real property is not used for agricultural purposes, as defined in section 535.13, and is not the residence of the debtor, or if it is the residence of the debtor but not a single-family or two-family dwelling, then the period of redemption after foreclosure is one hundred eighty days. For the first ninety days after the sale the right of redemption is exclusive to the debtor and the time periods provided in sections 628.5, 628.15, and 628.16 are reduced to one hundred thirty-five days. If a deficiency judgment has been waived the period of redemption is reduced to ninety days. For the first thirty days after the sale the redemption is exclusively the right of the debtor and the time periods provided in sections 628.5, 628.15, and 628.16 are reduced to sixty days.

2. If real property is not used for agricultural purposes, as defined in section 535.13, and is a single-family or two-family dwelling which is the residence of the debtor at the time of foreclosure but the court finds that after foreclosure the dwelling has ceased to be the residence of the debtor and if there are no junior creditors, the court shall order the period of redemption reduced to thirty days from the date of the court order. If there is a junior creditor, the court shall order the redemption period reduced to sixty days. For the first thirty days redemption is the exclusive right of the debtor and the time periods provided in sections 628.5, 628.15, and 628.16 are reduced to forty-five days.

84 Acts, ch 1116, §1; 85 Acts, ch 195, §58; 87 Acts, ch 98, §3; 2023 Acts, ch 64, §97
Referred to in §654.1A

628.29 Redemption by creditor pursuant to alternative foreclosure.

A lienholder of record may redeem real property which has been foreclosed by a mortgagee pursuant to the alternative voluntary foreclosure procedure provided in section 654.18. The junior lienholders' redemption period shall be thirty days commencing the day the notice required by section 654.18, subsection 1, paragraph *"e"* is sent. The redemption shall be made by payment to the mortgagee of the amount of the debt secured by the mortgage including any protective advances made pursuant to chapter 629. Upon payment, the mortgagee shall convey the property by special warranty deed to the redeeming junior lienholder.

85 Acts, ch 252, §44
Referred to in §654.18

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CHAPTER 629

PROTECTION OF ADVANCEMENTS

Referred to in §628.29

629.1 Lienholder's advancements protected — affidavit filed.
629.2 Redemption — payment of advances.
629.3 Record of lien.
629.4 Lienholder's advancements — enforcement.

629.1 Lienholder's advancements protected — affidavit filed.

The holder of a sheriff's sale certificate or junior or senior lien upon real estate after the payment of any delinquency of taxes or special assessment, insurance premiums or money for necessary repairs, maintenance or preservation of the property, interest on a senior lien, or any sum to cure a breach of a condition of a senior encumbrance, may file with the clerk of the district court in the county in which the land is situated, a verified statement of the expenditures and their dates, together with a description of the real estate, the name of the record owner, and a reference to the interest of the record owner.

[C24, 27, 31, 35, 39, §**11797;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §629.1]

84 Acts, ch 1248, §3

Referred to in §629.4

629.2 Redemption — payment of advances.

When such advancements have been made by the holder of a sheriff's sale certificate the sum so advanced shall be a part of the amount required to redeem from said sheriff's sale.

[C24, 27, 31, 35, 39, §**11798;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §629.2]

629.3 Record of lien.

It shall be the duty of the clerk of the district court to record the statements so filed in the encumbrance book and to enter the same in the lien index. Payments advanced after execution has been issued upon the junior lien, shall be added to the execution upon receipt, by the sheriff, of a verified statement of such advancements and when the redemption period has expired the clerk shall release them on the clerk's record.

[C24, 27, 31, 35, 39, §**11799;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §629.3]

Referred to in §331.653, 602.8102(103)

629.4 Lienholder's advancements — enforcement.

When an advancement described in section 629.1 has been made by the holder of a junior or senior lien, the amount of that expenditure plus the interest on it shall be added to the amount of the lienholder's original lien and have the same priority as the original lien and the lienholder may recover the increased amount in any action brought for the foreclosure of the junior or senior lien referred to in the verified statement.

84 Acts, ch 1248, §2

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CHAPTER 630

PROCEEDINGS AUXILIARY TO EXECUTION

Referred to in §441.17, 537.5104

630.1 Debtor examined.
630.2 Affidavit as to property.
630.3 By whom order granted.
630.3A Hearing to determine judgment debtor's income.
630.4 Debtor interrogated.
630.5 Witnesses examined.
630.6 Disposition of property.
630.7 Receiver — injunction.
630.8 Equitable interest sold.
630.9 Sheriff as receiver.
630.10 Continuance.
630.11 Debtor failing to appear — contempt.
630.12 Service of order.
630.13 Compensation.
630.14 Warrant of arrest.
630.15 Bond.
630.16 Equitable proceedings.
630.17 Answers verified — petition taken as true.
630.18 Lien created.
630.19 Surrender of property enforced.

630.1 Debtor examined.

When execution against the property of a judgment debtor, or one of several debtors in the same judgment, has been issued from the district court or an appellate court to the sheriff of the county where such debtor resides, or if the debtor does not reside in the state, to the sheriff of the county where the judgment was rendered, and execution issued thereon is returned unsatisfied in whole or in part, the owner of the judgment is entitled to an order for the appearance and examination of the debtor.

[C51, §1953; R60, §3375; C73, §3135; C97, §4072; C24, 27, 31, 35, 39, §**11800;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §630.1]

630.2 Affidavit as to property.

The like order may be obtained at any time after the issuing of an execution, upon proof, by the affidavit of the party or otherwise, to the satisfaction of the court who is to grant the same, that any judgment debtor has property which the debtor unjustly refuses to apply towards the satisfaction of the judgment.

[C51, §1954; R60, §3376; C73, §3136; C97, §4073; C24, 27, 31, 35, 39, §**11801;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §630.2]

630.3 By whom order granted.

Such order may be made by the district court in which the judgment was rendered, or by the district court of the county to which execution has been issued. The debtor may be required to appear and answer before either of such courts, or before a referee appointed for that purpose by the court who issued the order, to report either the evidence or the facts.

[C51, §1955; R60, §3377, 3385; C73, §3137; C97, §4074; C24, 27, 31, 35, 39, §**11802;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §630.3]

630.3A Hearing to determine judgment debtor's income.

At any time after the rendition of judgment the court, upon application of the judgment creditor or the judgment debtor and upon notice to the adverse party as the court shall direct, shall conduct a hearing to determine the reasonably expected annual earnings of the judgment debtor for the current calendar year and the applicable limitation upon garnishment as provided in section 642.21. The court shall also consider in the interest of justice whether a greater amount than provided in section 642.21 shall be exempt from garnishment. In making the determination the court shall consider the age, number and circumstances of the dependents of the debtor, existing federal poverty level guidelines, the debtor's maintenance and support needs, the debtor's other financial obligations and any other relevant information. An order reducing the garnishment may be modified or vacated upon the application of a party to the court, notice to the adverse party, and a showing

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at a hearing of changed circumstances. An additional filing fee shall not be assessed for proceedings under this section.

84 Acts, ch 1239, §8
Referred to in §642.14A

630.4 Debtor interrogated.

The debtor, on the debtor's appearance, may be interrogated in relation to any facts calculated to show the amount of the debtor's property, or the disposition which has been made of it, or any other matter pertaining to the purpose for which the examination is permitted to be made. The interrogatories and answers shall be reduced to writing and preserved by the court or officer before whom they are taken. All examinations and answers under this chapter shall be on oath.

[C51, §1956; R60, §3378; C73, §3138; C97, §4075; C24, 27, 31, 35, 39, §**11803;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §630.4]

630.5 Witnesses examined.

Witnesses may be required by order of the court or by subpoenas from the referee, to appear and testify upon any proceedings under this chapter, in the same manner as upon the trial of an issue.

[R60, §3379; C73, §3139; C97, §4076; C24, 27, 31, 35, 39, §**11804;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §630.5]

630.6 Disposition of property.

If any property, rights, or credits subject to execution are thus ascertained, an execution may be issued and the same levied upon. The court may order any property of the judgment debtor not exempt, in the hands of the debtor or others or due the debtor, to be delivered up, or in any other mode applied towards the satisfaction of the judgment.

[C51, §1957; R60, §3380; C73, §3140; C97, §4077; C24, 27, 31, 35, 39, §**11805;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §630.6]

630.7 Receiver — injunction.

The court may also, by order, appoint the sheriff of the proper county or other suitable person, a receiver of the property of the judgment debtor, or by injunction forbid a transfer or other disposition of the property of the judgment debtor, not exempt by law, or any interference therewith.

[R60, §3381; C73, §3141; C97, §4078; C24, 27, 31, 35, 39, §**11806;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §630.7]
Referred to in §331.653

630.8 Equitable interest sold.

If it shall appear that the judgment debtor has any equitable interest in real estate in the county in which proceedings are had, as mortgagor, mortgagee, or otherwise, and the interest of said debtor can be ascertained as between the debtor and the person holding the legal estate or having any lien on or interest in the same, without controversy as to the interest of such person, the receiver may be ordered to sell and convey the same, or the debtor's equitable interest therein, in the same manner as is provided for the sale of real estate upon execution.

[R60, §3382; C73, §3142; C97, §4079; C24, 27, 31, 35, 39, §**11807;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §630.8]
Sale of real estate, §626.74 et seq.

630.9 Sheriff as receiver.

If the sheriff is appointed receiver, the sheriff and the sheriff's sureties shall be liable on the sheriff's official bond for the faithful discharge of the sheriff's duties as such.

[R60, §3383; C73, §3143; C97, §4080; C24, 27, 31, 35, 39, §**11808;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §630.9]
Referred to in §331.653

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630.10 Continuance.

The court or referee acting under the provisions of this chapter shall have power to continue the proceedings from time to time until they shall be completed.

[R60, §3384; C73, §3144; C97, §4081; C24, 27, 31, 35, 39, §**11809;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §630.10]

630.11 Debtor failing to appear — contempt.

Should the judgment debtor fail to appear after being personally served with notice to that effect, or should the debtor fail to make full answers to all proper interrogatories propounded to the debtor, the debtor will be guilty of contempt, and may be arrested and imprisoned until the debtor complies with the requirements of the law in this respect. If any person, party, or witness disobey an order of the court, judge, or referee, duly served, such person, party, or witness may be punished as for contempt.

[C51, §1958; R60, §3386; C73, §3145; C97, §4082; C24, 27, 31, 35, 39, §**11810;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §630.11]

Contempts, chapter 665

630.12 Service of order.

The order mentioned herein shall be in writing and signed by the court, judge, or referee making the same, and be served in the same manner as an original notice in other cases.

[R60, §3387; C73, §3146; C97, §4083; C24, 27, 31, 35, 39, §**11811;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §630.12]

630.13 Compensation.

Sheriffs, referees, receivers, and witnesses shall receive such compensation as is allowed for like services in other cases, to be taxed as costs in the case, and the collection thereof from such party or parties as ought to pay the same shall be enforced by an order or execution.

[R60, §3388; C73, §3147; C97, §4084; C24, 27, 31, 35, 39, §**11812;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §630.13]

630.14 Warrant of arrest.

Upon proof, to the satisfaction of the court or judge authorized to grant the order aforesaid, that there is danger that the defendant will leave the state, or that the defendant will hide, such court or judge, instead of the order, may issue a warrant for the arrest of the debtor, and for bringing the debtor forthwith before the court or judge, upon which being done, the debtor may be examined in the same manner and with the like effect as is above provided.

[C51, §1959; R60, §3389; C73, §3148; C97, §4085; C24, 27, 31, 35, 39, §**11813;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §630.14]

630.15 Bond.

Upon being brought before the court or judge, the debtor may enter into an undertaking in such sum as the court or officer shall prescribe, with one or more sureties, that the debtor will attend from time to time for examination before the court or judge as shall be directed, and will not, in the meantime, dispose of the debtor's property, or any part thereof; in default whereof the debtor shall continue under arrest, and may be committed to jail for safekeeping until the examination shall be concluded.

[R60, §3390; C73, §3149; C97, §4086; C24, 27, 31, 35, 39, §**11814;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §630.15]

630.16 Equitable proceedings.

At any time after the rendition of a judgment, an action by equitable proceedings may be brought to subject any property, money, rights, credits, or interest therein belonging to the defendant to the satisfaction of such judgment. In such action, persons indebted to the

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judgment debtor, or holding any property or money in which such debtor has any interest, or the evidences of securities for the same, may be made defendants.

[R60, §3391; C73, §3150; C97, §4087; C24, 27, 31, 35, 39, §**11815;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §630.16]

Referred to in §630.18
Grantor deemed equitable owner, §639.30

630.17 Answers verified — petition taken as true.

The answers of all defendants shall be verified by their own oath, and not by that of an agent or attorney, and the court shall enforce full and explicit discoveries in such answers by process of contempt; or, upon failure to answer the petition, or any part thereof, as fully and explicitly as the court may require, the same, or such part not thus answered, shall be deemed true, and such order made or judgment rendered as the nature of the case may require.

[R60, §3392; C73, §3151; C97, §4088; C24, 27, 31, 35, 39, §**11816;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §630.17]

Referred to in §630.18
Contempts, chapter 665

630.18 Lien created.

In the case contemplated in sections 630.16 and 630.17, a lien shall be created on the property of the judgment debtor, or the debtor's interest therein, in the hands of any defendant or under the defendant's control, which is sufficiently described in the petition, from the time of the service of notice and copy of the petition on the defendant holding or controlling such property or any interest therein.

[R60, §3393, 3394; C73, §3152; C97, §4089; C24, 27, 31, 35, 39, §**11817;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §630.18]

630.19 Surrender of property enforced.

The court shall enforce the surrender of the money or securities therefor, or of any other property of the defendant in the execution, which may be discovered in the action, and for this purpose may commit to jail any defendant or garnishee failing or refusing to make such surrender until it shall be done, or the court is satisfied that it is out of the defendant's or garnishee's power to do so.

[R60, §3395; C73, §3153; C97, §4090; C24, 27, 31, 35, 39, §**11818;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §630.19]

Analogous provision, §680.10

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CHAPTER 631

SMALL CLAIMS

Referred to in §169C.5, 331.307, 364.22, 537.5110, 562B.6, 564A.4, 602.6405, 602.8102(104), 648.5

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631.1 Small claims — jurisdiction.

1. The following actions or claims are small claims and shall be commenced, heard and determined as provided in this chapter:

a. A civil action for a money judgment where the amount in controversy is five thousand dollars or less for actions commenced before July 1, 2018, exclusive of interest and costs.

b. A civil action for a money judgment where the amount in controversy is six thousand five hundred dollars or less for actions commenced on or after July 1, 2018, exclusive of interest and costs.

2. The district court sitting in small claims shall have concurrent jurisdiction of an action for forcible entry and detainer which is based on those grounds set forth in section 648.1, subsections 1, 2, 3 and 5. When commenced under this chapter, the action shall be a small claim for the purposes of this chapter.

3. The district court sitting in small claims has concurrent jurisdiction of an action of replevin if the value of the property claimed is five thousand dollars or less for actions commenced before July 1, 2018, and six thousand five hundred dollars or less for actions commenced on or after July 1, 2018. When commenced under this chapter, the action is a small claim for the purposes of this chapter.

4. The district court sitting in small claims has concurrent jurisdiction of motions and orders relating to executions against personal property, including garnishments, where the value of the property or garnisheed money involved is five thousand dollars or less for actions commenced before July 1, 2018, and six thousand five hundred dollars or less for actions commenced on or after July 1, 2018.

5. The district court sitting in small claims has concurrent jurisdiction of an action for abandonment of a manufactured or mobile home or personal property pursuant to section 555B.3, if no money judgment in excess of five thousand dollars is sought for actions commenced before July 1, 2018, and six thousand five hundred dollars or less for actions commenced on or after July 1, 2018. If commenced under this chapter, the action is a small claim for the purposes of this chapter.

6. The district court sitting in small claims has concurrent jurisdiction of an action to challenge a mechanic's lien pursuant to sections 572.24 and 572.32.

7. The district court sitting in small claims has concurrent jurisdiction of an action for the collection of taxes brought by a county treasurer pursuant to sections 445.3 and 445.4 where the amount in controversy is five thousand dollars or less for actions commenced before July 1, 2018, and six thousand five hundred dollars or less for actions commenced on or after July 1, 2018, exclusive of interest and costs.

8. The district court sitting in small claims has concurrent jurisdiction of motions and orders relating to releases of judgments in whole or in part including motions and orders under section 624.23, subsection 2, paragraph "c" and section 624.37, where the amount owing on the judgment, including interests and costs, is five thousand dollars or less for actions commenced before July 1, 2018, and six thousand five hundred dollars or less for actions commenced on or after July 1, 2018.

9. The district court sitting in small claims has concurrent jurisdiction of an action to determine ownership of goods under section 714.28 relating to claims against purchased or pledged goods held by pawnbrokers, regardless of the value of the items in dispute.

10. The district court sitting in small claims has concurrent jurisdiction for administrative warrant applications pursuant to section 657A.1A, subsection 2.

[C73, 75, 77, 79, 81, §631.1]

83 Acts, ch 63, §1, 5; 86 Acts, ch 1077, §1; 90 Acts, ch 1038, §1; 93 Acts, ch 154, §18; 94 Acts, ch 1117, §1; 95 Acts, ch 49, §23; 99 Acts, ch 79, §5; 2001 Acts, ch 153, §15; 2001 Acts, ch 176, §80; 2002 Acts, ch 1087, §1, 2; 2003 Acts, ch 178, §20; 2011 Acts, ch 6, §3; 2013 Acts, ch 90, §175; 2014 Acts, ch 1070, §1; 2018 Acts, ch 1168, §23; 2019 Acts, ch 105, §1

Referred to in §331.307, 364.22, 633.447

Jurisdictional amount to revert to prior amount if a proper court declares the increased amount unconstitutional; 83 Acts, ch 63, §5; 94 Acts, ch 1117, §2; 95 Acts, ch 49, §28; 2002 Acts, ch 1087, §3; 2018 Acts, ch 1168, §24

631.2 Jurisdiction and procedures.

1. The district court sitting in small claims shall exercise the jurisdiction conferred by this chapter, and shall determine small claims according to the statutes and the rules prescribed by this chapter. Except when transferred from the small claims docket as provided in section

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631.8, small claims may be tried by a judicial magistrate, a district associate judge, or a district judge.

2. The clerk of the district court shall maintain a separate small claims docket which shall contain all matters relating to small claims which are required by section 602.8104, subsection 2, paragraph *"e"*, to be contained in a combination docket.

3. Statutes and rules relating to venue and jurisdiction shall apply to small claims, except that a provision of this chapter which is inconsistent therewith shall supersede that statute or rule.

[C73, §631.2, 631.3; C75, 77, 79, 81, §631.2]
83 Acts, ch 101, §124; 83 Acts, ch 186, §10116, 10201

631.3 Commencement of actions — clerk to furnish forms — subpoena.

1. All actions shall be commenced by the filing of an original notice with the clerk. At the time of filing, the clerk shall enter on the original notice and the copies to be served, the file number and the date the action is filed.

2. The clerk shall furnish standard forms as provided in section 631.15, as such pleadings may be required. The clerk may furnish information to any party to enable the party to complete a form.

3. The clerk shall cause to be entered upon each copy of the original notice and in the docket the time within which the defendant is required to appear, which time shall be determined in accordance with section 631.4.

4. Upon the request of a party to the action, the clerk or a judicial officer shall issue subpoenas for the attendance of witnesses at a hearing. Sections 622.63 through 622.67, 622.69, 622.76, and 622.77 apply to subpoenas issued pursuant to this chapter.

[C73, §631.3, 631.5; C75, 77, 79, 81, §631.3]
83 Acts, ch 186, §10117, 10201; 84 Acts, ch 1322, §1; 2021 Acts, ch 80, §359

631.4 Service — time for appearance.

The manner of service of original notice and the times for appearance shall be as provided in this section.

1. *Actions for money judgment or replevin.* In an action for money judgment or an action of replevin the clerk shall cause service to be obtained as follows, and the defendant is required to appear within the period of time specified:

a. If the defendant is a resident of this state, or if the defendant is a nonresident of this state and is subject to the jurisdiction of the court under rule of civil procedure 1.306, the plaintiff may elect service under this paragraph, and upon receipt of the prescribed costs the clerk shall mail to the defendant by certified mail, restricted delivery, return receipt to the clerk requested, a copy of the original notice together with a conforming copy of an answer form. However, if the defendant is a corporation, partnership, or association, the clerk shall mail to the defendant by certified mail, return receipt to the clerk requested, a copy of the original notice with a conforming copy of an answer form. The defendant is required to appear within twenty days following the date service is made.

b. If the defendant is a resident of this state, or if the defendant is a nonresident of this state and is subject to the jurisdiction of the court under rule of civil procedure 1.306, the plaintiff may elect service under this paragraph, and upon receipt of the prescribed costs the clerk shall cause a copy of the original notice and a conforming copy of an answer form to be delivered to a peace officer or other person for personal service as provided in rule of civil procedure 1.302(5), 1.305, or 1.306. The defendant is required to appear within twenty days following the date service is made.

c. If the defendant is a nonresident of this state and is subject to the jurisdiction of the court under rule of civil procedure 1.306, the plaintiff may elect service in any other manner that is approved by the court as provided in that rule, and the defendant is required to appear within sixty days after the date of service.

d. If the defendant is a nonresident of this state and is subject to the jurisdiction of the court under section 617.3, the plaintiff may elect that service be made as provided in that section. The clerk shall collect the prescribed fees and costs, and shall cause duplicate copies

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of the original notice to be filed with the secretary of state and shall cause a copy of the original notice and a conforming copy of an answer form to be mailed to the defendant in the manner prescribed in section 617.3. The defendant is required to appear within sixty days from the date of filing with the secretary of state.

2. *Actions for forcible entry and detainer.* The manner of service of original notice and the times for appearance for an action for forcible entry and detainer shall be governed by the requirements of chapter 648.

3. *Actions for abandonment of manufactured or mobile homes or personal property pursuant to chapter 555B.*

a. In an action for abandonment of a manufactured or mobile home or personal property, the clerk shall set a date, time, and place for hearing, and shall cause service to be made as provided in this subsection.

b. Original notice shall be served personally on each defendant as provided in section 555B.4.

[C73, §631.3 – 631.5; C75, 77, 79, 81, §631.4]

84 Acts, ch 1322, §2; 86 Acts, ch 1077, §2; 93 Acts, ch 154, §19, 20; 95 Acts, ch 125, §13; 96 Acts, ch 1203, §7; 99 Acts, ch 155, §13, 14; 2001 Acts, ch 153, §15; 2001 Acts, ch 176, §80; 2004 Acts, ch 1101, §85; 2009 Acts, ch 21, §12; 2010 Acts, ch 1017, §7, 11

Referred to in §631.3

631.5 Appearance — default.

This section applies to all small claims except actions for forcible entry and detainer pursuant to chapter 648 and actions for abandonment of mobile homes or personal property pursuant to chapter 555B.

1. *Appearance.* A defendant may appear in person or by attorney, and by the denial of a claim a defendant does not waive any defenses.

2. *Hearing set.* If all defendants either have entered a timely appearance or have defaulted, the clerk shall assign a contested claim to the small claims calendar for hearing at a place and time certain. The time of hearing shall be not less than five days nor more than twenty days after the latest timely appearance, unless otherwise ordered by the court. The clerk shall transmit the original notice and all other papers relating to the case to the judicial officer to whom the case is assigned, and copies of all papers so transmitted shall be retained in the clerk's office.

3. *Partial service.* If the plaintiff has joined more than one defendant, and less than all defendants are served with notice as determined by subsection 4, the plaintiff may elect to proceed against all defendants served or may elect to have a continuance, issuable by the clerk, to a date certain not more than sixty days thereafter. If the plaintiff elects to proceed, the action shall be dismissed without prejudice as against each defendant not served with notice.

4. *Return of service.* Proper notice shall be established by a signed return receipt or a return of service as provided in rule of civil procedure 1.308.

5. *Notification to parties.* When a small claim is set for hearing the clerk immediately shall notify by ordinary mail each party or the attorney representing the party, and the judicial officer to whom the action is assigned, of the date, time and place of hearing.

6. *Default.* If a defendant fails to appear and the clerk in accordance with subsection 4 determines that proper notice has been given, judgment shall be rendered against the defendant by the clerk if the relief is readily ascertainable. If the relief is not readily ascertainable the claim shall be assigned to a judicial magistrate for determination.

[C75, 77, 79, 81, §631.5]

84 Acts, ch 1322, §3, 4; 93 Acts, ch 154, §21; 2003 Acts, ch 151, §49; 2004 Acts, ch 1101, §86

Referred to in §631.9

631.6 Fees and costs.

1. The clerk of the district court shall collect the following fees and costs in small claims actions, which shall be paid in advance and assessed as costs in the action:

a. Fees for filing and docketing shall be one hundred fifteen dollars.

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b. Fees for service of notice on nonresidents are as provided in section 617.3.

c. Postage charged for the mailing of original notice shall be twenty dollars.

d. Fees for personal service by peace officers or other officials of the state are the amounts specified by law.

2. The amounts collected for filing and docketing shall be distributed as provided in section 602.8108.

[C73, §631.5, 631.6; C75, 77, 79, 81, §631.6; 81 Acts, ch 189, §5, 7]

83 Acts, ch 63, §2, 3, 4; 83 Acts, ch 101, §125; 83 Acts, ch 186, §10118, 10201; 85 Acts, ch 195, §59; 85 Acts, ch 197, §37, 38; 88 Acts, ch 1258, §2; 89 Acts, ch 83, §84; 91 Acts, ch 116, §18; 91 Acts, ch 218, §26; 91 Acts, ch 219, §34; 94 Acts, ch 1074, §10; 2002 Acts, ch 1126, §3; 2003 Acts, ch 151, §50; 2006 Acts, ch 1144, §9; 2009 Acts, ch 179, §63, 72; 2020 Acts, ch 1074, §30, 93; 2026 Acts, ch 1192, §26

Referred to in §602.8105, 602.9104A

Subsection 1, paragraph a amended

631.7 Parties, pleadings, and motions.

1. Except as specifically provided in this chapter, there shall be no written pleadings or motions unless the court in the interests of justice permits them, in which event they shall be similar in form to the original notice.

2. Motions, except a motion under rule of civil procedure 1.246, shall be heard only at the time set for a hearing on the merits.

3. Except as provided in section 631.8, subsection 4, a counterclaim, cross-petition or intervention shall be in writing and in the form promulgated under section 631.15. Copies shall be submitted for each party appearing, and shall be mailed by ordinary mail to those parties by the clerk. A cross-petition against persons not a party to the action shall be made pursuant to rule of civil procedure 1.246 and the new party shall be served with notice as provided in this chapter.

4. The rules of civil procedure pertaining to actions, joinder of actions, parties and intervention shall apply to small claims actions, except that rule of civil procedure 1.241 shall not apply. No counterclaim is necessary to assert an offset arising out of the subject matter of the plaintiff's claim. A counterclaim, cross-petition, or intervention against an existing party is deemed denied and no responsive pleading by such party is required.

[C73, §631.7, 631.8; C75, 77, 79, 81, §631.7]

631.8 Procedure.

1. Small claims not determined within ninety days following the expiration of any period of continuance or following the last entry placed on the record for that action shall be dismissed by the clerk without prejudice.

2. In small claims actions, if a party joins a small claim with one which is not a small claim, the court shall:

a. Order the small claim to be heard under this chapter and dismiss the other claim without prejudice, or

b. As to parties who have appeared or are existing parties, either order the small claim to be heard under this chapter and the other claim to be tried by regular procedure or order both claims to be tried by regular procedure.

3. If commenced as a regular civil action or under the statutes relating to probate proceedings, a small claim shall be transferred to the small claims docket. A small claim commenced as a regular action shall not be dismissed but shall be transferred to the small claims docket. Civil and probate actions not small claims but commenced under this chapter shall be dismissed without prejudice except for defendants who have appeared, as to whom such actions shall be transferred to the combination or probate docket, as appropriate.

4. In small claims actions, a counterclaim, cross claim, or intervention in a greater amount than that of a small claim shall be in the form of a regular pleading. A copy shall be filed for each existing party. New parties, when permitted by order, may be brought in under rule of civil procedure 1.246 and shall be given notice under the rules of civil procedure pertaining to commencement of actions. The court shall either order such counterclaim, cross claim,

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or intervention to be tried by regular procedure and the other claim to be heard under this chapter, or order the entire action to be tried by regular procedure.

5. In regular action, when a party joins a small claim with one which is not a small claim, regular procedure shall apply to both unless the court transfers the small claim to the small claims docket for hearing under this chapter.

6. In regular actions, a counterclaim, cross claim, or intervention in the amount of a small claim shall be pleaded, tried, and determined by regular procedure, unless the court transfers the small claim to the small claims docket for hearing under this chapter.

7. Pleadings which are not in correct form under this section shall be ordered amended so as to be in correct form; but a small claim which is proceeding under this chapter need not be amended although in the form of a regular pleading.

8. Copies of any papers filed by the parties which are not required to be served, shall be mailed or delivered by the clerk as provided in rule of civil procedure 1.442.

[C73, §631.2, 631.8; C75, 77, 79, 81, §631.8]

2013 Acts, ch 30, §162; 2014 Acts, ch 1092, §136; 2020 Acts, ch 1063, §332

Referred to in §631.2, 631.7

631.9 Jurisdiction determined.

At the time set for the hearing of a small claim, the court first shall determine that proper notice as provided in section 631.5, subsection 4, has been given a party before proceeding further as to that party, unless the party has appeared or is an existing party, and also shall determine that the action is properly brought as a small claim.

[C73, 75, 77, 79, 81, §631.9]

631.10 Failure to appear — effect.

Unless good cause to the contrary is shown, if the parties fail to appear at the time of hearing the claim shall be dismissed without prejudice by the court; if the plaintiff fails to appear but the defendant appears, the claim shall be dismissed with prejudice by the court with costs assessed to the plaintiff; and if the plaintiff appears but the defendant fails to appear, judgment may be rendered against the defendant by the court. The filing by the plaintiff of a verified account, or an instrument in writing for the payment of money with an affidavit the same is genuine, shall constitute an appearance by plaintiff for the purpose of this section.

[C73, 75, 77, 79, 81, §631.10]

631.11 Hearing.

1. *Informality.* The hearing shall be to the court, shall be simple and informal, and shall be conducted by the court itself, without regard to technicalities of procedure.

2. *Evidence.* The court shall swear the parties and their witnesses, and examine them in such a way as to bring out the truth. The parties may participate, either personally or by attorney. The court may continue the hearing from time to time and may amend new or amended pleadings, if justice requires.

3. *Record.* Upon the trial, the judicial magistrate shall make detailed minutes of the testimony of each witness and append the exhibits or copies thereof to the record. The proceedings upon trial shall not be reported by a certified court reporter, unless the party provides the reporter at such party's expense. If the proceedings are not reported by a certified court reporter, the magistrate shall cause the proceedings upon trial to be recorded electronically, and both parties shall be notified in advance of that recording. If the proceedings have been recorded electronically, the recording shall be retained under the jurisdiction of the magistrate unless appealed, and upon appeal shall be transcribed only by a person designated by the court under the supervision of the magistrate.

4. *Judgment.* Judgment shall be rendered, based upon applicable law and upon a preponderance of the evidence.

5. *Destruction of recordings.* Unless an appeal is taken, an electronic recording of a proceeding in small claims shall be retained until the time for appeal has expired as specified in section 631.13. Thereafter, the magistrate may direct that the recording tape or other device be erased and used for subsequent recordings. If the proceeding is appealed,

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the recording may be erased following entry of judgment by the district judge hearing the appeal.

[C73, 75, 77, 79, 81, §631.11]

2009 Acts, ch 75, §1

631.12 Entry of judgment — setting aside default judgment.

1. The clerk shall immediately enter the judgment in the small claims docket and district court lien book, without recording. Relief shall be granted as is appropriate. Upon entering judgment, the court may provide for installment payments to be made directly by the party obligated to the party entitled thereto. If installment payments are ordered, execution shall not issue as long as the payments are made, but execution shall issue for the full unpaid balance of the judgment upon the filing of an affidavit of default. When entered on the small claims docket and district court lien book, a small claims judgment shall constitute a lien to the same extent as regular judgments entered on the district court judgment docket and lien book. However, if a small claims judgment requires installment payments, the judgment shall not be enforceable until an affidavit of default is filed.

2. A defendant may move to set aside a default judgment in the manner provided for doing so in district court by rule of civil procedure 1.977.

[C73, 75, 77, 79, 81, §631.12]

84 Acts, ch 1322, §5; 99 Acts, ch 144, §11; 2019 Acts, ch 59, §213

631.13 Appeals.

1. *Notice.* An appeal from a judgment in small claims may be taken by any party by giving oral notice to the court at the conclusion of the hearing, or by filing a written notice of appeal with the clerk within twenty days after judgment is rendered. In either case, the appealing party shall pay to the clerk within that twenty days the usual district court docket fee to perfect the appeal. No appeal shall be taken after twenty days.

2. *Stay of judgment.* Execution of judgment shall be stayed upon the filing with the clerk of the district court an appeal bond with surety approved by the clerk, in the sum specified in the judgment.

3. *Transcript.* Within twenty days after an appeal is taken, unless extended by order of a district judge or by stipulation of the parties, any party may file with the clerk as part of the record a transcript of the official report, if any, or in the event the report was made electronically, a transcription of the recording. If a transcription of an electronic recording is filed, the record on appeal shall contain the tape or other medium on which the proceedings were preserved. A transcription of an electronic recording shall be provided any party upon request and upon payment by the party of the actual costs of transcription.

4. *Procedure on appeal.*

a. (1) The appeal shall be promptly heard upon the record thus filed without further evidence. If the original action was tried by a district judge, the appeal shall be decided by a different district judge. If the original action was tried by a district associate judge, the appeal shall be decided by a district judge. If the original action was tried by a judicial magistrate, the appeal shall be decided by a district judge or a district associate judge. The judge shall decide the appeal without regard to technicalities or defects which have not prejudiced the substantial rights of the parties, and may affirm, reverse, or modify the judgment, or render judgment as the judge or magistrate should have rendered.

(2) If the record, in the opinion of the deciding judge, is inadequate for the purpose of rendering a judgment on appeal, the judge may order that additional evidence be presented relative to one or more issues, and may enter any other order which is necessary to protect the rights of the parties. The judge shall take minutes of any additional evidence, but the hearing shall not be reported by a certified court reporter.

b. Upon entry of judgment the clerk may cause any recording tape or other device contained in the record to be erased for subsequent use.

[C73, 75, 77, 79, 81, §631.13]

84 Acts, ch 1322, §6, 7; 2013 Acts, ch 30, §261

Referred to in §331.307, 364.22, 631.11

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631.14 Representation in small claims actions.

1. Actions constituting small claims may be brought or defended by an individual, partnership, association, corporation, or other entity. In actions in which a person other than an individual is a party, that person may be represented by an officer or an employee.

2. *a.* In actions concerning residential rental property that is titled in the name of one or more individuals, an employee of one or more of the titled owners, or an officer or employee of a property management entity acting on behalf of one or more of the titled owners, may bring or defend an action in the name of the titled owners, the property management entity, or the name by which the property is commonly known.

b. Notwithstanding any other provision to the contrary, if the defendant or plaintiff has been improperly named in the petition in an action concerning residential rental property, the real party in interest shall be substituted at the time the error is identified and the action shall not be dismissed or delayed except to the extent necessary to identify and serve the real parties in interest.

3. A person who in the regular course of business takes assignments of instruments or accounts pursuant to chapter 539, which assignments constitute small claims, may bring an action on an assigned instrument or account in the person's own name and need not be represented by an attorney, provided that in an action brought to recover payment on a dishonored check or draft, as defined in section 554.3104, the action is brought in the county of residence of the maker of the check or draft or in the county where the draft or check was first presented. Any person, however, may be represented in a small claims action by an attorney.

[C75, 77, 79, 81, §631.14; 82 Acts, ch 1235, §3]
87 Acts, ch 137, §5; 2006 Acts, ch 1185, §87; 2013 Acts, ch 30, §261
Referred to in §625.22

631.15 Standard forms.

The supreme court shall prescribe standard forms of pleadings to be used in small claims actions. Standard forms promulgated by the supreme court shall be the exclusive forms used.

[C73, §631.4; C75, 77, 79, 81, §631.15]
83 Acts, ch 101, §126
Referred to in §631.3, 631.7
Forms prescribed by the supreme court are published in the compilation "Iowa Court Rules"

631.16 Discretionary review.

1. A civil action originally tried as a small claim shall not be appealed to the supreme court except by discretionary review as provided herein.

2. *"Discretionary review"* is the process by which the supreme court may exercise its discretion, in like manner as under the rules pertaining to interlocutory appeals and certiorari in civil cases, to review specified matters not subject to appeal as a matter of right. The supreme court may adopt additional rules to control access to discretionary review.

3. The party seeking review shall be known as the appellant and the adverse party as the appellee, but the title of the action shall not be changed from that in the court below.

4. The record and case shall be presented to the appellate court as provided by the rules of appellate procedure; and the provisions of law in civil procedure relating to the filing of decisions and opinions of the appellate court shall apply in such cases.

5. The appellate court, after an examination of the entire record, may dispose of the case by affirmation, reversal or modification of the lower court judgment, and may order a new trial.

6. The decision of the appellate court with any opinion filed or judgment rendered must be recorded by the supreme court clerk. Procedendo shall be issued as provided in the rules of appellate procedure.

7. The jurisdiction of the appellate court shall cease when procedendo is issued. All proceedings for executing the judgment shall be had in the trial court or by its clerk.

[C73, §602.71; C75, 77, 79, 81, §631.16]
85 Acts, ch 157, §1, 2
Rules adopted by the supreme court are published in the compilation "Iowa Court Rules"

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631.17 Prohibited practices.

1. The district court, after due notice and hearing, may bar a person from appearing on the person's own behalf in any court governed by this chapter on a cause of action purchased by or assigned for collection to that person for any of the following:

a. Falsely holding oneself out as an attorney at law.

b. Repeatedly filing claims for costs allowed under section 625.22 which have been found by the court to have been exaggerated or without merit.

c. A pattern of conduct in violation of chapter 537, article 7.

2. A person barred pursuant to subsection 1 shall not derive any benefit, directly or indirectly, from any case brought pursuant to this chapter within the purview of the order of bar issued by the district court.

3. The district court shall dismiss any pending case based on a cause of action purchased or assigned for collection brought on the person's own behalf by a person barred pursuant to subsection 1, and shall assess the costs against that person.

4. The district court shall dismiss any case subsequently brought directly or indirectly by a person subject to a bar pursuant to subsection 1 in violation of that subsection and shall assess all costs to that person, and the court shall assess a further civil penalty of one hundred dollars against that person for each such case dismissed.

5. The district court shall retain jurisdiction over a person barred pursuant to subsection 1 and may punish violations of the court's order of bar as a matter of criminal contempt.

86 Acts, ch 1238, §25; 87 Acts, ch 98, §6; 2011 Acts, ch 25, §72; 2012 Acts, ch 1021, §107

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SUBTITLE 4

PROBATE — FIDUCIARIES

CHAPTER 632

RESERVED

CHAPTER 633

PROBATE CODE

Referred to in §10.1, 141A.1, 144A.7, 144A.7B, 144B.6, 144F.1, 217.13, 222.34, 231E.5, 231E.6, 231E.8, 231E.12, 232.3, 232D.105, 232D.202, 232D.308, 232D.402, 235B.2, 235B.3, 235B.18, 235E.1, 235E.2, 235F.1, 235F.6, 239B.13, 252B.6A, 455B.172, 507B.4C, 524.1003, 524.1004, 524.1007, 524.1009, 558A.1, 565B.24, 602.6306, 602.6803, 602.8102(105), 633A.1107, 633A.3110, 635.1, 635.7, 635.8, 635.13, 726.24, 815.11

Guardianships for minors, see chapter 232D
For other provisions relating to the administration of estates, see the remainder of this subtitle, chapters 633A through 638

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SUBCHAPTER I

INTRODUCTION AND DEFINITIONS

PART 1

INTRODUCTION

633.1 Short title.
This chapter shall be known and may be cited as the *"Iowa Probate Code"*.
[C66, 71, 73, 75, 77, 79, 81, §633.1]

633.2 How probate code to take effect.
1. *Effective date.* This probate code shall take effect and be in force on and after

January 1, 1964. The procedure herein prescribed shall govern all proceedings in probate brought after the effective date of this probate code. It shall also govern further procedure in proceedings in probate then pending, except to the extent that, in the opinion of the court, its application in particular proceedings or parts thereof would not be feasible or would work injustice, in which event the former procedure shall apply.

2. *Rights not affected.* No act done in any proceeding commenced before this probate code takes effect and no accrued or vested right shall be impaired by its provisions. When a right has been acquired, extinguished, or barred upon the expiration of a prescribed period of time governed by the provision of any statute in force before this probate code takes effect, such provision shall remain in force and be deemed a part of this probate code with respect to such right.

[C66, 71, 73, 75, 77, 79, 81, §633.2]
2005 Acts, ch 38, §51

PART 2

DEFINITIONS AND USE OF TERMS

633.3 Definitions and use of terms.

When used in this probate code, unless otherwise required by the context, or another subchapter of this probate code, the following words and phrases shall be construed as follows:

1. *"Administrator"* means any person appointed by the court to administer an intestate estate.
2. *"Assistance animal"* means an animal that qualifies as a reasonable accommodation under the federal Fair Housing Act, 42 U.S.C. §3601 et seq., as amended, or section 504 of the federal Rehabilitation Act of 1973, 29 U.S.C. §794, as amended.
3. *"Assistive animal"* means a simian or other animal specially trained or in the process of being trained to assist a person with a disability.
4. *"Bequeath"* includes the word *"devise"* when used as a verb.
5. *"Bequest"* includes the word *"devise"* when used as a noun.
6. *"Charges"* includes costs of administration, funeral expenses, cost of monument, and federal estate taxes.
7. *"Child"* includes an adopted child but does not include a grandchild or other more remote descendants, nor, except as provided in sections 633.221 and 633.222, a biological child.
8. *"Clerk"* means *"clerk of the district court"* in the county in which the matter is pending and includes the term *"clerk of the probate court"*.
9. *"Conservator"* means a person appointed by the court to have the custody and control of the property of a protected person under the provisions of this probate code.
10. *"Costs of administration"* includes court costs, fiduciary's fees, attorney fees, all appraisers' fees, premiums on corporate surety bonds, statutory allowance for support of surviving spouse and children, cost of continuation of abstracts of title, recording fees, transfer fees, transfer taxes, agents' fees allowed by order of court, interest expense, including but not limited to interest payable on extension of federal estate tax, and all other fees and expenses allowed by order of court in connection with the administration of the estate. Court costs shall include expenses of selling property.
11. *"Court"* means the Iowa district court sitting in probate and includes any Iowa district judge.
12. *"Debts"* includes liabilities of the decedent which survive, whether arising in contract, tort, or otherwise.
13. *"Devise"*, when used as a noun, includes testamentary disposition of property, both real and personal.
14. *"Devise"*, when used as a verb, means to dispose of property, both real and personal, by a will.

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15. *"Devisee"* includes legatee.

16. *"Distributee"* means a person entitled to any property of the decedent under the decedent's will or under the statutes of intestate succession.

17. *"Estate"* means the real and personal property of either a decedent or a protected person, and may also refer to the real and personal property of a trust described in section 633.10.

18. *"Executor"* means any person appointed by the court to administer the estate of a testate decedent.

19. *"Fiduciary"* includes personal representative, executor, administrator, guardian, conservator, and the trustee of any trust described in section 633.10.

20. *"Full age"* means the state of legal majority attained through arriving at the age of eighteen years or through having married, even though such marriage is terminated by divorce.

21. *"Functional limitations"* means the behavior or condition of a person which impairs the person's ability to care for the person's personal safety or to attend to or provide for necessities for the person.

22. *"Guardian"* means the person appointed by the court to have the custody of the person of the protected person under the provisions of this probate code.

23. *"Guardian of the property"*— at the election of the person appointed by the court to have the custody and care of the property of a protected person, the term *"guardian of the property"* may be used, which term shall be synonymous with the term *"conservator"*.

24. *"Heir"* means any person, except the surviving spouse, who is entitled to property of a decedent under the statutes of intestate succession.

25. *"Incompetent"* means the condition of any person who has been adjudicated by a court to meet at least one of the following conditions:

a. To have a decision-making capacity which is so impaired that the person is unable to care for the person's personal safety or to attend to or provide for necessities for the person such as food, shelter, clothing, or medical care, without which physical injury or illness may occur.

b. To have a decision-making capacity which is so impaired that the person is unable to make, communicate, or carry out important decisions concerning the person's financial affairs.

c. To have a decision-making capacity which is so impaired that both paragraphs *"a"* and *"b"* are applicable to the person.

26. *"Issue"*, for the purposes of intestate succession, includes all lawful lineal descendants of a person, whether biological or adopted, except those who are the lineal descendants of the person's living descendants.

27. *"Legacy"* means a testamentary disposition of personal property.

28. *"Legatee"* means a person entitled to personal property under a will.

29. *"Letters"* includes letters testamentary, letters of administration, letters of guardianship, letters of conservatorship, and letters of trusteeship.

30. *"Limited guardianship"* means a guardianship that grants the guardian less than all powers available under this chapter or otherwise restricts the powers of the guardian.

31. *"Minor"* means a person who is not of full age.

32. *"Person"* includes natural persons and corporations.

33. *"Personal representative"* includes executor and administrator.

34. *"Probate assets"* means a decedent's property subject to administration by a personal representative.

35. *"Property"* includes both real and personal property.

36. *"Protected person"* means a person subject to guardianship or a person subject to conservatorship, or both.

37. *"Respondent"* means a person who is alleged to be a person in need of a guardianship or conservatorship, or both.

38. *"Service animal"* means a dog or miniature horse as set forth in the implementing regulations of Title II and Title III of the federal Americans with Disabilities Act of 1990, 42 U.S.C. §12101 et seq.

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39. *"Surviving spouse"* means the surviving wife or husband, as the case may be.

40. *"Temporary administrator"* means any person appointed by the court to care for an estate pending the probating of a proposed will, or to handle any special matter designated by the court.

41. *"Trustee"* means the person or persons serving as trustee of a trust described in section 633.10.

42. *"Trusts"* includes only those trusts described in section 633.10.

43. *"Will"* includes codicil; it also includes a testamentary instrument that merely appoints an executor, and a testamentary instrument that merely revokes or revives another will.

[C51, §1286; R60, §2318; C73, §2336; C97, §3280; C24, 27, 31, 35, 39, §**11860;** C46, 50, 54, 58, 62, §633.15; C66, 71, 73, 75, 77, 79, 81, §633.3]

94 Acts, ch 1046, §26; 97 Acts, ch 178, §1, 2; 2005 Acts, ch 38, §2 – 5, 51; 2006 Acts, ch 1010, §154; 2008 Acts, ch 1119, §14; 2011 Acts, ch 34, §138; 2012 Acts, ch 1021, §108; 2014 Acts, ch 1076, §21; 2018 Acts, ch 1041, §127; 2018 Acts, ch 1140, §1, 6, 8; 2019 Acts, ch 24, §86; 2019 Acts, ch 57, §6, 43, 44; 2020 Acts, ch 1063, §333; 2022 Acts, ch 1021, §163; 2024 Acts, ch 1009, §54

Referred to in §135J.1, 144.23A, 231E.3, 232.2, 235F.1, 249A.53, 422.7(42)(c), 422.27, 450.1, 523A.102, 600A.2, 611.22, 633.63, 633.89, 633.551, 633.701, 633A.3113, 633F.1, 638.2

633.4 Gender and number. Repealed by 2000 Acts, ch 1188, §4.

633.5 Nonestate property — insurance proceeds.

A decedent's estate shall not include life insurance proceeds, unless the proceeds are payable to the decedent's estate.

94 Acts, ch 1153, §7

633.6 through 633.9 Reserved.

SUBCHAPTER II

PROBATE COURT, CLERK OF PROBATE COURT, AND PROCEDURE IN PROBATE

PART 1

PROBATE COURT

633.10 Jurisdiction.

In addition to the jurisdiction granted the district court under the trust code, chapter 633A, or elsewhere, the district court sitting in probate shall have jurisdiction of:

1. *Estates of decedents and absentees.* The probate and contest of wills; the appointment of personal representatives; the granting of letters testamentary and of administration; the administration, settlement and distribution of estates of decedents and absentees, whether such estates consist of real or personal property or both.

2. *Construction of wills.* The construction of wills during the administration of the estate, whether said construction be incident to such administration, or as a separate proceeding.

3. *Conservatorships and guardianships.*

a. Except as provided for in paragraph *"b"*, the appointment of conservators and guardians; the granting of letters of conservatorship and guardianship; the administration, settlement and closing of conservatorships and guardianships.

b. Beginning January 1, 2020, minor guardianships are under the exclusive jurisdiction of the juvenile court pursuant to, and except as limited by, chapter 232D.

4. *Trusts and trustees.*

a. The ongoing administration and supervision, including but not limited to the appointment of trustees, the granting of letters of trusteeship, trust administration, and trust settlement and closing, of the following trusts:

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(1) A trust that was in existence on July 1, 2005, and that is subject to continuous court supervision.

(2) A trust established by court decree that is subject to continuous court supervision.

b. A trust described in paragraph *"a"* shall be governed by this chapter and the provisions of chapter 633A which are not inconsistent with the provisions of this chapter.

c. A trust not described in paragraph *"a"* shall be governed exclusively by chapter 633A and shall be subject to the jurisdiction of the district court sitting in probate only as provided in section 633A.6101.

d. Upon joint application by all trustees administering a trust described in paragraph *"a"* and following notice to the beneficiaries pursuant to section 633.40, the court shall release the trust from further jurisdiction unless a beneficiary objects. The court whose decree created the trust may release the trust from continuous court supervision following notice to the beneficiary pursuant to section 633.40. If such judicial release occurs for a trust previously governed by this chapter, such trust shall be governed by chapter 633A and the district court sitting in probate only as provided in section 633A.6101.

5. *Actions for accounting.* An action for an accounting against a beneficiary of a transfer on death security registration, pursuant to chapter 633D.

[C73, §2312; C97, §225; C24, 27, 31, 35, 39, §**10763, 10764;** C46, 50, 54, 58, 62, §604.3, 604.4; C66, 71, 73, 75, 77, 79, 81, §633.10]

85 Acts, ch 154, §1; 91 Acts, ch 36, §1; 97 Acts, ch 178, §3; 99 Acts, ch 56, §2; 2005 Acts, ch 38, §6 – 8, 55; 2005 Acts, ch 179, §139; 2006 Acts, ch 1010, §155; 2019 Acts, ch 56, §36, 44, 45

Referred to in §633.3, 633.27, 633.751, 633A.1107, 633A.6101
Applicability of probate code to trusts, see §633.751
Scope of trust code, see §633A.1107

633.11 Declaratory judgments — determination of heirship — distribution.

During the administration of an estate, the district court sitting in probate shall have full, legal and equitable powers to make declaratory judgments in all matters involved in the administration of the estate, including those pertaining to the title of real estate, the determination of heirship, and the distribution of the estate. It shall have full, legal and equitable powers to enter final orders and decrees in all probate matters to effectuate its jurisdiction and to carry out its orders, judgments, and decrees.

[C66, 71, 73, 75, 77, 79, 81, §633.11]

633.12 County of jurisdiction.

The court of each county shall have original and exclusive jurisdiction to administer the estates of all persons who are residents of the county, or who were residents at the time of their death, and all nonresidents of the state who have property, or who die leaving property in the county subject to administration, or whose property is afterwards brought into the county; to appoint conservators for nonresidents having property in the county; and to appoint conservators and guardians of residents of the county.

[C73, §2312; C97, §225; C24, 27, 31, 35, 39, §**10763, 10764;** C46, 50, 54, 58, 62, §604.3, 604.4; C66, 71, 73, 75, 77, 79, 81, §633.12]

633.13 Extent of jurisdiction.

1. The court of the county in which a will is probated, or in which administration, conservatorship or guardianship is granted, shall have jurisdiction coextensive with the state in the settlement of the estate, and in the sale and distribution thereof.

2. A district judge or a district associate judge has statewide jurisdiction to enter orders in probate matters not requiring notice and hearing, although the judge is not a judge of or present in the district in which the probate matter is pending. The orders shall be made in conformity with the rules of the district in which the probate matter is pending.

[R60, §2472; C73, §2319; C97, §3265; C24, 27, 31, 35, 39, §**11825;** C46, 50, 54, 58, 62, §631.7; C66, 71, 73, 75, 77, 79, 81, §633.13]

83 Acts, ch 186, §10119, 10201; 94 Acts, ch 1122, §2; 2020 Acts, ch 1062, §94

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633.14 Concurrent jurisdiction.

When a case is originally within the jurisdiction of the courts of two or more counties, the court which first takes cognizance of the case by the commencement of the proceedings shall retain jurisdiction throughout the case.

[C51, §1274; R60, §2306; C73, §2318; C97, §3264; C24, 27, 31, 35, 39, §**11824;** C46, 50, 54, 58, 62, §631.6; C66, 71, 73, 75, 77, 79, 81, §633.14]

2020 Acts, ch 1063, §334

633.15 Probate court always open. Repealed by 2003 Acts, ch 151, §62.

633.16 Control of probate records.

The court shall have jurisdiction and supervision of the probate records of the clerk, and may direct the destruction of records it deems to be old, obsolete or unnecessary.

[C66, 71, 73, 75, 77, 79, 81, §633.16]

93 Acts, ch 70, §10

633.17 Judge disqualified — procedure.

When a judge is disqualified from acting in a probate matter, the matter shall be heard before another judge of the same district, or shall be transferred to the court of another district, or a judge of another district shall be procured to hold court for the hearing of the matter.

[C73, §2317; C97, §3263; C24, 27, 31, 35, 39, §**11823;** C46, 50, 54, 58, 62, §631.5; C66, 71, 73, 75, 77, 79, 81, §633.17]

83 Acts, ch 186, §10120, 10201

Disqualification of judicial officer, see §602.1606

633.18 Rules in probate.

1. Actions and proceedings under this chapter are subject to rules prescribed by the supreme court under section 602.4201.

2. The judicial officers of a judicial district, excluding the magistrates, acting under section 602.1213 may prescribe rules for probate actions and proceedings within the district, but these rules must be consistent with this chapter, and are subject to the approval of the supreme court.

[C66, 71, 73, 75, 77, 79, 81, §633.18]

83 Acts, ch 186, §10121, 10201; 96 Acts, ch 1153, §7

Rules adopted by the supreme court are published in the compilation "Iowa Court Rules"

633.19 Process revoked.

Any process or authority emanating from the court in probate matters may for good cause be revoked and a new one issued.

[C51, §1275; R60, §2307; C73, §2320; C97, §3266; C24, 27, 31, 35, 39, §**11827;** C46, 50, 54, 58, 62, §631.9; C66, 71, 73, 75, 77, 79, 81, §633.19]

633.20 Referee — clerk — associate probate judge.

1. The chief judge of the judicial district may appoint a referee in probate for the auditing of the accounts of fiduciaries and for the performance of other ministerial duties the chief judge prescribes. A person shall not be appointed as referee in a matter where the person is acting as a fiduciary or as the attorney.

2. The chief judge of the judicial district may appoint the clerk as referee in probate. In such cases, the fees received by the clerk for serving in the capacity of referee are fees of the office of the clerk of court and shall be deposited in the account established under section 602.8108.

3. A person appointed as an associate probate judge shall have jurisdiction to audit accounts of fiduciaries and to perform ministerial duties as a referee provided in this section

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and shall have additional jurisdiction to perform the judicial functions provided in section 633.20D.

[C73, §2412; C97, §3393; C24, 27, 31, 35, 39, §**12041;** C46, 50, 54, 58, 62, §638.1; C66, 71, 73, 75, 77, 79, 81, §633.20]

83 Acts, ch 186, §10122, 10201; 93 Acts, ch 70, §11; 94 Acts, ch 1074, §11; 99 Acts, ch 93, §11; 2000 Acts, ch 1057, §17; 2010 Acts, ch 1159, §13

633.20A Part-time associate probate judge — appointment — removal — qualifications.

The chief judge of a judicial district may appoint a part-time associate probate judge and may remove the part-time associate probate judge for cause following a hearing. The part-time associate probate judge shall be an attorney admitted to practice law in this state and shall be qualified for the position by training and experience.

99 Acts, ch 93, §12; 2000 Acts, ch 1154, §38

633.20B Appointment and resignation of full-time associate probate judges.

1. Full-time associate probate judges shall be appointed by the governor from persons nominated by the district judicial nominating commission in the same manner as district judges under chapter 46.

2. A full-time associate probate judge who seeks to resign from the office of full-time associate probate judge shall notify in writing the governor, the chief judge of the judicial district, and the state commissioner of elections as to the full-time associate probate judge's intention to resign and the effective date of the resignation.

3. When a vacancy occurs or will occur within one hundred twenty days in the office of a full-time associate probate judge, the state commissioner of elections shall forthwith so notify the governor. The governor shall call a meeting of the commission within ten days after such notice. If the governor fails to do so, the chief justice shall call such meeting.

99 Acts, ch 93, §13, 15; 99 Acts, ch 208, §62; 2003 Acts, ch 151, §51, 64; 2022 Acts, ch 1033, §12

Referred to in §602.2301, 602.6113

633.20C Full-time associate probate judges — term, retention, qualifications.

1. Full-time associate probate judges shall serve terms and shall stand for retention in office within the judicial election districts of their appointment as provided under sections 46.16 through 46.24.

2. A person does not qualify for appointment to the office of full-time associate probate judge unless the person is at the time of appointment licensed to practice law in Iowa and will be able, measured by the person's age at the time of appointment, to complete the initial term of office prior to reaching age seventy-eight. A nominee to the office of full-time associate probate judge must reside in the judicial election district to which the nominee is nominated or in a contiguous county to the judicial election district to which the nominee is nominated.

3. A full-time associate probate judge must be a resident of the judicial election district or a resident of a county contiguous with the judicial election district in which the office is held before assuming office and during the entire term of office. A full-time associate probate judge shall serve within the judicial district in which appointed, as directed by the chief judge, and is subject to reassignment under section 602.6108.

4. Full-time associate probate judges shall qualify for office as provided in chapter 63 for district judges.

99 Acts, ch 93, §14, 15; 2022 Acts, ch 1033, §13; 2025 Acts, ch 101, §5, 14, 15

2025 amendment to subsection 2 applies to judicial officers retiring on or after July 1, 2025; 2025 Acts, ch 101, §15

633.20D Associate probate judge — jurisdiction — appeals.

1. An associate probate judge shall have the same jurisdiction to conduct probate court proceedings, to issue no-contact or protective orders, injunctions, contempt orders for adults in probate court proceedings, and to issue orders, findings, and decisions as the judge of the probate court. However, the chief judge may limit the exercise of probate court jurisdiction by the associate probate judge.

2. The parties to a proceeding heard by an associate probate judge are entitled to appeal

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the order, finding, or decision of an associate probate judge, in the manner of an appeal from orders, findings, or decisions of district court judges. An appeal does not automatically stay the order, finding, or decision of an associate probate judge.

2010 Acts, ch 1159, §14
Referred to in §633.20

633.21 Appraisers' fees and referees' fees fixed by rule.

The district judges of each judicial district shall by rule fix the fees of probate referees, and also provide, insofar as practicable, a uniform schedule of compensation for tax appraisers, other appraisers, brokers, and agents employed at estate expense.

[C66, 71, 73, 75, 77, 79, 81, §633.21]

83 Acts, ch 186, §10123, 10201; 2025 Acts, ch 148, §38, 53, 54
2025 amendment applies retroactively to January 1, 2025, to the estates of decedents dying on or after January 1, 2025; 2025 Acts, ch 148, §54

PART 2

CLERK OF PROBATE COURT

633.22 Probate powers of clerk.

The clerk shall have and may exercise within the county all the powers and jurisdiction of the court and of the judge thereof, in the following matters:

1. The examination and approval of all intermediate and interlocutory accounts and reports of fiduciaries under this chapter and converting and closing small estates under chapter 635.

2. The entering of routine scheduling orders in probate matters as established by the chief judge in each judicial district.

[C51, §1276; R60, §2308; C73, §2315, 2321; C97, §250, 3267, 3268; S13, §3268; C24, 27, 31, 35, 39, §**11828, 11832, 11838;** C46, 50, 54, 58, 62, §631.10, 632.1, 632.7; C66, 71, 73, 75, 77, 79, 81, §633.22]

94 Acts, ch 1050, §1; 2005 Acts, ch 38, §51; 2018 Acts, ch 1027, §1, 8
Referred to in §633.23, 633.25

633.23 Clerk's actions reviewed.

Any person aggrieved by any order made or entered by the clerk under the powers conferred in section 633.22, subsection 1, may have the same reviewed in court upon motion filed within six months or before the hearing on the final report of the fiduciary, whichever is the earlier, and upon such notice as provided in section 633.40.

[C97, §251; C24, 27, 31, 35, 39, §**11834;** C46, 50, 54, 58, 62, §632.3; C66, 71, 73, 75, 77, 79, 81, §633.23]

633.24 Docketing and hearing.

Upon the filing of such a motion, the clerk shall place the cause or proceeding on the docket without additional docket fee, and the matter shall stand for hearing or trial de novo in open court.

[C97, §251; C24, 27, 31, 35, 39, §**11835;** C46, 50, 54, 58, 62, §632.4; C66, 71, 73, 75, 77, 79, 81, §633.24]

633.25 Validity of clerk's orders.

Records, orders, and judgments made and entered by the clerk under section 633.22, which have not been reversed, set aside, or modified by the court, shall stand, and shall be of the same force, validity, and effect, and be entitled to the same faith and credit, as if they had been made by the court.

[C97, §252; C24, 27, 31, 35, 39, §**11836;** C46, 50, 54, 58, 62, §632.5; C66, 71, 73, 75, 77, 79, 81, §633.25]

2019 Acts, ch 59, §214

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633.26 Clerk not to prepare reports.

A clerk of the district court or employee of the clerk shall not act as attorney for a fiduciary, or make or assist in making, drafting, or filling out any report of any fiduciary or any other report to be filed in the clerk's office.

[C97, §252; C24, 27, 31, 35, 39, §**11837;** C46, 50, 54, 58, 62, §632.6; C66, 71, 73, 75, 77, 79, 81, §633.26]

90 Acts, ch 1233, §38

633.27 Probate docket.

The clerk shall keep an electronic record to be known as the "Probate Docket", which shall show:

1. The name of every deceased person whose estate is administered or whose will is admitted to probate, and the date of the person's death.
2. The name of each person as to whom application for conservatorship or guardianship is made.
3. The names of all the heirs in intestate estates and the surviving spouse of such deceased intestate, and whether each person is an adult or a minor and each person's place of residence, so far as they can be ascertained.
4. The title of each trust described in section 633.10 that has not been released by the court from continuous court supervision.
5. A note of every sale of real estate made under the order of the court.

[C73, §2490; C97, §3411; C24, 27, 31, 35, 39, §**11841;** C46, 50, 54, 58, 62, §632.10; C66, 71, 73, 75, 77, 79, 81, §633.27]

2005 Acts, ch 38, §9; 2018 Acts, ch 1027, §2, 8

633.27A Docketing guardianship and conservatorship proceedings — applicability of separate reporting requirements.

When a petition is filed for a conservatorship or guardianship, or a combined petition as provided in section 633.627, the administration thereof shall be treated as one proceeding, with one docket number, from the date of the filing of the petition. The separate reporting requirements for conservatorships and guardianships shall continue to apply in a combined petition. The clerk shall clearly indicate on the docket whether the proceedings are voluntary or involuntary and whether a guardianship, a conservatorship, or combined.

89 Acts, ch 178, §7; 2015 Acts, ch 5, §1

633.28 Docketing trust proceedings. Repealed by 2005 Acts, ch 38, §50.

633.29 Probate record. Repealed by 99 Acts, ch 144, §15.

633.30 Reserved.

633.31 Calendar — court costs in probate.

1. The clerk shall keep a court calendar, and enter thereon such matters as the court may prescribe.
2. The clerk shall charge and collect the following court costs in connection with probate matters:

a. For services performed in short form probates pursuant to sections 450.22 and 450.44 for deaths occurring before January 1, 2025 ..... $ 15.00

b. For services performed in probate of will without administration ..... $ 15.00

c. For filing and indexing a transcript ..... $ 50.00

d. For taking and approving a bond, or the sureties on a bond ..... $ 20.00

e. For entering a rule or order ..... $ 10.00

f. For certificate and seal ..... $ 10.00

g. For making a complete record where

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real estate is sold ..... per 100 words ..... $ .20

h. For making a transcript or copies of orders or records filed in the clerk's office ... per 100 words ..... $ .50

i. For certifying change of title ..... $ 20.00

j. For issuing commission to appraisers ..... $ 2.00

3. *a.* For other services performed in a decedent's estate administered under this chapter or chapter 635, the clerk shall charge and collect court costs equal to two-tenths of one percent of the value of the probate assets listed in the report and inventory.

b. Court costs shall not be charged or collected under this subsection on assets which are not probate assets including but not limited to the following:

(1) Joint tenancy property.

(2) Property transferred during the decedent's lifetime.

(3) Life insurance, annuities, individual retirement accounts, retirement plans, transfer on death accounts, payable on death accounts, and similar assets payable to beneficiaries other than the estate of the decedent.

(4) Real estate not located in Iowa.

c. Court costs shall not be charged or collected on assets transferred to an estate from a conservatorship that has been administered in the state and for which court costs have been charged and collected from the conservatorship under subsection 4.

4. For other services performed in a conservatorship, the clerk shall charge and collect court costs equal to two-tenths of one percent of the gross value of the assets listed in the inventory minus the value of the life insurance.

5. Court costs collected under this section shall be deposited in the account established under section 602.8108.

[C97, §3269; C24, 27, 31, 35, 39, §**11844;** C46, 50, 54, 58, 62, §632.13; C66, 71, 73, 75, 77, 79, 81, §633.31]

83 Acts, ch 186, §10124, 10201; 88 Acts, ch 1258, §3; 89 Acts, ch 207, §2; 94 Acts, ch 1074, §12, 13; 96 Acts, ch 1129, §113; 99 Acts, ch 56, §3; 2004 Acts, ch 1120, §7; 2007 Acts, ch 180, §3; 2009 Acts, ch 179, §64, 72; 2021 Acts, ch 160, §1 – 3; 2025 Acts, ch 148, §39, 53, 54

2025 amendment to subsection 2, paragraph a applies retroactively to January 1, 2025, to the estates of decedents dying on or after January 1, 2025; 2025 Acts, ch 148, §54

633.32 Delinquent inventories and reports.

1. On June 1 and December 1 of each year, the clerk shall notify the fiduciary and the fiduciary's attorney of any delinquent inventories or reports due by law in any pending estate, trust, guardianship, or conservatorship, and that unless such delinquent inventory or report is filed within sixty days thereafter, the matter shall be reported to the presiding judge. If the delinquent inventory is not filed within the time so specified, the fiduciary will be subject to removal under the provisions of section 633.65 of this Code.

2. On August 1 and February 1 of each year, the clerk shall report to the presiding judge all delinquent inventories or reports in estates, trusts, guardianships, or conservatorships on which such notice has been given and no report or inventory has been filed in response to the notice.

3. The reports required by this section shall indicate thereon all cases in which the attorney, or the fiduciary or the fiduciary's surety, is deceased, or insolvent, or cannot be found, or has removed from this state, and where it is shown by said reports, or it otherwise appears that there are no known assets belonging to the estate, the judge may, on the judge's own motion, order said estate closed, and may, in the judge's discretion, waive costs, or, on reasonable notice to the fiduciary, tax costs against the fiduciary. Such order shall not operate to prevent the reopening of such estate.

[C97, §3269; C24, 27, 31, 35, 39, §**11845;** C46, 50, 54, 58, 62, §632.14; C66, 71, 73, 75, 77, 79, 81, §633.32]

2000 Acts, ch 1150, §1

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PART 3

PROCEDURE IN PROBATE

633.33 Nature of proceedings in probate.

Actions to set aside or contest wills, for the involuntary appointment of guardians and conservators, and for the establishment of contested claims shall be triable in probate as law actions, and all other matters triable in probate shall be tried by the probate court as a proceeding in equity.

[C66, 71, 73, 75, 77, 79, 81, §633.33]

633.34 Applicability of rules of civil procedure.

All actions triable in probate shall be governed by the rules of civil procedure, except as provided otherwise in this probate code.

[C66, 71, 73, 75, 77, 79, 81, §633.34]

2005 Acts, ch 38, §51

633.35 Reports and applications for orders.

All petitions, reports, and applications for orders in probate must be in writing, verified, acknowledged or certified, and self-explanatory. If the petition, report, or application is certified, substantially the following language shall be used:

I certify under penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct.

[C97, §3421; C24, 27, 31, 35, 39, §**12072;** C46, 50, 54, 58, 62, §638.35; C66, 71, 73, 75, 77, 79, 81, §633.35]

89 Acts, ch 35, §1

Referred to in §450.58

633.36 Orders in probate.

All orders and decrees of the court sitting in probate are final decrees as to the parties having notice and those who have appeared without notice.

[C66, 71, 73, 75, 77, 79, 81, §633.36]

633.37 Orders without notice.

All orders entered without notice or appearance are reviewable by the court at any time prior to the entry of the order approving the final report.

[C66, 71, 73, 75, 77, 79, 81, §633.37]

633.38 Time and place of hearing.

Except as otherwise provided in this probate code, the hearing of any matter requiring notice shall be had at such time and place as the court may fix.

[C73, §2313; C97, §3261; C24, 27, 31, 35, 39, §**11820;** C46, 50, 54, 58, 62, §631.2; C66, 71, 73, 75, 77, 79, 81, §633.38]

2005 Acts, ch 38, §51

633.39 Place of hearing — noncontest or agreement.

In cases where no objection, resistance or appearance has been filed, or by agreement, such hearing may be had at any place within the judicial district.

[C97, §3261; C24, 27, 31, 35, 39, §**11821;** C46, 50, 54, 58, 62, §631.3; C66, 71, 73, 75, 77, 79, 81, §633.39]

633.40 Notice in probate proceedings.

1. *Court prescribing notice.* Except as otherwise provided in this probate code, the court shall fix the time and place of hearing of any matter requiring notice and shall prescribe a time for the hearing not less than twenty days after the date the notice is served unless the

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court finds there is good cause shown to shorten the time period to less than twenty days. The court shall also prescribe the manner of service of the notice of such hearing.

2. *Notice by publication.* In the case of proceedings against unknown persons or persons whose address or whereabouts are unknown, the court shall prescribe that notice may be served by publication within the time and in the manner provided by the rules of civil procedure.

3. *No notice by posting.* No notice shall be served at any time by posting.

4. *Notice otherwise provided.* In lieu of the foregoing, the notice may direct each interested party to file the party's objections thereto in writing, if any, on or before a date certain, to be set out in the notice and to be not less than twenty days after the day the notice is served upon the party and that unless the party does so file objections in writing that the party will be forever barred from making any objections thereto. Said notice shall be served upon each interested party personally in compliance with the rules of civil procedure, or upon those parties not under legal disability by ordinary United States mail. In the event objections thereto are timely filed, the court shall fix the time and place of the hearing for the judicial determination of the issues raised.

5. *Notice by mail.* When notice in probate proceedings is served upon an interested party by United States mail, the service is made and completed when the notice being served is enclosed in a sealed envelope with the proper postage thereon addressed to the interested party at the party's last known post office address and is deposited in a mail receptacle provided by the United States postal service.

[C73, §2314; C97, §3262; C24, 27, 31, 35, 39, §**11822;** C46, 50, 54, 58, 62, §631.4; C66, 71, 73, 75, 77, 79, 81, §633.40]

2005 Acts, ch 38, §51; 2009 Acts, ch 52, §2, 14

Referred to in §633.10, 633.23, 633.237, 633.374, 633.376, 633.389, 633.478, 633.560, 633.677, 633.754, 633A.3114, 633A.3115, 635.8

633.41 Consular representatives — notice.

Whenever in the course of the administration of any estate, it shall appear that any subject, citizen, or national of a foreign country is interested as an heir, devisee, legatee, or otherwise, and the address of such person is unknown to the personal representative, the personal representative shall give notice by mail to the consular representative of such country for Iowa of the pendency of such proceedings and of the particular interest of such foreign subject. If such consular representative shall not have filed the representative's designation and address with the clerk, then such notice shall be mailed to the chief diplomatic representative of such foreign country at Washington, D.C. Failure to give such notice shall in no event and in no manner affect title to property.

[C27, 31, 35, §11845-b1; C39, §**11845.1;** C46, 50, 54, 58, 62, §632.15; C66, 71, 73, 75, 77, 79, 81, §633.41]

633.42 Requests for notice.

1. At any time after the issuance of letters of appointment, any interested person in the proceeding may file with the clerk a written request for notice of the time and place of all hearings in such proceeding for which notice is required by law, by rule of court, or by an order in such proceeding. The request for notice shall state the name of the requester, the name of the requester's attorney, if any, and the reason the requester is an interested person in the proceeding. The request for notice shall provide the requester's post office address and, if available, the requester's electronic mail address and telephone number. The request for notice shall also provide the requester's attorney's post office address, electronic mail address, and telephone number. The clerk shall docket the request. Thereafter, unless otherwise ordered by the court, the fiduciary shall serve by ordinary or electronic mail a notice of each hearing upon such requester and the requester's attorney, if any.

2. A person does not gain standing by filing a request for notice under this section.

[C66, 71, 73, 75, 77, 79, 81, §633.42]

93 Acts, ch 111, §1; 2017 Acts, ch 143, §1; 2018 Acts, ch 1027, §3, 10; 2018 Acts, ch 1172, §32, 43

Referred to in §633.43, 654.4A

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633.43 Notice and appearance.

In any matter pending in the probate court, the attorney general may request notice of all hearings therein as provided by section 633.42, and may, with the approval of the court, intervene in behalf of the public interest. The court, on its own motion, in any such matter involving the public interest, may direct the fiduciary to give notice of the hearing to the attorney general.

[C66, 71, 73, 75, 77, 79, 81, §633.43]

633.44 Waiver of service of notice.

Any notice required under this probate code, or by order of court, may be waived in writing by the person, or the fiduciary, entitled to receive such notice.

[C66, 71, 73, 75, 77, 79, 81, §633.44]

2005 Acts, ch 38, §51

633.45 Notice of order served on fiduciary and attorney.

When the court makes an order affecting a fiduciary, it shall be served upon the fiduciary and the fiduciary's attorney of record in such manner as the court may prescribe.

[R60, §2474, 2475, 2476; C73, §2479, 2480, 2481; C97, §3403, 3404; S13, §3403; C24, 27, 31, 35, 39, §**12055, 12056;** C46, 50, 54, 58, 62, §638.15, 638.16; C66, 71, 73, 75, 77, 79, 81, §633.45]

633.46 Proof of publication.

Proof of the publication of all notices that are by this probate code or by order of court required to be published shall be made by an affidavit of the publisher or of any employee having knowledge of the facts.

[C66, 71, 73, 75, 77, 79, 81, §633.46]

2005 Acts, ch 38, §51

633.47 Proof of service and payment of costs.

Proof of service of any notice, required by this probate code or by order of court, including those by publication, shall be filed with the clerk. The costs of serving any notice given by the fiduciary shall be paid directly by the estate.

[C66, 71, 73, 75, 77, 79, 81, §633.47]

2003 Acts, ch 151, §52; 2005 Acts, ch 38, §51

633.48 Certified copies affecting foreign real estate.

A certified copy of any proceedings, order, judgment, or deed, affecting real estate in any county other than that in which administration or conservatorship is originally granted, shall be furnished to the clerk of the court of the county where such real estate is situated. Upon receipt of the certified copy, the clerk of court shall assign a probate case number to the certified copy and file the copy using the name of the probate proceeding in the county sending the copy. The file created by the county receiving a certified copy as provided in this section shall not be considered an active file for administrative purposes.

[C97, §3265; C24, 27, 31, 35, 39, §**11826;** C46, 50, 54, 58, 62, §631.8; C66, 71, 73, 75, 77, 79, 81, §633.48]

99 Acts, ch 144, §12

633.49 Transfer to another county.

In any proceeding in probate, the court may, upon written showing, supported by affidavit, and on such notice to interested parties as the court may prescribe, transfer such proceeding to any other county, when it is made to appear that such transfer will be in furtherance of justice. Thereupon, the matter shall be pending in such other county.

[C24, 27, 31, 35, 39, §**11829;** C46, 50, 54, 58, 62, §631.11; C66, 71, 73, 75, 77, 79, 81, §633.49]

633.50 Certified copy of transferring court's records.

The clerk of the court which orders such a transfer shall retain the original files and papers, but shall make a certified copy thereof and of all record entries pertaining to the proceedings.

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The clerk of court shall at once file the same in the office of the clerk of the court to which the transfer has been made.

[C24, 27, 31, 35, 39, §**11830;** C46, 50, 54, 58, 62, §631.12; C66, 71, 73, 75, 77, 79, 81, §633.50]
Referred to in §633.51

633.51 Filing of certified copy by receiving court.

The clerk of the court to which the proceedings are transferred shall file, within a new file of the clerk's county, the certified copy of the record entries referred to in section 633.50.

[C24, 27, 31, 35, 39, §**11831;** C46, 50, 54, 58, 62, §631.13; C66, 71, 73, 75, 77, 79, 81, §633.51]
99 Acts, ch 144, §13

633.52 Mistakes corrected.

Mistakes in settlements may be corrected at any time before the final discharge of any fiduciary on such notice, if any, as the court may direct.

[C51, §1432; R60, §2457; C73, §2474; C97, §3398; C24, 27, 31, 35, 39, §**12049;** C46, 50, 54, 58, 62, §638.9; C66, 71, 73, 75, 77, 79, 81, §633.52]

633.53 Submission and retention of vouchers and receipts.

In all accountings filed by fiduciaries, vouchers or receipts for all disbursements shall be filed or submitted by the fiduciary upon written request of any interested party, or upon order of court. After an order, or decree, has been entered approving such accounting, any vouchers or receipts which have been filed may be withdrawn under order of the court. Vouchers or receipts not filed, or which have been withdrawn, shall be preserved by the fiduciary until the accounting of such fiduciary becomes final.

[C66, 71, 73, 75, 77, 79, 81, §633.53]

633.54 through 633.62 Reserved.

SUBCHAPTER III

GENERAL PROVISIONS RELATING TO FIDUCIARIES

PART 1

QUALIFICATION, APPOINTMENT, SUBSTITUTION, AND REMOVAL OF FIDUCIARIES

633.63 Qualification of fiduciary — resident.

1. Any natural person of full age, who is a resident of this state, is qualified to serve as a fiduciary, except any of the following:

a. A person who is incompetent.

b. Any other person whom the court determines to be unsuitable.

2. Banks and trust companies organized under the laws of the United States or state banks, when approved by the superintendent of banking under section 524.1001, and trust companies authorized to engage in trust business pursuant to section 524.1005, are authorized to act in a fiduciary capacity in Iowa.

3. A private nonprofit corporation organized under chapter 504, Code 1989, or current chapter 504 is qualified to act as a guardian, as defined in section 633.3, or a conservator, as defined in section 633.3, if the corporation does not possess a proprietary or legal interest in an organization which provides direct services to the individual.

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4. The state public guardian or local public guardian as defined in section 231E.3 is authorized to act in a fiduciary capacity in this state in accordance with chapter 231E.

[C51, §1304, 1305; R60, §2336, 2337; C73, §2345, 2346; C97, §3288, 3289; C24, 27, 31, 35, 39, §**11871, 11872;** C46, 50, 54, 58, 62, §633.27, 633.28; C66, 71, 73, 75, 77, 79, 81, §633.63]

85 Acts, ch 31, §1; 86 Acts, ch 1131, §1; 89 Acts, ch 178, §8; 89 Acts, ch 257, §32; 96 Acts, ch 1129, §105; 98 Acts, ch 1118, §1; 2003 Acts, ch 108, §108; 2004 Acts, ch 1049, §191; 2004 Acts, ch 1175, §394; 2005 Acts, ch 175, §144, 145; 2010 Acts, ch 1137, §3; 2018 Acts, ch 1048, §14

Referred to in §8A.706, 8A.708, 173.22A, 217.41, 231E.10, 256.88, 260C.32, 262.9, 501A.601, 633.64, 633.65, 633.642, 635.1

633.64 Qualification of fiduciary — nonresident.

The court may, upon application, appoint the following nonresidents as fiduciaries:

1. *Natural persons.* A natural person who is a nonresident of this state and who is otherwise qualified under the provisions of section 633.63, provided a resident fiduciary is appointed to serve with such nonresident fiduciary; and provided further that the court, for good cause shown, may appoint such nonresident fiduciary to serve alone without the appointment of a resident fiduciary.

2. *Banks and trust companies.* Banks and trust companies organized under the laws of the United States or of another state and authorized to act in a fiduciary capacity in another state, if banks and trust companies of this state are permitted to act as fiduciary under similar conditions in the state where such bank or trust company is located.

[C66, 71, 73, 75, 77, 79, 81, §633.64]

Referred to in §524.1005A, 524.1007, 633.65, 633.642, 635.1

633.65 Removal of fiduciary.

When any fiduciary is, or becomes, disqualified under sections 633.63 and 633.64, has mismanaged the estate, failed to perform any duty imposed by law, or by any lawful order of court, or ceases to be a resident of the state, then the court may remove the fiduciary. The court may upon its own motion, and shall upon the filing of a verified petition by any person interested in the estate, including a surety on the fiduciary's bond, order the fiduciary to appear and show cause why the fiduciary should not be removed. Any such petition shall specify the grounds of complaint. The removal of a fiduciary after letters are duly issued to the fiduciary shall not invalidate the fiduciary's official acts performed prior to removal.

[C51, §1306, 1509, 1510; R60, §2338, 2561, 2562; C73, §2247, 2251, 2496 – 2500; C97, §3198, 3201, 3416 – 3418; S13, §3228-g; C24, 27, §12066 – 12068, 12600, 12604, 12643; C31, 35, §12066 – 12068, 12600, 12604, 12643, 12644-c12; C39, §**12066 – 12068, 12600, 12604, 12643, 12644.12;** C46, 50, 54, 58, 62, §638.29 – 638.31, 668.27, 668.31, 671.12, 672.12; C66, 71, 73, 75, 77, 79, 81, §633.65]

Referred to in §231E.7, 524.1007, 633.32, 633.642

633.66 Appointment of successor fiduciary.

When any fiduciary fails to qualify, dies, is removed by the court, or resigns, and such resignation is accepted by the court, the court may, and if the fiduciary were the sole or last surviving fiduciary, and the administration has not been completed, the court shall appoint another fiduciary in the former's place.

[C51, §1303, 1307; R60, §2335, 2339; C73, §2347, 2348; C97, §3290, 3291; C24, 27, 31, 35, 39, §**11873, 11874;** C46, 50, 54, 58, 62, §633.29, 633.30; C66, 71, 73, 75, 77, 79, 81, §633.66]

Referred to in §633.642

633.67 Powers of surviving cofiduciary.

When the instrument creating the estate or trust requires two or more fiduciaries, and a vacancy occurs on account of the death, resignation, or removal of one of the fiduciaries, during the period of the vacancy thus created, the remaining fiduciary or fiduciaries shall have all the rights, titles and powers, whether discretionary or otherwise, of all the fiduciaries.

[C66, 71, 73, 75, 77, 79, 81, §633.67]

Referred to in §633.642

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633.68 Powers of successor fiduciary.

When a successor fiduciary is appointed, the successor shall have all the rights, powers, titles and duties of the predecessor, except that the successor shall not exercise powers given in the instrument creating the powers that by its express terms are personal to the fiduciary therein designated.

[C66, 71, 73, 75, 77, 79, 81, §633.68]

Referred to in §633.642

633.69 Substitution — effect.

The substitution of a fiduciary shall occasion no delay in the administration of an estate. The periods herein specified within which acts are to be performed after the appointment of a fiduciary shall, unless otherwise ordered by the court, be computed from the issuing of the letters to the first fiduciary.

[C51, §1308; R60, §2340; C73, §2349; C97, §3292; C24, 27, 31, 35, 39, §**11875;** C46, 50, 54, 58, 62, §633.31; C66, 71, 73, 75, 77, 79, 81, §633.69]

Referred to in §633.642

633.70 Property delivered — penalty.

Upon the removal of any fiduciary, the fiduciary shall be required by order of the court to deliver to the person who may be entitled thereto all the property in the fiduciary's hands or under the fiduciary's control belonging to the estate, and if the fiduciary fails or refuses to comply with any proper order of the court, the fiduciary may be committed to the jail of the county until the fiduciary does.

[C51, §1509; R60, §2561, 2563; C73, §2251, 2252, 2501, 2502; C97, §3201, 3419; C24, 27, 31, 35, 39, §**12069, 12601, 12602;** C46, 50, 54, 58, 62, §638.32, 668.28, 668.29; C66, 71, 73, 75, 77, 79, 81, §633.70]

Referred to in §633.642

Removal of fiduciary under §633.65 constitutes effective turnover order; see R.Prob.P. 7.1

633.71 Legal effect of appointment.

1. By qualifying as fiduciary, any resident or nonresident person submits to the jurisdiction of the court making the appointment of the fiduciary and, in addition, shall be deemed to agree to all of the following:

a. All property coming into the fiduciary's hands is subject to the jurisdiction of the court wherein are pending the proceedings in which the fiduciary is serving.

b. The fiduciary is subject to all orders entered by the court in the proceedings in which the fiduciary is serving and notices served upon the fiduciary with respect to the proceedings, that are in compliance with the procedure prescribed by this probate code, have the same force and effect as if such service had been personally made upon the fiduciary within the state.

c. The fiduciary is subject to the jurisdiction of the courts of this state in all actions and proceedings against the fiduciary arising from or growing out of the fiduciary relationship and activities; service of process in such actions and proceedings may be made upon the fiduciary by serving the original notice upon the fiduciary outside this state; and such service has the same force and effect as though the service had been personally made upon the fiduciary within this state.

2. The clerk of the court in which is pending the proceedings in which the fiduciary is serving is the lawful attorney or resident agent of such nonresident fiduciary upon whom service of process may be made whether such process be an order of the court entered in the proceedings in which the fiduciary is serving or an original notice of an action arising from or growing out of the fiduciary relationship and activities of the nonresident fiduciary.

[C71, 73, 75, 77, 79, 81, §633.71]

2005 Acts, ch 38, §51; 2020 Acts, ch 1063, §335

Referred to in §633.642

633.72 Manner of service. Repealed by 2018 Acts, ch 1027, §7, 9.

633.73 through 633.75 Reserved.

UNOFFICIAL VERSION: SUBJECT TO EARLY RELEASE

PART 2

POWERS APPLICABLE TO ALL FIDUCIARIES

633.76 Two or more fiduciaries — exercise of powers.

Where there are two or more fiduciaries, they shall all concur in the exercise of the powers conferred upon them, unless the instrument creating the estate provides to the contrary. In the event that the fiduciaries cannot concur upon the exercise of any power, any one of the fiduciaries may apply to the court for directions, and the court shall make such orders as it may deem to be to the best interests of the estate.

[C66, 71, 73, 75, 77, 79, 81, §633.76]

Referred to in §633.642

633.76A Exception — voting of publicly traded securities.

Where there are two or more fiduciaries, a fiduciary may delegate to another fiduciary the power to vote publicly traded securities, unless the instrument creating the estate provides to the contrary. The delegating fiduciary shall not be personally liable for the manner in which such securities are voted by the fiduciary to whom the power is delegated.

91 Acts, ch 36, §2

Referred to in §633.642

633.77 Receipts by one fiduciary.

One of the several fiduciaries may receive and receipt for any money, which receipt shall be given by the fiduciary in the fiduciary's own name only, and the fiduciary must individually account for all the money thus received and receipted for by the fiduciary, and this shall not charge any cofiduciary, except insofar as it can be shown to have come into the cofiduciary's hands.

[C51, §1442; R60, §2467; C73, §2478; C97, §3402; C24, 27, 31, 35, 39, §**12054;** C46, 50, 54, 58, 62, §638.14; C66, 71, 73, 75, 77, 79, 81, §633.77]

Referred to in §633.642

633.78 Fiduciary written request and third-party protection.

1. A fiduciary under this chapter may present a written request to any person for the purpose of obtaining property owned by a decedent or by a protected person of a conservatorship for which the fiduciary has been appointed, or property to which a decedent or protected person is entitled, including information about property owned by a decedent or protected person that has passed or will pass by beneficiary designation or joint tenancy ownership, or for information about such property needed to perform the fiduciary's duties. The request must contain statements confirming all of the following:

a. The fiduciary's authority has not been revoked, modified, or amended in any manner which would cause the representations in the request to be incorrect.

b. The request has been signed by all fiduciaries acting on behalf of the decedent or protected person.

c. The request has been dated and affirmed under penalty of perjury to be true and correct or has been sworn and subscribed to under penalty of perjury before a notary public as provided in chapter 9B.

d. A photocopy of the fiduciary's letters of appointment is being provided with the request.

2. A person to whom a request is presented under this section may require that the fiduciary presenting the request provide proof of the fiduciary's identity.

3. A person who in good faith provides the property or information a fiduciary requests under this section, after taking reasonable steps to verify the identity of the fiduciary and who has no knowledge that the representations contained in the request are incorrect, shall not be liable to any person for so acting and may assume without inquiry the existence of the facts contained in the request. The period of time to verify the fiduciary's authority shall not exceed ten business days from the date the person received the request. Any right or title acquired from the fiduciary in consideration of the provision of property or information under this section is not invalid in consequence of a misapplication by the fiduciary. A transaction, and

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a lien created by a transaction, entered into by the fiduciary and a person acting in reliance upon a request under this section is enforceable against the assets for which the fiduciary has responsibility.

4. If a person refuses to provide the requested property or information within ten business days after receiving a request under this section, the fiduciary may bring an action to recover the property or information or compel its delivery against the person to whom the fiduciary presented the written request. An action brought under this section must be brought within one year after the date of the act or failure to act. If the court finds that the person acted unreasonably in failing to deliver the property or information as requested in the written request, the court may award any or all of the following to the fiduciary:

a. Damages sustained by the decedent's or protected person's estate.

b. Costs of the action.

c. A penalty in an amount determined by the court, but not less than five hundred dollars or more than ten thousand dollars.

d. Reasonable attorney fees, as determined by the court, based on the value of the time reasonably expended by the attorney and not by the amount of the recovery on behalf of the fiduciary.

5. This section does not limit or change the right of beneficiaries, heirs, or creditors to estate property to which they are otherwise entitled.

[C66, 71, 73, 75, 77, 79, 81, §633.78]

2015 Acts, ch 125, §3, 7; 2023 Acts, ch 124, §1, 2, 9

Referred to in §633.642

2023 amendments to subsection 1 and subsection 4, paragraph a apply to estates, trusts, and conservatorships in existence on or after July 1, 2023, that were opened or created before, on, or after July 1, 2023; 2023 Acts, ch 124, §9

633.79 Fiduciaries considered as one.

In an action against several fiduciaries, in their fiduciary capacity, they shall be considered one person, and judgment may be taken against all as such, although not all were served with notice.

[C51, §1437; R60, §2462; C73, §2489; C97, §3410; C24, 27, 31, 35, 39, §**12062;** C46, 50, 54, 58, 62, §638.22; C66, 71, 73, 75, 77, 79, 81, §633.79]

Referred to in §633.642

633.80 Fiduciary of a fiduciary.

A fiduciary has no authority to act in a matter wherein the fiduciary's decedent or protected person was merely a fiduciary, except that the fiduciary shall file a report and accounting on behalf of the decedent or protected person in said matter.

[C51, §1438; R60, §2463; C73, §2483; C97, §3406; C24, 27, 31, 35, 39, §**12058;** C46, 50, 54, 58, 62, §638.18; C66, 71, 73, 75, 77, 79, 81, §633.80]

2024 Acts, ch 1009, §55

Referred to in §633.642

633.81 Suit by and against fiduciary.

Any fiduciary may sue, be sued and defend in such capacity.

[R60, §1452; C73, §2275; C97, §3224; C24, 27, 31, 35, 39, §**12582;** C46, 50, 54, 58, 62, §668.10; C66, 71, 73, 75, 77, 79, 81, §633.81]

Referred to in §633.642

633.82 Designation of attorney.

The designation of the attorney employed by the fiduciary to assist in the administration of the estate shall be filed in the estate proceedings. The designation shall state the attorney's name, post office address, electronic mail address, and telephone number. The designation shall clearly state the name of the attorney who is in charge of the case and the attorney's name shall not be listed by firm name only.

[C66, 71, 73, 75, 77, 79, 81, §633.82; 82 Acts, ch 1060, §1]

2018 Acts, ch 1027, §4, 10

Referred to in §633.642

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633.83 Continuation of business.

Upon a showing of advantage to the estate, the court may authorize the fiduciary to continue any business of the estate for the estate's benefit. The order may be without notice, or after such notice as the court may prescribe. The court may on its own motion, and upon the application of any interested party shall, review the authorization, and upon such review, may revoke or modify the authorization. The order may provide for any of the following:

1. The conduct of the business solely by the fiduciary, or jointly with one or more other persons; the formation of a partnership for the conduct of such business; or the formation of, or for the fiduciary to join in the formation of, a corporation for the conduct of such business.
2. The extent of the liability of the estate, or any part of the estate, or of the fiduciary, for obligations incurred in the continuation of the business.
3. Whether liabilities incurred in the conduct of the business are to be chargeable solely to the part of the estate set aside for use in the business, or to the estate as a whole.
4. The period of time for which the business may be conducted.
5. Such other conditions, restrictions, regulations, and requirements as the court may order.

[C51, §1327; R60, §2359; C73, §2407; C97, §3337; C24, 27, 31, 35, 39, §**11956;** C46, 50, 54, 58, 62, §635.52; C66, 71, 73, 75, 77, 79, 81, §633.83]

2020 Acts, ch 1063, §336

Referred to in §633.642

633.84 Delegation of authority.

Under order of court, with or without notice, a fiduciary may engage, at estate expense, outside specialists, and may delegate to them, or consult with them for advice regarding the performance of aspects of the estate management which require professional skills or facilities which the fiduciary does not possess, or does not possess in sufficient degree, and the fiduciary may employ, at estate expense, subordinates and agents to perform ministerial acts and carry on or complete details of estate business under the policies and terms established by the fiduciary.

[C66, 71, 73, 75, 77, 79, 81, §633.84]

Referred to in §633.86, 633.642

633.85 Liability of fiduciary employing agents.

The fiduciary shall not be personally liable for the acts or omissions of any specialist, subordinate, or agent, unless it can be shown that the acts or omissions of the specialist, subordinate, or agent would have been a breach of duty by the fiduciary had the fiduciary personally done it, and that one of the following applies:

1. The fiduciary directed or permitted the breach.
2. The fiduciary did not select or retain the specialist, subordinate, or agent with reasonable care.
3. The fiduciary did not properly supervise the specialist, subordinate, or agent.
4. The fiduciary approved, acquiesced, or cooperated in the neglect, omission, misconduct, or default by the specialist, subordinate, or agent.

[C66, 71, 73, 75, 77, 79, 81, §633.85]

2020 Acts, ch 1063, §337

Referred to in §633.642

633.86 Reduction of fees when agents are employed.

The court shall, in fixing the fees of any fiduciary, consider the compensation allowed to any person employed by the fiduciary under the provisions of section 633.84. If the court determines that the services rendered by such person were services that would normally have been performed by the fiduciary, the compensation of the fiduciary may, in the court's discretion, be reduced by all or any part of the compensation allowed to any such person.

[C66, 71, 73, 75, 77, 79, 81, §633.86]

Referred to in §633.642

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633.87 Deposit of money in banks.

A fiduciary may deposit moneys and other assets belonging to the estate in any banking institution authorized to do business in the state of Iowa.

[C66, 71, 73, 75, 77, 79, 81, §633.87]

Referred to in §633.642

633.88 Law governing administration of estates of nonresidents.

Except as otherwise provided in this probate code, all provisions of the law relating to the administration of domestic estates and to the fiduciaries appointed therein, shall apply to the administration of the estate of a nonresident, the appointment of the fiduciary therein, and the granting of letters.

[C66, 71, 73, 75, 77, 79, 81, §633.88]

2005 Acts, ch 38, §51

Referred to in §633.642

633.89 Power of fiduciary or custodian to deposit securities.

1. A fiduciary as defined in section 633.3, holding securities, and a bank as defined in section 524.103, which is holding securities as a managing agent or as a custodian, including a custodian for a fiduciary, may deposit securities in a clearing corporation, as defined in section 554.8102, which is located within or without the state of Iowa, if the clearing corporation is federally regulated. A depositing bank is subject to rules adopted by the superintendent of banking, with respect to state banks, and by the comptroller of the currency, with respect to national banking associations.

2. Certificates representing deposited securities of the same class of the same issuer may merge securities deposited by a fiduciary, or by a bank acting as a managing agent or custodian, with securities deposited by any other person and may be held in the name of the clearing corporation or its nominee. The records of a depositing fiduciary and a depositing bank acting as a managing agent or custodian at all times must identify the persons on whose behalf securities have been deposited. Title to deposited securities may be transferred by entry on the books of a clearing corporation without physical delivery of the securities.

3. On demand by the owner, a bank depositing securities in a clearing corporation as a managing agent or as a custodian shall identify in writing the securities so deposited. On demand by any party to the accounting of a fiduciary, the fiduciary shall identify in writing the securities deposited in a clearing corporation for its account as fiduciary.

4. This section applies regardless of the date of the agreement, instrument, or court order under which the fiduciary or bank was appointed.

[C75, 77, 79, 81, §633.89]

96 Acts, ch 1138, §79, 84; 2016 Acts, ch 1011, §121

Referred to in §524.1006, 633.642

633.90 Power of a fiduciary to access digital assets.

Except as modified by a court order or limited in the instrument creating the fiduciary relationship, a fiduciary may exercise all rights and powers granted to such fiduciary under chapter 638.

2017 Acts, ch 79, §1

Referred to in §633.642

633.91 and 633.92 Reserved.

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PART 3

SPECIAL PROVISIONS RELATING
TO PROPERTY

633.93 Limitation on actions affecting deeds.

No action for recovery of any real estate sold by any fiduciary can be maintained by any person claiming under the deceased, the protected person, or a beneficiary, unless brought within five years after the date of the recording of the conveyance.

[C66, 71, 73, 75, 77, 79, 81, §633.93]

2024 Acts, ch 1009, §56

Referred to in §633.642

633.94 Platting.

When it is for the best interests of the estate in order to dispose of real property, the court may, upon application by the fiduciary, or any other interested person, after notice and upon good cause shown, authorize the fiduciary, either alone or together with other owners, to plat any land belonging to the estate in accordance with the statutes in regard to platting. The court may authorize the fiduciary to execute any instruments which may be required of the titleholder or proprietor in connection with the platting of such land.

[C66, 71, 73, 75, 77, 79, 81, §633.94]

Referred to in §633.642

Platting provisions, see chapter 354

633.95 Release of liens and mortgages.

Any fiduciary qualified under the laws of this state may, without prior order of court, release or discharge, in whole or in part any mortgage, judgment or other lien held by the estate.

[C51, §1337; R60, §2369; C73, §2383; C97, §3319; S13, §3307-a; C24, 27, 31, 35, 39, §**11897, 11929;** C46, 50, 54, 58, 62, §633.53, 635.18; C66, 71, 73, 75, 77, 79, 81, §633.95]

Referred to in §633.98, 633.642

Security subject to court order, see §636.26

633.96 Specific performance voluntary.

When an estate is under such an obligation to convey property as might be enforced by suit for specific performance, the fiduciary may without prior order of court execute such conveyance.

[C51, §1435, 1436; R60, §2460, 2461; C73, §2487, 2488; C97, §3409; C24, 27, 31, 35, 39, §**12061;** C46, 50, 54, 58, 62, §638.21; C66, 71, 73, 75, 77, 79, 81, §633.96]

Referred to in §633.98, 633.642

633.97 Specific performance involuntary.

When an estate is under obligation to convey property, the court may, upon application of any interested person, with or without notice as the court may direct, require the fiduciary to execute such a conveyance.

[C51, §1435, 1436; R60, §2460, 2461; C73, §2487, 2488; C97, §3409; C24, 27, 31, 35, 39, §**12061;** C46, 50, 54, 58, 62, §638.21; C66, 71, 73, 75, 77, 79, 81, §633.97]

Referred to in §633.98, 633.642

633.98 Certificate of appointment and authority.

When any instrument executed in accordance with sections 633.95 through 633.97 is to be recorded in a county other than the county in which the estate is pending, there shall also be recorded a certificate executed by the clerk of the court making the appointment, with seal affixed, showing the name of the court making the appointment, the date of the same, and that such fiduciary had not been discharged at the time of the execution of such instrument.

[C97, §3308; SS15, §3308; C24, 27, 31, 35, 39, §**11898;** C46, 50, 54, 58, 62, §633.54; C66, 71, 73, 75, 77, 79, 81, §633.98]

2020 Acts, ch 1063, §338

Referred to in §633.642

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633.99 Federal stock — authority to purchase.

When the court shall enter an order authorizing the fiduciary to execute a mortgage to encumber any property of the estate to secure a loan obtained from any association or corporation created, or which may be created, by authority of the United States and as an instrumentality of the United States, the court may authorize the fiduciary to purchase stock in an association or corporation, when such a purchase of stock is necessary or required as an incident to, or condition of, obtaining the loan, and to mortgage the estate property for such purpose, as well as to make payment for the stock so purchased from the proceeds of the loan so obtained.

[C35, §11951-g1; C39, §**11951.1;** C46, 50, 54, 58, 62, §635.41; C66, 71, 73, 75, 77, 79, 81, §633.99]

Referred to in §633.642

633.100 Waiver of exemption.

Any deed or mortgage executed by a fiduciary under order of court shall have the effect of waiving any exemption as to homestead or otherwise of any person owning an interest in said real estate as fully as such owner could do if the owner were sui juris.

[C35, §11951-g3, 12644-g1, -g2, -g3, -g4, -g5; C39, §**11951.3, 12644.21 – 12644.25;** C46, 50, 54, 58, 62, §635.43, 673.1 – 673.5; C66, 71, 73, 75, 77, 79, 81, §633.100]

Referred to in §633.642

633.101 Appraisal.

At any time that the court may determine it to be to the best interests of the estate, it may order an appraisal of any or all of the property of an estate.

[C66, 71, 73, 75, 77, 79, 81, §633.101]

Referred to in §633.642

633.102 Costs and expenses.

In connection with the sale, mortgage, lease, pledge or exchange of property, the court may authorize the fiduciary to pay, out of the proceeds realized therefrom or out of other funds of the estate, the customary and reasonable auctioneers' and brokers' fees and any necessary expenses for abstracting, survey, revenue stamps, and other necessary costs and expenses in connection therewith.

[C66, 71, 73, 75, 77, 79, 81, §633.102]

Referred to in §633.642

633.103 Certain corporate distributions. Repealed by 99 Acts, ch 124, §32.

633.104 through 633.107 Reserved.

PART 4

PROVISIONS RELATING TO ADMINISTRATION BY ALL FIDUCIARIES

SUBPART A

GENERAL PROVISIONS

633.108 Small distributions.

1. Whenever a person becomes entitled under the terms of a will to a bequest or legacy, or to a share of the estate of an intestate, and the value of the bequest, legacy, or share does not exceed the sum of fifty thousand dollars, the personal representative may pay the bequest, legacy, or interest to a fiduciary acting under one or more of the accounts referenced in subsection 2.

2. Receipt by the custodian, when presented to the court or filed with the report of

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distribution of the fiduciary, shall have the same force and effect as though the payment had been made to a duly appointed and qualified conservator for the person entitled to them:

a. A uniform transfer to minor account established for the minor pursuant to chapter 565B or the laws of any other state.

b. A uniform custodial trust account established for the minor pursuant to chapter 633F or the laws of any other state.

c. A college savings plan account established for the minor pursuant to Internal Revenue Code section 529 or chapter 12D.

d. An ABLE account established for the minor with disabilities pursuant to Internal Revenue Code section 529A or chapter 12I.

e. A FirstHome Iowa program trust account established for the minor pursuant to chapter 12L.

[C39, §**12077.1;** C46, 50, 54, 58, 62, §638.41; C66, 71, 73, 75, 77, 79, 81, §633.108; 81 Acts, ch 193, §1; 82 Acts, ch 1052, §1]

95 Acts, ch 63, §3; 2000 Acts, ch 1150, §2; 2005 Acts, ch 38, §10; 2021 Acts, ch 8, §24; 2026 Acts, ch 1115, §39

Referred to in §633.642

For small distributions and transfers involving minors, see chapter 565B, §633.555, 633.681

Subsection 2, NEW paragraph e

633.109 Inability to distribute estate funds.

Any fiduciary having in the fiduciary's possession or under the fiduciary's control any funds, moneys or securities due or to become due to any other person to whom payment or delivery cannot be made as shown by the report of the fiduciary on file, may, upon order of court, deposit such property with the clerk and take the receipt of the clerk for the same. Such receipt shall specifically state from whom said property was derived, the description thereof, and the name of the person entitled to the same. Thereafter, such funds shall be held and disposed of by the clerk in accordance with the provisions of chapter 636.

[C66, 71, 73, 75, 77, 79, 81, §633.109]

Referred to in §633.642

Deposit of undistributed trust funds and notice of deposit, see §636.31, 636.34

633.110 Receipts taken.

If such fiduciary shall otherwise discharge all the duties imposed by such appointment, the fiduciary may take the receipts of the clerk for such funds, moneys, or securities so deposited, which receipts shall specifically set forth from whom said funds, moneys, or securities were derived, the amount thereof, and the name of the person to whom due or to become due, if known.

[C66, 71, 73, 75, 77, 79, 81, §633.110]

Referred to in §633.642

For fiduciary not governed by probate code, see §636.32

633.111 Final discharge period.

Such fiduciary may file such receipts with the final report, and if it shall be made to appear to the satisfaction of the court that the fiduciary has in all other respects complied with the law governing the appointment and duties, the court may approve such final report and enter the fiduciary's discharge.

[C66, 71, 73, 75, 77, 79, 81, §633.111]

Referred to in §633.642

For fiduciary not governed by probate code, see §636.33

633.112 Discovery of property.

The court may require any person suspected of having possession of any property, including records and documents, of the decedent, protected person, or the estate, or of having had such property under the person's control, to appear and submit to an examination under oath touching such matters, and if on such examination it appears that the person has the wrongful possession of any such property, the court may order the delivery thereof to the

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fiduciary. Such a person shall be liable to the estate for all damages caused by the person's acts.

[C51, §1334, 1439; R60, §2366, 2464; C73, §2379, 2484; C97, §3315, 3407; C24, 27, 31, 35, 39, §**11925, 12059;** C46, 50, 54, 58, 62, §635.14, 638.19; C66, 71, 73, 75, 77, 79, 81, §633.112]

2024 Acts, ch 1009, §57

Referred to in §633.113, 633.642

Similar provisions, §630.19, 680.10

633.113 Commitment.

If, upon being served with an order of the court requiring appearance for interrogation, as provided in section 633.112, any person fails to appear in accordance therewith, or if, having appeared, the person refuses to answer any question which the court thinks proper to be put to the person in the course of such examination, or if the person fails to comply with the order of the court requiring the delivery of the property to the fiduciary, the person may be committed to the jail of the county until the person does.

[C51, §1335; R60, §2367; C73, §2380; C97, §3316; C24, 27, 31, 35, 39, §**11926;** C46, 50, 54, 58, 62, §635.15; C66, 71, 73, 75, 77, 79, 81, §633.113]

2008 Acts, ch 1031, §68; 2008 Acts, ch 1032, §84

Referred to in §633.642

633.114 Compromise of claims held by an estate.

When it appears for the best interest of the estate, the fiduciary may, subject to approval of the court, effect a compromise with any debtor or other obligor, or extend, renew, or in any other manner, modify the terms of any obligation owing to the estate. If the fiduciary holds a mortgage, pledge, or other lien upon property of another person, the fiduciary may, in lieu of foreclosure, accept a conveyance or transfer of such encumbered assets from the owner thereof in satisfaction of the indebtedness secured by such lien, if it appears for the best interests of the estate, and if the court shall so order.

[C51, §1336; R60, §2368; C73, §2382; C97, §3318; C24, 27, 31, 35, 39, §**11928;** C46, 50, 54, 58, 62, §635.17; C66, 71, 73, 75, 77, 79, 81, §633.114]

Referred to in §633.642

633.115 Compromise of claims against an estate.

When a claim against an estate has been filed, or suit thereon is pending, the creditor and the fiduciary may, if it appears for the best interests of the estate, subject to approval of the court, compromise the claim, whether it is due or not due, absolute or contingent, liquidated or unliquidated.

[C51, §1336; R60, §2368; C73, §2382; C97, §3318; C24, 27, 31, 35, 39, §**11928;** C46, 50, 54, 58, 62, §635.17; C66, 71, 73, 75, 77, 79, 81, §633.115]

Referred to in §633.642

633.116 Abandonment of property.

When any property is valueless, or is so encumbered, or in such condition, that it is of no benefit to the estate, the court may order the fiduciary to abandon it, or make such other disposition of it as may be suitable in the premises.

[C66, 71, 73, 75, 77, 79, 81, §633.116]

Referred to in §633.642

633.117 Encumbered assets.

When any assets of the estate are encumbered by mortgage, pledge, or other lien, the fiduciary may pay such encumbrance or any part thereof, renew or extend any obligation secured by the encumbrance, or may convey or transfer such assets to the creditor in satisfaction of the lien, in whole or in part, whether or not the holder of the encumbrance has filed a claim, or the fiduciary may purchase lands claimed or contracted for by the decedent, if it appears to be for the best interests of the estate and if the court shall so order.

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The making of such payment shall not increase the share of the distributee entitled to such encumbered assets.

[C51, §1380; R60, §2412; C73, §2428; C97, §3354; C24, 27, 31, 35, 39, §**11977;** C46, 50, 54, 58, 62, §635.72; C66, 71, 73, 75, 77, 79, 81, §633.117]

Referred to in §633.642
Procedure for secured claims, see §633.423

633.118 Attorney appointed for persons not represented.

At or before the hearing in any proceedings under this probate code, where all the parties interested in the estate are required to be notified thereof, the court, in its discretion, may appoint some competent attorney to represent any interested person who has been served with notice and who is otherwise unrepresented. The appointment of an attorney under the provisions of this section, shall be in lieu of appointment of a guardian ad litem provided for in the rules of civil procedure.

[C97, §3423; C24, 27, 31, 35, 39, §**12074;** C46, 50, 54, 58, 62, §638.37; C66, 71, 73, 75, 77, 79, 81, §633.118]

2005 Acts, ch 38, §51
Referred to in §633.120, 633.121, 633.642

633.119 Order and authority thereunder.

The order making the appointment of such attorney must specify the names of the parties, so far as known, for whom the attorney is appointed, and the attorney will be authorized to represent such parties in all such proceedings subsequent to the appointment.

[C97, §3423; C24, 27, 31, 35, 39, §**12075;** C46, 50, 54, 58, 62, §638.38; C66, 71, 73, 75, 77, 79, 81, §633.119]

Referred to in §633.642

633.120 Compensation.

Any attorney so appointed under the authority of section 633.118 shall be paid for services out of the estate, as a part of the costs of administration, a fee to be fixed by the court, and upon distribution of the estate, the fee may be charged to the party represented by the attorney.

[C97, §3423; C24, 27, 31, 35, 39, §**12076;** C46, 50, 54, 58, 62, §638.39; C66, 71, 73, 75, 77, 79, 81, §633.120]

Referred to in §633.642

633.121 Substitution — division of fee.

The court may substitute another attorney for the one first appointed under the authority of section 633.118, in which case the fees must be divided in proportion to the services rendered.

[C97, §3423; C24, 27, 31, 35, 39, §**12077;** C46, 50, 54, 58, 62, §638.40; C66, 71, 73, 75, 77, 79, 81, §633.121]

Referred to in §633.642

633.122 Settlement contested.

The acts of the fiduciary without prior approval of court after notice, may be contested by any interested person at or before the entry of the order discharging the fiduciary.

[C51, §1431; R60, §2456; C73, §2475; C97, §3399; C24, 27, 31, 35, 39, §**12050;** C46, 50, 54, 58, 62, §638.10; C66, 71, 73, 75, 77, 79, 81, §633.122]

Referred to in §633.642

SUBPART B

INVESTMENTS BY FIDUCIARIES

633.123 Prudent investments — fiduciaries.

1. When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing property for the benefit of another, a fiduciary shall consider all of the following circumstances along with the circumstances identified in section 633A.4302, if applicable:

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a. The length of time the fiduciary will have control over the estate assets and the anticipated costs of complying with the provisions of this section.

b. The unique nature of all of the following:

(1) The duties of a personal representative or conservator.

(2) The assets, income, expenses, and distribution requirements of the estate.

(3) The needs and rights of the beneficiaries or the protected person.

c. The express provisions of a will, codicil, or other controlling instrument.

2. The standards identified in this section shall be applied differently than similar standards for investment and management of trust property. Special consideration shall be given to the expected term of estates. Because some estates will have limited duration, there may be situations where an investment or a change in an investment is not warranted.

2007 Acts, ch 134, §7, 28; 2024 Acts, ch 1009, §58
Referred to in §633.642, 633F.7

633.123A Investments in investment companies and investment trusts.

1. *a.* Notwithstanding any other provision of law, a bank or trust company acting as a fiduciary, in addition to other investments authorized by law for the investment of funds by a fiduciary or by the instrument governing the fiduciary and in the exercise of its investment discretion or at the direction of another person authorized to direct investment of funds held by the fiduciary, may invest and reinvest such funds in the securities of an open-end or closed-end management investment company or investment trust registered under the federal Investment Company Act of 1940, 15 U.S.C. §80a-1 et seq. Investment and reinvestment under this section is allowed as long as the portfolio of such investment company or investment trust consists substantially of investments not otherwise prohibited by chapter 633A, subchapter IV, part 3, or by the governing instrument.

b. Investment and reinvestment under this section is not precluded merely because the bank or trust company or an affiliate of the bank or trust company provides the services of an investment advisor, custodian, transfer agent, registrar, sponsor, distributor, or manager to the investment company or investment trust and receives a reasonable fee for the services.

2. This section is applicable to all fiduciaries whether the will, agreement, or other instrument under which they are acting now exists on or before July 1, 1996.

96 Acts, ch 1008, §3; 99 Acts, ch 125, §105, 109; 2005 Acts, ch 38, §55; 2013 Acts, ch 30, §261
Referred to in §633.642

SUBPART C

APPOINTMENT OF A NOMINEE BY
BANKING INSTITUTIONS ACTING
IN A FIDUCIARY CAPACITY

633.124 Investment may be held in name of nominee of bank or trust company.

Any state or national bank or trust company, when acting with the consent of its cofiduciary, if any, may cause any investment held in any such capacity to be registered and held in the name of a nominee or nominees of such bank or trust company. Such cofiduciary is hereby empowered to give such consent unless it is specifically forbidden in the instrument creating the fiduciary relationship. Such bank or trust company shall be liable for the acts of any such nominee with respect to any investment so registered.

[C66, 71, 73, 75, 77, 79, 81, §633.124]
Referred to in §633.642

633.125 Records of bank or trust company to show ownership.

The records of said bank or trust company shall at all times show the ownership of any such investment, which investment shall be in the possession and control of such bank or trust company and be kept separate and apart from the assets of such bank or trust company.

[C66, 71, 73, 75, 77, 79, 81, §633.125]
Referred to in §633.642

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SUBPART D

COMMON TRUST FUNDS

633.126 Definitions.

1. *"Common trust fund"* means a fund maintained by a bank or trust company exclusively for the collective investment and reinvestment of moneys contributed thereto by that bank or trust company, or by another bank or trust company at least eighty percent of the voting stock of which is owned or controlled by a bank holding company which owns or controls at least eighty percent of the voting stock of the bank or trust company maintaining the common trust fund, in its capacity as a fiduciary or cofiduciary.

2. *"Fiduciary"*, for the purposes of this section and sections 633.127 through 633.129, means acting in any of the following capacities, namely: testamentary trustee appointed by any court, trustee under any written agreement, declaration or instrument of trust, executor, administrator, guardian, or conservator, custodian under chapter 565B, or other capacity permitted under any state or federal law or regulation governing collective investment funds maintained by a bank or trust company.

[C62, §533A.1 – 533A.5; C66, 71, 73, 75, 77, 79, 81, §633.126]

92 Acts, ch 1012, §2; 2021 Acts, ch 80, §360

Referred to in §633.129, 633.642

633.127 Establishment of common trust funds.

Any bank or trust company qualified to act as fiduciary in this state may establish common trust funds, or may utilize one or more common trust funds previously established by it, for the purpose of furnishing investments to itself as fiduciary, or to itself and others, as cofiduciaries, or to another bank or trust company as fiduciary or cofiduciary; and may, as a fiduciary or cofiduciary, invest funds which it lawfully holds for investment in interests in common trust funds maintained by it or by another bank or trust company at least eighty percent of the voting stock of which is owned or controlled by a bank holding company which owns or controls at least eighty percent of the common stock of the bank or trust company investing such funds, if such investment is not prohibited by the instrument, judgment, decree, or order creating such fiduciary relationship, and if, in the case of cofiduciaries, the bank or trust company procures the consent of its cofiduciaries to such investment. If the instrument creating the fiduciary relationship gives to the bank or trust company the exclusive right to select investments, the consent of the cofiduciary shall not be required.

[C58, §532.21; C62, §532.21, 533A.1 – 533A.5; C66, 71, 73, 75, 77, 79, 81, §633.127]

Referred to in §633.126, 633.129, 633.642

633.128 Court accountings.

1. Unless ordered by a court of competent jurisdiction, the bank or trust company operating such common trust funds is not required to render a court accounting with regard to such funds; but it may, by application to the court, secure approval of such an accounting on such conditions as the court may establish.

2. When an accounting of a common trust fund is presented to a court for approval, the court shall assign a time and place for hearing, and order notice thereof by all of the following:

a. Publication once each week for three consecutive weeks in a newspaper of general circulation, published in the county in which the bank or trust company operating the common trust fund is located, the first publication to be not less than twenty days prior to the date of hearing.

b. Sending by ordinary mail not less than fourteen days prior to the date of hearing, a copy of the notice prescribed to all beneficiaries of the trust participating in the common trust fund whose names are known to the bank or trust company from the records kept by it in the regular course of business in the administration of said trusts, directed to them at the addresses shown by such records.

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c. Such further notice, if any, as the court may order.

[C58, §532.21; C62, §532.21, 533A.1 – 533A.5; C66, 71, 73, 75, 77, 79, 81, §633.128]

2013 Acts, ch 90, §176

Referred to in §633.126, 633.129, 633.642

633.129 Uniformity of interpretation.

Sections 633.126 through 633.128 shall be so interpreted and construed as to effectuate their general purpose to make uniform the law of those states which enact the common trust funds.

[C62, §533A.4; C66, 71, 73, 75, 77, 79, 81, §633.129]

2020 Acts, ch 1063, §339

Referred to in §633.126, 633.642

633.130 through 633.143 Reserved.

PART 5

POWERS OF FOREIGN FIDUCIARIES

633.144 Mortgages and judgments.

Judgments rendered by any court in the state of Iowa and mortgages belonging to an estate, trust, or to a person under conservatorship may, without prior order of court, be released, discharged or assigned, in whole or in part as to any particular property, and deeds may be executed in performance of real estate contracts entered into before the creation of the estate, trust, or conservatorship, by any foreign fiduciary, receiver, referee, assignee or commissioner, or by any other person acting in a fiduciary capacity appointed by a court of record of any foreign state or country, where a statement is filed by said fiduciary that no fiduciary, receiver, referee, assignee, or commissioner has been appointed and qualified in this state. Such release, satisfaction, discharge, assignment or deed may be made without any order of court in any manner or by any instrument which would be valid and effective if made by a like officer qualified under the law of this state.

[S13, §3307-a; C24, 27, 31, 35, 39, §**11897;** C46, 50, 54, 58, 62, §633.53; C66, 71, 73, 75, 77, 79, 81, §633.144]

Referred to in §633.145, 633.642

633.145 Certificate of appointment and authority.

Before any instrument executed by such foreign fiduciary or officer as authorized by section 633.144 shall be effective, a certificate executed by the court or clerk making the appointment, with seal attached, if such officer has a seal, shall be recorded. Such certificates shall state the name of the court making such appointment, the date of the appointment, and that such fiduciary or officer has not been discharged at the time of the execution of said instrument.

[C97, §3308; SS15, §3308; C24, 27, 31, 35, 39, §**11898;** C46, 50, 54, 58, 62, §633.54; C66, 71, 73, 75, 77, 79, 81, §633.145]

Referred to in §633.146, 633.642

633.146 Filing of certificate.

The certificate under section 633.145 shall be filed for record:

1. In the case of judgments, in the office of the clerk in which the judgment is of record or in which it has been filed, and

2. In the case of mortgages and deeds executed in performance of real estate contracts, in the office of the appropriate county recorder.

[C97, §3308; SS15, §3308; C24, 27, 31, 35, 39, §**11899;** C46, 50, 54, 58, 62, §633.55; C66, 71, 73, 75, 77, 79, 81, §633.146]

2020 Acts, ch 1063, §340

Referred to in §633.642

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633.147 Record.

Such certificate shall be recorded by the proper officer in the judgment records of the court in which the same appears of record, or in the appropriate chattel or real estate records, as the case may be.

[C97, §3308; SS15, §3308; C24, 27, 31, 35, 39, §**11900;** C46, 50, 54, 58, 62, §633.56; C66, 71, 73, 75, 77, 79, 81, §633.147]

Referred to in §633.642

633.148 Maintaining actions.

When there is no administration of an estate nor a petition therefor pending, in this state, a foreign fiduciary may maintain actions and proceedings in this state subject to the requirements and conditions imposed upon nonresident suitors generally.

[C66, 71, 73, 75, 77, 79, 81, §633.148]

Referred to in §633.642

633.149 Filing of bond.

At the time of commencing any action or proceeding in any court of this state, the foreign fiduciary shall file with the court an authenticated copy of the fiduciary's appointment, and of the fiduciary's official bond, if the fiduciary has given a bond. If the court believes that the security furnished by the fiduciary in the domiciliary administration is insufficient to cover the proceeds of the action or the proceeding, or for any other reason or cause, it may at any time order the action or proceeding stayed until sufficient security is furnished in the action or proceeding.

[C66, 71, 73, 75, 77, 79, 81, §633.149]

Referred to in §633.642

633.150 through 633.154 Reserved.

PART 6

LIABILITY OF FIDUCIARIES

633.155 Self-dealing by fiduciary prohibited.

No fiduciary shall in any manner engage in self-dealing, except on order of court after notice to all interested persons, and shall derive no profit other than the fiduciary's distributive share in the estate from the sale or liquidation of any property belonging to the estate. Every application of a fiduciary seeking an order under the provisions of this section shall specify in detail the reasons for such application and the facts justifying the requested order. The notice shall have a copy of the application attached, or, if published, it shall contain a detailed statement of the reasons and facts justifying the requested order.

[C51, §1427; R60, §2452; C73, §2473; C97, §3397; C24, 27, 31, 35, 39, §**12048;** C46, 50, 54, 58, 62, §638.8; C66, 71, 73, 75, 77, 79, 81, §633.155]

Referred to in §633.156, 633.642

633.156 Deposits by corporate fiduciaries.

Section 633.155 shall not be construed to prohibit a corporate fiduciary from making a deposit of estate funds in its own banking department or in the banking department of an affiliated bank. For purposes of this section, *"affiliated bank"* means any bank that controls, directly or indirectly, the fiduciary or is controlled, directly or indirectly, by an entity which also controls, directly or indirectly, the fiduciary.

[C66, 71, 73, 75, 77, 79, 81, §633.156]

95 Acts, ch 164, §1

Referred to in §633.642

633.157 Liability for property of estate.

Every fiduciary shall be liable for, and chargeable in the fiduciary's accounts with, all of the estate that comes into the fiduciary's possession at any time, including all the income

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therefrom; but the fiduciary shall not be accountable for any debts due to the estate or other assets of the estate that remain uncollected without the fiduciary's fault. The fiduciary shall not be entitled to profit from the increase in value of any asset of the estate, nor shall the fiduciary be chargeable with loss resulting, without the fiduciary's fault, from the decrease in value or the destruction of any part of the estate, excepting, only to the extent of the fiduciary's pro rata share in such gain or loss as one of the distributees of the estate.

[C51, §1425, 1427; R60, §2450, 2452; C73, §2471, 2473; C97, §3395, 3397; C24, 27, 31, 35, 39, §**12046, 12048;** C46, 50, 54, 58, 62, §638.6, 638.8; C66, 71, 73, 75, 77, 79, 81, §633.157]

Referred to in §633.642

633.158 Liability for property not a part of estate.

Every fiduciary shall be chargeable in the fiduciary's accounts with property not a part of the estate that comes into the fiduciary's hands at any time, and shall be liable to the persons entitled to the property, if either of the following applies:

1. The property was received under a duty imposed upon the fiduciary by law in the capacity of fiduciary.
2. The fiduciary has commingled the property with the assets of the estate.

[C66, 71, 73, 75, 77, 79, 81, §633.158]

2020 Acts, ch 1063, §341

Referred to in §633.642

633.159 Judgment — execution.

If judgment is rendered against a fiduciary for costs in any action prosecuted or defended by the fiduciary in that capacity, execution shall be awarded against the fiduciary as for the fiduciary's own debt, if it appears to the court that such action was prosecuted or defended without reasonable cause.

[C51, §1433; R60, §2458; C73, §2477; C97, §3401; C24, 27, 31, 35, 39, §**12053;** C46, 50, 54, 58, 62, §638.13; C66, 71, 73, 75, 77, 79, 81, §633.159]

Referred to in §633.642

633.160 Breach of duty.

Every fiduciary shall be liable and chargeable in the fiduciary's accounts for neglect or unreasonable delay in collecting the credits or other assets of the estate or in selling, mortgaging or leasing the property of the estate; for neglect in paying over money or delivering property of the estate the fiduciary shall have in the fiduciary's hands; for failure to account for or to close the estate within the time provided by this probate code; for any loss to the estate arising from the fiduciary's embezzlement or commingling of the assets of the estate with other property; for loss to the estate through self-dealing; for any loss to the estate arising from wrongful acts or omissions of any cofiduciaries which the fiduciary could have prevented by the exercise of ordinary care; and for any other negligent or willful act or nonfeasance in the fiduciary's administration of the estate by which loss to the estate arises.

[C51, §1428; R60, §2453; C73, §2482; C97, §3405; C24, 27, 31, 35, 39, §**12057;** C46, 50, 54, 58, 62, §638.17; C66, 71, 73, 75, 77, 79, 81, §633.160]

2005 Acts, ch 38, §51

Referred to in §633.642

633.161 Examination of fiduciaries.

The fiduciary may be examined under oath by the court upon any matter relating to the fiduciary's accounts.

[C51, §1424; R60, §2449; C73, §2470; C97, §3395; C24, 27, 31, 35, 39, §**12045;** C46, 50, 54, 58, 62, §638.5; C66, 71, 73, 75, 77, 79, 81, §633.161]

Referred to in §633.642

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633.162 Penalty.

In fixing the fees of any fiduciary, the court shall take into consideration any violation of this probate code by the fiduciary, and may diminish the fee of such fiduciary to the extent the court may determine to be proper.

[C66, 71, 73, 75, 77, 79, 81, §633.162]

2005 Acts, ch 38, §51

Referred to in §633.642

633.163 Fees — expenses.

In a disputed judicial proceeding involving the administration of a decedent's estate, the court, as equity and justice may require, may award costs, attorney fees, and other expenses to any party to be paid by another or from the estate that is the subject of the controversy. For purposes of this section, attorney fees do not include an attorney fee as described in section 633.198.

2026 Acts, ch 1074, §2, 7

Section applies to actions involving decedents dying on or after July 1, 2026; 2026 Acts, ch 1074, §7

NEW section

633.164 through 633.167 Reserved.

PART 7

OATH AND BOND OF FIDUCIARIES

633.168 Oath — certification.

Every fiduciary, before entering upon the duties of the fiduciary's office, shall subscribe an oath or certify under penalties of perjury that the fiduciary will faithfully discharge the duties imposed by law, according to the best of the fiduciary's ability.

[C51, §1276, 1316, 1317, 1496; R60, §2308, 2348, 2349, 2548; C73, §2246, 2321, 2362, 2363; C97, §3197, 3267, 3268, 3301; S13, §3268; C24, 27, 31, 35, 39, §**11828, 11838, 11887, 12577, 12579;** C46, 50, 54, 58, 62, §631.10, 632.7, 633.43, 668.5, 668.7; C66, 71, 73, 75, 77, 79, 81, §633.168]

2007 Acts, ch 134, §8, 28

633.169 Bond.

Except as herein otherwise provided, every fiduciary shall execute and file with the clerk a bond with sufficient surety or sureties, as hereinafter provided. It shall be conditioned upon the faithful discharge of all the duties of the fiduciary's office according to law, including the duty to account. It shall be procured at the expense of the estate, if an approved surety company bond is furnished.

[C51, §1276, 1316, 1317; R60, §2308, 2348, 2349; C73, §2321, 2350, 2362, 2363; C97, §3267, 3268, 3293, 3301; S13, §3268; C24, 27, 31, 35, 39, §**11828, 11838, 11876, 11887;** C46, 50, 54, 58, 62, §631.10, 632.7, 633.32, 633.43; C66, 71, 73, 75, 77, 79, 81, §633.169]

633.170 Amount of bond.

1. *How determined.* Except as herein otherwise provided, the court or the clerk shall fix the penalty of the bond in an amount equal to the value of the personal property of the estate, plus the estimated gross annual income of the estate during the period of administration.

2. *Bonds fixed by clerk.* Unless a bond is waived by will under the authority of section 633.172, or by other instrument creating the estate, or in accordance with section 633.173, or by prior order of court, the clerk shall fix the bond in the amount provided by subsection 1 of this section. The clerk shall not thereafter increase or decrease a bond.

[C51, §1276, 1316, 1317; R60, §2308, 2348, 2349; C73, §2321, 2350, 2362, 2363; C97, §3267, 3268, 3293, 3301; S13, §3268; C24, 27, 31, 35, 39, §**11828, 11838, 11876, 11887, 12578;** C46, 50, 54, 58, 62, §631.10, 632.7, 633.32, 633.43, 668.6; C66, 71, 73, 75, 77, 79, 81, §633.170]

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633.171 Approval by clerk.

The bond shall not be deemed sufficient until it has been examined and approved by the clerk who shall endorse such approval thereon. In the event that the bond is not approved, the fiduciary shall, within such time as the court or the clerk directs, secure and file a bond with satisfactory surety or sureties.

[C51, §1276, 1316, 1317; R60, §2308, 2348, 2349; C73, §2321, 2350, 2362, 2363; C97, §3267, 3268, 3293, 3301; S13, §3268; C24, 27, 31, 35, 39, §**11828, 11838, 11876, 11887;** C46, 50, 54, 58, 62, §631.10, 632.7, 633.32, 633.43; C66, 71, 73, 75, 77, 79, 81, §633.171]

633.172 Will — waiver of bond.

1. When, by the terms of the will, the testator has directed or expressed the desire that no bond shall be required, such direction or expression shall be construed to be a waiver of the posting of a bond by the fiduciary for all purposes, and no bond shall be required unless the court for good cause finds it proper to require one; if no bond is initially required, the court may nevertheless, for good cause, at any subsequent time require that a bond be given.

2. Unless otherwise required by the instrument creating the relationship, or by order of court, bank and trust companies shall not be required to provide any bond.

[C51, §1276, 1316, 1317; R60, §2308, 2348, 2349; C73, §2321, 2350, 2362, 2363; C97, §3267, 3268, 3293, 3301; S13, §3268; C24, 27, 31, 35, 39, §**11828, 11838, 11876, 11887;** C46, 50, 54, 58, 62, §631.10, 632.7, 633.32, 633.43; C66, 71, 73, 75, 77, 79, 81, §633.172]

86 Acts, ch 1131, §2

Referred to in §633.170, 633.175

633.173 Waiver of bond by distributees.

If the distributees, in writing waive the statutory requirement that a bond shall be filed by the fiduciary with the clerk, and the court finds that the interests of the creditors will not thereby be prejudiced, no bond shall be required.

[C51, §1276, 1316, 1317; R60, §2308, 2348, 2349; C73, §2321, 2350, 2362, 2363; C97, §3267, 3268, 3293, 3301; S13, §3268; C24, 27, 31, 35, 39, §**11828, 11838, 11876, 11887;** C46, 50, 54, 58, 62, §631.10, 632.7, 633.32, 633.43; C66, 71, 73, 75, 77, 79, 81, §633.173]

Referred to in §633.170

Attorneys acting as fiduciaries, see Iowa Ct.R. 39.13

633.174 Guardians and conservators — bond.

1. When the guardian appointed for a person is not the conservator of the property of that person, no bond shall be required of the guardian, unless the court for good cause finds it proper to require one. If no bond is initially required, the court may, nevertheless, for good cause, at any subsequent time, require that a bond be given.

2. Every conservator shall execute and file with the clerk a bond with sufficient surety or sureties except as provided in section 633.175.

[C51, §1276, 1316, 1317, 1496; R60, §2308, 2348, 2349, 2548; C73, §2246, 2321, 2350, 2362, 2363; C97, §3197, 3267, 3268, 3293, 3301; S13, §3268; C24, 27, §11828, 11838, 11876, 11887, 12579; C31, 35, §11828, 11838, 11876, 11887, 12579, 12644-c10; C39, §**11828, 11838, 11876, 11887, 12579, 12644.10;** C46, 50, 54, 58, 62, §631.10, 632.7, 633.32, 633.43, 668.7, 672.9; C66, 71, 73, 75, 77, 79, 81, §633.174]

2019 Acts, ch 57, §7, 43, 44

633.175 Waiver of bond by court.

1. The court, for good cause shown, may exempt any fiduciary from giving bond, if the court finds that the interests of creditors and distributees will not thereby be prejudiced.

2. However, the court, except as provided in section 633.172, subsection 2, shall not exempt a conservator, other than a financial institution with Iowa trust powers, from giving bond in a conservatorship unless the court finds that there is an alternative to a bond that will provide sufficient protection to the assets of the protected person. The conservator shall submit a plan for any proposed alternative to a bond for review and approval by the court.

[C51, §1276, 1316, 1317, 1496; R60, §2308, 2348, 2349, 2548; C73, §2246, 2321, 2350, 2362, 2363; C97, §3197, 3267, 3268, 3293, 3301; S13, §3268; C24, 27, 31, 35, 39, §**11828, 11838,**

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11876, 11887, 12577; C46, 50, 54, 58, 62, §631.10, 632.7, 633.32, 633.43, 668.5; C66, 71, 73, 75, 77, 79, 81, §633.175]

91 Acts, ch 36, §5; 92 Acts, ch 1012, §3; 2008 Acts, ch 1119, §15, 39; 2019 Acts, ch 57, §8, 43, 44

Referred to in §633.174
Administering moneys paid by United States department of veterans affairs, see §633.622
Attorneys acting as fiduciaries, see Iowa Ct.R. 39.13

633.176 Reduction of bond by deposit.

Personal property of the estate may be deposited with a bank or trust company located in the state of Iowa upon such terms as may be prescribed by order of the court. The amount of the bond of the fiduciary may be then reduced as the court may determine.

[C51, §1276, 1316, 1317; R60, §2308, 2348, 2349; C73, §2321, 2350, 2362, 2363; C97, §3267, 3268, 3293, 3301; S13, §3268; C24, 27, 31, 35, 39, §**11828, 11838, 11876, 11887;** C46, 50, 54, 58, 62, §631.10, 632.7, 633.32, 633.43; C66, 71, 73, 75, 77, 79, 81, §633.176]

633.177 Deposit in lieu of bond.

The court may permit the fiduciary to deposit cash or other prescribed securities of the fiduciary's own in lieu of bond.

[C51, §1276, 1316, 1317; R60, §2308, 2348, 2349; C73, §2321, 2350, 2362, 2363; C97, §3267, 3268, 3293, 3301; S13, §3268; C24, 27, 31, 35, 39, §**11828, 11838, 11876, 11887;** C46, 50, 54, 58, 62, §631.10, 632.7, 633.32, 633.43; C66, 71, 73, 75, 77, 79, 81, §633.177]

633.178 Letters.

Upon the filing of an oath of office or certification and a bond, if any is required, the clerk shall issue letters under the seal of the court, giving the fiduciary the powers authorized by law.

[C51, §1319; R60, §2351; C73, §2365; C97, §3303; C24, 27, 31, 35, 39, §**11889;** C46, 50, 54, 58, 62, §633.45; C66, 71, 73, 75, 77, 79, 81, §633.178]

2007 Acts, ch 134, §9, 28

633.179 Review by clerk when inventory is filed.

At the time the inventory of the estate is filed, the clerk shall review the amount of bond, and report to the court as to any apparent insufficiency thereof.

[C66, 71, 73, 75, 77, 79, 81, §633.179]

633.180 Bond changed.

The court may at any time require a new bond, or increase or decrease the amount of the penalty of the bond of any fiduciary, when good cause therefor appears.

[C51, §1510; R60, §2562; C73, §2247; C97, §3198; C24, 27, §12604; C31, 35, §12604, 12644-c9; C39, §**12604, 12644.09;** C46, 50, 54, 58, 62, §668.31, 672.9; C66, 71, 73, 75, 77, 79, 81, §633.180]

633.181 Obligees of bond — joint and several liability.

The bond of the fiduciary shall run to the use of all persons interested in the estate, and shall be for the security and benefit of such persons. The sureties shall be jointly and severally liable with the fiduciary, and with each other.

[C66, 71, 73, 75, 77, 79, 81, §633.181]

633.182 Qualifications for sureties.

Qualifications for sureties on probate bonds shall be the same as those provided by section 636.4 or section 636.14, provided, however, that no attorney shall act as surety on any such bond.

[C66, 71, 73, 75, 77, 79, 81, §633.182]

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633.183 Authority for fiduciary and surety to enter into agreement for deposit of property or joint control.

It shall be lawful for the fiduciary to agree with the fiduciary's surety for the deposit of any or all moneys and other property of the estate with a bank, safe deposit or trust company, authorized by law to do business as such, or other depository approved by the court, if such deposit is otherwise proper, in such manner as to prevent the withdrawal of such moneys or other property without the written consent of the surety, or on order of the court made on such notice to the surety as the court may direct.

[C66, 71, 73, 75, 77, 79, 81, §633.183]

Deposit and joint control agreements, see also §636.47

633.184 Release of sureties before estate fully administered.

1. *Release for cause.* For good cause, the court may, before the estate is fully administered, order the release of the sureties of the fiduciary and require the fiduciary to furnish a new bond.

2. *Extent of liability of original and new sureties.* The original sureties shall be liable for all breaches of the obligation of the bond up to the time of filing of the new bond and the approval thereof by the clerk, but not for acts and omissions of the fiduciary thereafter. The new bond shall bind the sureties thereon with respect to acts and omissions of the fiduciary from the time when the sureties on the original bond are no longer liable therefor.

[C51, §1318; R60, §2350; C73, §2364; C97, §3302; C24, 27, 31, 35, 39, §**11888;** C46, 50, 54, 58, 62, §633.44; C66, 71, 73, 75, 77, 79, 81, §633.184]

633.185 Insolvency of fiduciary.

If, at any time, a fiduciary becomes insolvent after qualifying as such fiduciary, and after the maturity of a debt owing by such fiduciary to the estate, then the fiduciary and the sureties on the bond shall be liable to the estate for the indebtedness owing by the fiduciary to the estate. If the fiduciary is not solvent at any time after qualification and after the maturity of the debt, the sureties on the bond shall not be liable to the estate for the indebtedness.

[C66, 71, 73, 75, 77, 79, 81, §633.185]

633.186 Suit on bond.

1. *Execution of bond deemed as appearance.* The execution and filing of the bond by a fiduciary, any other provisions of law notwithstanding, shall be deemed an appearance by the surety in the proceeding for the administration of the estate including all hearings with respect to the bond.

2. *Summary enforcement in proceedings for administration.* Subject to the provisions of subsection 3 hereof, the court may, upon the breach of the obligation of the bond of a fiduciary, after notice to the obligors on the bond and to such other persons as the court directs, summarily determine the damages as a part of the proceeding for the administration of the estate, and by appropriate process enforce the collection thereof from those liable on the bond. Such determination and enforcement may be made by the court upon its own motion or upon application of a successor fiduciary, or of any other interested person. The court may hear the application at the time of settling the accounts of the defaulting fiduciary or at such other time as the court may direct. Damages shall be assessed on behalf of all interested persons and may be paid over to the successor or other nondefaulting fiduciary and distributed as other assets held by the fiduciary in the fiduciary's official capacity.

3. *Enforcement by separate suit.* If the estate is already distributed, or if, for any reason, the procedure to recover on the bond provided in subsection 2 hereof, is inadequate, any interested person may bring a separate suit in a court of competent jurisdiction on the person's own behalf for damages suffered by the person by reason of the default of the fiduciary.

4. *Bond not void upon first recovery.* The bond of the fiduciary shall not be void upon the first recovery, but may be proceeded upon from time to time until the whole penalty is exhausted.

5. *Denial of liability by surety — intervention.* If the court has already determined the

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liability of the fiduciary, the sureties shall not be permitted thereafter to deny such liability in any action or hearing to determine their liability; but the surety may intervene in any hearing to determine the liability of the fiduciary.

[C51, §1387, 1389, 1509; R60, §2419, 2421, 2561; C73, §2251, 2435; C97, §3201, 3361; C24, 27, 31, 35, 39, §**11984, 11985, 12603;** C46, 50, 54, 58, 62, §635.79, 635.80, 668.30; C66, 71, 73, 75, 77, 79, 81, §633.186]

Referred to in §633.487
For service of suit on bond, see §636.20

633.187 Limitation of action on bond.

No proceedings upon the bond of a fiduciary shall be brought subsequent to two years after the discharge of the fiduciary or six months after the discovery of fraud, whichever is later.

[C66, 71, 73, 75, 77, 79, 81, §633.187]

633.188 through 633.196 Reserved.

PART 8

COMPENSATION OF FIDUCIARIES AND ATTORNEYS

633.197 Compensation — schedule of fees.

1. Personal representatives shall be allowed such reasonable fees as may be determined by the court for services rendered, but not in excess of the following commissions upon the gross assets of the estate listed in the probate inventory, which shall be received as full compensation for all ordinary services:

a. For the first one thousand dollars, six percent.

b. For the overplus between one and five thousand dollars, four percent.

c. For all sums over five thousand dollars, two percent.

2. For purposes of this section, the gross assets of the estate shall not include life insurance proceeds, unless payable to the decedent's estate.

[C51, §1429; R60, §2454; C73, §2494; C97, §3415; C24, 27, 31, 35, 39, §**12063;** C46, 50, 54, 58, 62, §638.23; C66, 71, 73, 75, 77, 79, 81, §633.197]

94 Acts, ch 1153, §8; 2005 Acts, ch 38, §11; 2013 Acts, ch 30, §190
For reduction of fees when agents are employed and penalties, see §633.86 and 633.162

633.198 Attorney fee.

There shall also be allowed and taxed as part of the costs of administration of estates as an attorney fee for the personal representative's attorney, such reasonable fee as may be determined by the court, for services rendered, but not in excess of the schedule of fees provided in this part for personal representatives.

[C24, 27, 31, 35, 39, §**12064;** C46, 50, 54, 58, 62, §638.24; C66, 71, 73, 75, 77, 79, 81, §633.198]

2021 Acts, ch 80, §361
Referred to in §633.163

633.199 Expenses and extraordinary services.

Such further allowances as are just and reasonable may be made by the court to personal representatives and their attorneys for actual necessary and extraordinary expenses and services. Necessary and extraordinary services shall be construed to include but not be limited to services in connection with real estate, tax issues, disputed matters, nonprobate assets, reopening the estate, location of unknown and lost heirs and beneficiaries, and management and disposition of unusual assets. Relevant factors to be considered in determining the value of such services shall include but not be limited to the following:

1. Time necessarily spent by the personal representatives and their attorneys.
2. Nature of the matters or issues and the extent of the services provided.
3. Complexity of the issues and the importance of the issues to the estate.
4. Responsibilities assumed.

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5. Resolution.
6. Experience and expertise of the personal representatives and their attorneys.

[C51, §1430; R60, §2455; C73, §2495; C97, §3415; C24, 27, 31, 35, 39, §**12065;** C46, 50, 54, 58, 62, §638.25; C66, 71, 73, 75, 77, 79, 81, §633.199]

2007 Acts, ch 134, §10, 28

633.200 Compensation of other fiduciaries and their attorneys.

The court shall allow and fix from time to time the compensation for fiduciaries, other than personal representatives, and their attorneys for such services as they shall render as shown by an itemized claim or report made and filed setting forth what such services consist of during the period of time they continue to act in such capacities.

[C51, §1515; R60, §2567; C73, §2256; C97, §3205; C24, 27, §12599; C31, 35, §12065-d1, 12599; C39, §**12065.1, 12599;** C46, 50, 54, 58, 62, §638.26, 668.26; C66, 71, 73, 75, 77, 79, 81, §633.200]

633.201 Court officers as fiduciaries.

Judges, clerks, and deputy clerks serving as fiduciaries shall not be allowed any compensation for services as such fiduciaries. A judge, clerk, or deputy clerk serving as a fiduciary may be compensated for fiduciary services if the services are for a family member's estate, trust, guardianship, or conservatorship. For purposes of this section, "*family member*" means a spouse, child, grandchild, parent, grandparent, sibling, niece, nephew, cousin, or other relative or individual with significant personal ties to the fiduciary.

[C66, 71, 73, 75, 77, 79, 81, §633.201]

2007 Acts, ch 86, §9

633.202 Affidavit relative to compensation.

In no case shall the compensation of fiduciaries and their attorneys be allowed or paid until there shall have been filed with the clerk of the district court in which administration of the estate is pending an affidavit of the fiduciary, or attorney, as the case may be, stating that there is no contract, agreement, or arrangement, either oral or written, express or implied, contemplating any division of compensation for such services, or participation therein, directly or indirectly, by any other person, firm, or corporation with such fiduciary or attorney, unless it be with a regular and bona fide law partner, or with one jointly serving with them in the same capacity in relation to the estate in which such compensation is allowed, in which event the affidavit shall show such fact.

[C31, 35, §12065-d2; C39, §**12065.2;** C46, 50, 54, 58, 62, §638.27; C66, 71, 73, 75, 77, 79, 81, §633.202]

Referred to in §633.203

633.203 Affidavit for corporate fiduciary.

In any case where a corporation is acting as a fiduciary under and by virtue of the provisions of chapter 524, subchapter X, the affidavit required by section 633.202 shall be executed and made by an officer of such corporation.

[C31, 35, §12065-d3; C39, §**12065.3;** C46, 50, 54, 58, 62, §638.28; C66, 71, 73, 75, 77, 79, 81, §633.203]

633.204 Fees of deceased fiduciary.

When a fiduciary dies, all fees to which the fiduciary's personal representative and the fiduciary's attorney are entitled shall be a charge against the estate assets until paid.

[C66, 71, 73, 75, 77, 79, 81, §633.204]

633.205 through 633.209 Reserved.

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SUBCHAPTER IV

INTESTATE SUCCESSION

PART 1

RULES OF INHERITANCE

633.210 Rules of descent.

The estate of a person dying intestate shall descend as provided in sections 633.211 through 633.226.

[C51, §1390; R60, §2422; C73, §2436; C97, §3362; C24, 27, 31, 35, 39, §**11986;** C46, 50, 54, 58, 62, §636.1; C66, 71, 73, 75, 77, 79, 81, §633.210]

2021 Acts, ch 80, §362

Referred to in §910.3B

633.211 Share of surviving spouse if decedent left no issue or left issue all of whom are issue of surviving spouse.

If the decedent dies intestate leaving a surviving spouse and leaving no issue or leaving issue all of whom are the issue of the surviving spouse, the surviving spouse shall receive the following share:

1. All the value of all the legal or equitable estates in real property possessed by the decedent at any time during the marriage, which have not been sold on execution or by other judicial sale, and to which the surviving spouse has made no relinquishment of right.
2. All personal property that, at the time of death, was, in the hands of the decedent as the head of a family, exempt from execution.
3. All other personal property of the decedent which is not necessary for the payment of debts and charges.

[C51, §1329, 1390, 1394, 1421; R60, §2361, 2422, 2477, 2479; C73, §2371, 2436, 2440; C97, §3312, 3362, 3366; C24, 27, 31, 35, 39, §**11918, 11986, 11990, 11991;** C46, 50, 54, 58, 62, §635.7, 636.1, 636.5, 636.6; C66, 71, 73, 75, 77, 79, 81, §633.211]

85 Acts, ch 19, §1

Referred to in §633.210, 633.218, 633.246, 633.267, 633.272, 633.436, 633A.3106

633.212 Share of surviving spouse if decedent left issue some of whom are not issue of surviving spouse.

If the decedent dies intestate leaving a surviving spouse and leaving issue some of whom are not the issue of the surviving spouse, the surviving spouse shall receive the following share:

1. One-half in value of all the legal or equitable estates in real property possessed by the decedent at any time during the marriage, which have not been sold on execution or by other judicial sale, and to which the surviving spouse has made no relinquishment of right.
2. All personal property that, at the time of death, was in the hands of the decedent as the head of a family, exempt from execution.
3. One-half of all other personal property of the decedent which is not necessary for the payment of debts and charges.
4. If the property received by the surviving spouse under subsections 1, 2 and 3 of this section is not equal in value to the sum of fifty thousand dollars, then so much additional of any remaining homestead interest and of the remaining real and personal property of the decedent that is subject to payment of debts and charges against the decedent's estate, after payment of the debts and charges, even to the extent of the whole of the net estate, as necessary to make the amount of fifty thousand dollars.

[C51, §1410; R60, §2495; C73, §2455; C97, §3379; S13, §3379, 3381-a; C24, 27, 31, 35, 39, §**12017;** C46, 50, 54, 58, 62, §636.32; C66, 71, 73, 75, 77, 79, 81, §633.212]

85 Acts, ch 19, §2

Referred to in §633.210, 633.218, 633.246, 633.267, 633.272, 633.436, 633A.3106

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633.213 Appraisal.

Prior to the settlement of every intestate estate in which there is a surviving spouse, and in which appraisal has not been waived by the surviving spouse and all the heirs of the decedent, the court, upon application of the personal representative, the surviving spouse, or any of the heirs of the decedent, shall appoint three competent disinterested appraisers to appraise the estate and to make their report to the court, at the time as the court may direct by order, unless the court, after notice, finds further appraisal unnecessary. In the appraisement, the homestead, if any, shall be appraised separately.

[C24, 27, 31, 35, 39, §**12018;** C46, 50, 54, 58, 62, §636.33; C66, 71, 73, 75, 77, 79, 81, §633.213]
84 Acts, ch 1067, §47
Referred to in §633.210, 633.214

633.214 Procedure determined by court.

At the time it appoints the appraisers provided for by section 633.213 the court shall prescribe the kind of notice and the method of service thereof, whether by publication or otherwise.

[C24, 27, 31, 35, 39, §**12019;** C46, 50, 54, 58, 62, §636.34; C66, 71, 73, 75, 77, 79, 81, §633.214]
Referred to in §633.210

633.215 Notice.

Such notice shall designate the names of the appraisers, the time and place of the appraisement, and the date on which the appraisers shall file with the clerk the report of their appraisement, directed to all persons interested in such appraisement.

[C24, 27, 31, 35, 39, §**12020;** C46, 50, 54, 58, 62, §636.35; C66, 71, 73, 75, 77, 79, 81, §633.215]
Referred to in §633.210

633.216 Objections.

All persons interested in such report and having objections to it and the appraisement, shall file their objections within ten days after the date fixed in said notice for the filing of the report of such appraisement.

[C24, 27, 31, 35, 39, §**12021;** C46, 50, 54, 58, 62, §636.36; C66, 71, 73, 75, 77, 79, 81, §633.216]
Referred to in §633.210

633.217 Trial.

Such objections, if any, shall be tried to the court as in equity, and the court shall enter a final order in the matter.

[C24, 27, 31, 35, 39, §**12022;** C46, 50, 54, 58, 62, §636.37; C66, 71, 73, 75, 77, 79, 81, §633.217]
Referred to in §633.210

633.218 Right of spouse to select property.

After such proceedings, and after payment of debts and charges, the surviving spouse shall have the right to select from the property so appraised, at its appraised value thus fixed, property equal in value to the amount to which the spouse is entitled under section 633.211 or 633.212 which selection shall be in writing filed with the clerk of court.

[C24, 27, 31, 35, 39, §**12023;** C46, 50, 54, 58, 62, §636.38; C66, 71, 73, 75, 77, 79, 81, §633.218]
Referred to in §633.210

633.219 Share of others than surviving spouse.

The part of the intestate estate not passing to the surviving spouse, or if there is no surviving spouse, the entire net estate passes as follows:

1. To the issue of the decedent per stirpes.

2. If there is no surviving issue, to the parents of the decedent equally; and if either parent is dead, the portion that would have gone to such deceased parent shall go to the survivor.

3. If there is no person to take under either subsection 1 or 2 of this section, the estate shall be divided and set aside into two equal shares. One share shall be distributed to the issue of the decedent's mother per stirpes and one share shall be distributed to the issue of the decedent's father per stirpes. If there are no surviving issue of one deceased parent,

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the entire estate passes to the issue of the other deceased parent in accordance with this subsection.

4. If there is no person to take under subsection 1, 2, or 3 of this section, and the decedent is survived by one or more grandparents or issue of grandparents, half the estate passes to the paternal grandparents, if both survive, or to the surviving paternal grandparent if only one survives. If neither paternal grandparent survives, this half share shall be further divided into two equal subshares. One subshare shall be distributed to the issue of the decedent's paternal grandmother per stirpes and one subshare shall be distributed to the issue of the decedent's paternal grandfather per stirpes. If there are no surviving issue of one deceased paternal grandparent, the entire half share passes to the issue of the other deceased paternal grandparent and their issue in the same manner. The other half of the decedent's estate passes to the maternal grandparents and their issue in the same manner. If there are no surviving grandparents or issue of grandparents on either the paternal or maternal side, the entire estate passes to the decedent's surviving grandparents or their issue on the other side in accordance with this subsection.

5. If there is no person to take under subsection 1, 2, 3, or 4 of this section, and the decedent is survived by one or more great-grandparents or issue of great-grandparents, the estate passes equally to each set of great-grandparents, or to their issue, if any survive, per stirpes.

6. If there is no person to take under subsection 1, 2, 3, 4, or 5 of this section, the portion uninherited shall go to the issue of the deceased spouse of the intestate, per stirpes. If the intestate has had more than one spouse who died in lawful wedlock, it shall be equally divided between the issue, per stirpes, of those deceased spouses.

7. If there is no person who qualifies under either subsection 1, 2, 3, 4, 5, or 6 of this section, the intestate property shall escheat to the state of Iowa.

[C51, §1408 – 1411, 1413, 1414; R60, §2436, 2437, 2439, 2440, 2495 – 2497; C73, §2453 – 2458, 2460; C97, §3378 – 3382, 3387; S13, §3379, 3381-a, -b, -c; C24, 27, 31, 35, 39, §**12016, 12017, 12024 – 12028, 12035;** C46, 50, 54, 58, 62, §636.31, 636.32, 636.39 – 636.43, 636.50; C66, 71, 73, 75, 77, 79, 81, §633.219]

93 Acts, ch 111, §2; 95 Acts, ch 63, §4; 2000 Acts, ch 1012, §1

Referred to in §633.210, 633.267, 633.304, 633.305, 633A.3106, 633A.3110

633.220 Afterborn heirs — time of determining relationship.

Heirs of an intestate, conceived before but born after the intestate's death, shall inherit as if they had been born in the lifetime of the intestate and had survived the intestate. With this exception, the intestate succession shall be determined by the relationships existing at the time of the death of the intestate.

[C51, §1284, 1285; R60, §2316, 2317; C73, §2334, 2335; C97, §3279; S13, §3279; C24, 27, 31, 35, 39, §**11858;** C46, 50, 54, 58, 62, §633.13; C66, 71, 73, 75, 77, 79, 81, §633.220]

2023 Acts, ch 66, §144

Referred to in §633.210

633.220A Posthumous child.

1. For the purposes of rules relating to intestate succession, a child of an intestate conceived and born after the intestate's death or born as the result of the implantation of an embryo after the death of the intestate is deemed a child of the intestate as if the child had been born during the lifetime of the intestate and had survived the intestate, if all of the following conditions are met:

a. A genetic parent-child relationship between the child and the intestate is established.

b. The intestate, in a signed writing, authorized the intestate's surviving spouse to use the deceased parent's genetic material to initiate the posthumous procedure that resulted in the child's birth.

c. The child is born within two years of the death of the intestate.

2. Any heir of the intestate whose interest in the intestate's estate would be reduced by the birth of a child born as provided in subsection 1 shall have one year from the birth of the child within which to bring an action challenging the child's right to inherit under this chapter.

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3. For the purposes of this section, *"genetic material"* means sperm, eggs, or embryos.

2011 Acts, ch 18, §2
Referred to in §633.210

633.221 Biological child — inherit from mother.

Unless the child has been adopted, a biological child shall inherit from the child's biological mother, and she from the child.

[C51, §1415; R60, §2441; C73, §2465; C97, §3384; C24, 27, 31, 35, 39, §**12030;** C46, 50, 54, 58, 62, §636.45; C66, 71, 73, 75, 77, 79, 81, §633.221]

94 Acts, ch 1046, §27
Referred to in §633.3, 633.210

633.222 Biological child — inherit from father.

Unless the child has been adopted, a biological child inherits from the child's biological father if the evidence proving paternity is available during the father's lifetime, or if the child has been recognized by the father as his child; but the recognition must have been general and notorious, or in writing. Under such circumstances, if the recognition has been mutual, and the child has not been adopted, the father may inherit from his biological child.

[C51, §1416, 1417; R60, §2442, 2443; C73, §2466, 2467; C97, §3385; C24, 27, 31, 35, 39, §**12031;** C46, 50, 54, 58, 62, §636.46; C66, 71, 73, 75, 77, 79, 81, §633.222]

86 Acts, ch 1086, §1; 94 Acts, ch 1046, §28
Referred to in §633.3, 633.210

633.223 Effect of adoption.

1. Except as provided in subsection 3, a lawful adoption extinguishes the right of intestate succession of an adopted person from and through the adopted person's biological parents. The adopted person inherits from and through the adoptive parents in the same manner as a biological child inherits from and through the child's biological parents.

2. Except as provided in subsection 3, a lawful adoption extinguishes the right of intestate succession of a biological parent from and through the parent's biological child who is adopted. The adoptive parents inherit from and through the adopted person in the same manner as biological parents inherit from and through the parents' biological child.

3. An adoption of a person by the spouse or surviving spouse of a biological parent has no effect on the relationship for inheritance purposes between the adopted person and that biological parent or biological parent's heirs. An adoption of a person by the spouse or surviving spouse of a biological parent after the death of the other biological parent has no effect on the relationship for inheritance purposes between the adopted person and the deceased biological parent's heirs.

4. A person inherits through an adopted person, an adoptive parent, or a biological parent of an adopted person only if the adopted person, adoptive parent, or biological parent of an adopted person would have inherited under subsection 1, 2, or 3.

[C66, 71, 73, 75, 77, 79, 81, §633.223; 81 Acts, ch 194, §1]

94 Acts, ch 1046, §29
Referred to in §633.210

633.224 Advancements — in general.

When the owner of property transfers it as an advancement to a person who would be an heir of such transferor were the latter to die at that time, and the transferor dies intestate, then the property thus advanced shall be counted toward the share of the transferee in the estate, which for this purpose only shall be increased by the value of the advancement at the time the advancement was made. The transferee shall have no liability to the estate for such part, if any, of the advancement as may be in excess of the transferee's share in the estate as thus determined. Every gratuitous inter vivos transfer is presumed to be an absolute gift, and not an advancement. Such presumption is rebuttable.

[C51, §1419, 1420; R60, §2445, 2446; C73, §2459; C97, §3383; C24, 27, 31, 35, 39, §**12029;** C46, 50, 54, 58, 62, §636.44; C66, 71, 73, 75, 77, 79, 81, §633.224]

2013 Acts, ch 30, §163
Referred to in §633.210, 633.225, 633.226

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633.225 Valuation of advancements.

An advancement under section 633.224 shall be valued as of the time when the advancee came into possession or enjoyment or as of the date of the death of the intestate, whichever first occurs.

[C51, §1419, 1420; R60, §2445, 2446; C73, §2459; C97, §3383; C24, 27, 31, 35, 39, §**12029;** C46, 50, 54, 58, 62, §636.44; C66, 71, 73, 75, 77, 79, 81, §633.225]

Referred to in §633.210

633.226 Death of advancee before intestate.

If an advancee under section 633.224 dies before the intestate, leaving an heir who takes from the intestate, the advancement shall be taken into account in the same manner as if it had been made directly to such heir. If such heir is entitled to a lesser share in the estate than the advancee would have been entitled to, had the advancee survived the intestate, then the heir shall be charged with only such proportion of the advancement as the amount the heir would have inherited, had there been no advancement, bears to the amount which the advancee would have inherited, had there been no advancement.

[C51, §1419, 1420; R60, §2445, 2446; C73, §2459; C97, §3383; C24, 27, 31, 35, 39, §**12029;** C46, 50, 54, 58, 62, §636.44; C66, 71, 73, 75, 77, 79, 81, §633.226]

Referred to in §633.210

PART 2

PROCEDURE FOR OPENING ADMINISTRATION OF INTESTATE ESTATES

633.227 Administration granted.

Where there is no will, administration shall be granted to any qualified person on the petition of:

1. The surviving spouse;
2. The heirs of the decedent;
3. Creditors of the decedent;
4. Other persons showing good grounds therefor.

[C51, §1311, 1312; R60, §2343, 2344; C73, §2354, 2355; C97, §3297; C24, 27, 31, 35, 39, §**11883;** C46, 50, 54, 58, 62, §633.39; C66, 71, 73, 75, 77, 79, 81, §633.227]

Referred to in §635.1

633.228 Time allowed.

1. To file such petition, there shall be allowed, commencing with the death of the decedent:

a. To the surviving spouse, a period of twenty days.

b. To each other class in succession, a period of ten days.

2. The period allowed each class shall be advanced to the period allowed the preceding class if there is no member of such preceding class. Any member of any class may file such petition after the expiration of the period allowed to the member if letters have not been issued prior thereto.

[C51, §1313; R60, §2345; C73, §2356; C97, §3298; C24, 27, 31, 35, 39, §**11884;** C46, 50, 54, 58, 62, §633.40; C66, 71, 73, 75, 77, 79, 81, §633.228]

2013 Acts, ch 30, §191

Referred to in §635.1

633.229 Petition for administration of an intestate estate.

The petition for administration of an intestate estate shall contain the following:

1. The name, domicile and date of death of the decedent.
2. If the decedent was domiciled outside the state at the time of the decedent's death, a statement that the decedent had property within the county in which the petition is filed, or any other basis for jurisdiction in such county.
3. The name and address of the surviving spouse, if any, and the name and address of each heir so far as known to the petitioner.

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4. The estimated value of the personal property of the estate plus the estimated gross annual income of the estate during the period of administration.

[C66, 71, 73, 75, 77, 79, 81, §633.229]

633.230 Notice in intestate estates.

1. In intestate matters, the administrator, as soon as letters are issued, shall cause to be published once each week for two consecutive weeks in a daily or weekly newspaper of general circulation published in the county in which the estate is pending, and at any time during the pendency of administration that the administrator has knowledge of the name and address of a person believed to own or possess a claim which will not or may not be paid or otherwise satisfied during administration, provide by ordinary mail to each such claimant at the claimant's last known address, a notice of appointment which shall be in substantially the following form:

In the District Court of Iowa
in and for ..... County.

In the Estate of ..... Probate No. .....
....., Deceased

NOTICE OF APPOINTMENT OF ADMINISTRATOR AND NOTICE TO CREDITORS

To All Persons Interested in the Estate of ....., Deceased, who died on or about ..... (date):

You are hereby notified that on the ..... day of ..... (month), ... (year), the undersigned was appointed administrator of the estate.

Notice is hereby given that all persons indebted to the estate are requested to make immediate payment to the undersigned, and creditors having claims against the estate shall file them with the clerk of the above-named district court, as provided by law, duly authenticated, for allowance, and, unless so filed by the later to occur of four months from the date of second publication of this notice or one month from the date of the mailing of this notice (unless otherwise allowed or paid), a claim is thereafter forever barred.

Dated this ..... day of ..... (month), ... (year)

.....
Administrator of the estate
.....
Address

.....
Attorney for the administrator
.....
Address

Date of second publication
..... day of ..... (month), ... (year)
(Date to be inserted by publisher)

2. An action based upon the failure to give notice by mail required by this section, section 633.304 or 633.305, to heirs of a decedent or to persons known by the personal representative to own or possess a claim in any estate in which the personal representative was discharged prior to July 1, 1989, shall not be maintained in any court in this state unless commenced prior to July 1, 1991.

[C66, 71, 73, 75, 77, 79, 81, §633.230]

84 Acts, ch 1080, §1, 2; 89 Acts, ch 35, §2; 90 Acts, ch 1036, §1; 2000 Acts, ch 1058, §66; 2016 Acts, ch 1073, §170; 2017 Acts, ch 29, §161

Referred to in §590.1, 633A.3109, 633A.3111, 635.13

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633.231 Notice in intestate estates — medical assistance claims.

1. Upon opening administration of an intestate estate, the administrator shall, in accordance with section 633.410, provide by electronic transmission on a form approved by the department of health and human services to the entity designated by the department of health and human services, a notice of opening administration of the estate and of the appointment of the administrator, which shall include a notice to file claims with the clerk or to provide electronic notification to the administrator that the department has no claim within six months from the date of sending this notice, or thereafter be forever barred.

2. The notice shall be in substantially the following form:

In the District Court of Iowa
in and for ..... County.

In the Estate of ..... , Deceased

Probate No. .....

NOTICE OF OPENING ADMINISTRATION OF ESTATE, OF APPOINTMENT OF ADMINISTRATOR, AND NOTICE TO CREDITOR

To the Department of Health and Human Services Who May Be Interested in the Estate of ....., Deceased, who died on or about ..... (date):

You are hereby notified that on the ..... day of ..... (month), ... (year), an intestate estate was opened in the above-named court and that ..... was appointed administrator of the estate.

You are further notified that the birthdate of the deceased is ..... and the deceased's social security number is...-...-.... The name of the spouse is ..... The birthdate of the spouse is ..... and the spouse's social security number is...-...-...., and that the spouse of the deceased is alive as of the date of this notice, or deceased as of ..... (date).

You are further notified that the deceased was/was not a disabled or a blind child of the medical assistance recipient by the name of ....., who had a birthdate of ..... and a social security number of...-...-...., and the medical assistance debt of that medical assistance recipient was waived pursuant to section 249A.53, subsection 2, paragraph *"a"*, subparagraph (1), and is now collectible from this estate pursuant to section 249A.53, subsection 2, paragraph *"b"*.

Notice is hereby given that if the department of health and human services has a claim against the estate for the deceased person or persons named in this notice, the claim shall be filed with the clerk of the above-named district court, as provided by law, duly authenticated, for allowance, within six months from the date of sending this notice and, unless otherwise allowed or paid, the claim is thereafter forever barred. If the department does not have a claim, the department shall return the notice to the administrator with notification stating the department does not have a claim within six months from the date of sending this notice.

Dated this ..... day of ..... (month), ... (year)

.....
Administrator of the estate

.....
Address

.....

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Attorney for the administrator
.....
Address

2001 Acts, ch 109, §1; 2002 Acts, ch 1119, §97; 2007 Acts, ch 134, §11; 2010 Acts, ch 1137, §4; 2011 Acts, ch 34, §139; 2016 Acts, ch 1073, §171; 2023 Acts, ch 19, §1275
Referred to in §633.410, 635.13

633.232 through 633.235 Reserved.

SUBCHAPTER V

RIGHTS OF SURVIVING SPOUSE

Referred to in §249A.3

PART 1

RIGHT TO TAKE AGAINST THE WILL

633.236 Right of elective share of surviving spouse.

When a married person domiciled in Iowa at the time of death dies, the surviving spouse shall have the right to take an elective share under the provisions of sections 633.237 through 633.246. If the surviving spouse has a conservator, the court may authorize or direct the conservator to elect the share as the court deems appropriate under the circumstances.

[C51, §1407; R60, §2435; C73, §2452; C97, §3376; S13, §3376; C24, 27, 31, 35, 39, §**12006, 12010;** C46, 50, 54, 58, 62, §636.21, 636.25; C66, 71, 73, 75, 77, 79, 81, §633.236]

88 Acts, ch 1064, §1; 2005 Acts, ch 38, §12
Referred to in §633.237, 633.245, 633.246, 633.247, 633.264
Effect on medical assistance eligibility, see §249A.3(11) and 633.246A

633.237 Presumption against filing elective share.

1. Following the appointment of a personal representative of the estate of the decedent, the personal representative shall cause to be served a written notice upon the surviving spouse pursuant to section 633.40, subsection 5, notifying the surviving spouse that unless, within four months after service of the notice, the spouse files an election in writing with the clerk of court electing the share as set forth in section 633.236 and sections 633.238 through 633.246, the spouse shall be deemed to take under the will or to receive the intestate share. If, within the four-month period following service of the notice, an affidavit is filed setting forth that the surviving spouse is incapable of making the election and does not have a conservator, the personal representative shall make application to the court for an order pursuant to section 633.244.

2. Following the death of a settlor of a revocable trust, the trustee of such revocable trust shall cause to be served a written notice upon the surviving spouse pursuant to section 633.40, subsection 5, notifying the surviving spouse that unless, within four months after service of the notice, the spouse files an election with the trustee electing the share as set forth in section 633.236 and sections 633.238 through 633.246, the spouse shall be deemed to take under the terms of the revocable trust. If, within the four-month period following service of the notice, an affidavit is filed setting forth that the surviving spouse is incapable of making the election and does not have a conservator, the trustee shall make application to the court for an order pursuant to section 633.244.

3. If the surviving spouse has a conservator, notice shall be given to the conservator and the spouse pursuant to subsections 1 and 2.

4. The notice provisions under subsections 1 and 2 are not applicable if the surviving spouse or the spouse's conservator files, at any time, an election to take under the will, receive the intestate share, or take under the revocable trust. If the surviving spouse fails to file an election under this section within four months of the date notice is served, it shall be

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conclusively presumed that the surviving spouse elects to take under the will, receive the intestate share, or take under the revocable trust.

5. Upon application of the surviving spouse or the spouse's conservator filed before the time for making the election expires, the court may extend the period in which the surviving spouse may make the election.

[C73, §2452; C97, §3376; S13, §3376; C24, 27, 31, 35, 39, §**12007, 12010;** C46, 50, 54, 58, 62, §636.22, 636.25; C66, 71, 73, 75, 77, 79, 81, §633.237]

84 Acts, ch 1080, §3; 88 Acts, ch 1064, §2; 2005 Acts, ch 38, §13; 2009 Acts, ch 52, §3, 14; 2012 Acts, ch 1123, §3, 32

Referred to in §633.236, 633.241, 633.246, 633A.3110, 635.13

633.238 Elective share of surviving spouse.

1. The elective share of the surviving spouse shall be limited to all of the following:

a. One-third in value of all the legal or equitable estates in real property possessed by the decedent at any time during the marriage which have not been sold on execution or other judicial sale, and to which the surviving spouse has made no express written relinquishment of right, including but not limited to any relinquishments of rights described in paragraph *"d"*.

b. All personal property that, at the time of death, was in the hands of the decedent as the head of a family, exempt from execution.

c. One-third of all personal property of the decedent that is not necessary for the payment of debts and charges.

d. (1) One-third in value of the property held in trust not necessary for the payment of debts and charges over which the decedent was a settlor and retained at the time of death the power to alter, amend, or revoke the trust, or over which the decedent waived or rescinded any such power within one year of the date of death, and to which the surviving spouse has not made any express written relinquishment in compliance with subparagraph (2).

(2) The elective share of the surviving spouse shall not include the value of the property held in a trust described in subparagraph (1), if both of the following are true:

(a) The decedent created the trust after the date of decedent's marriage to the surviving spouse.

(b) Every transfer of property into the trust, except for tangible personal property, included a written statement which complied with this subparagraph division. The written statement shall be in boldface type of a minimum size of ten points, signed and dated by the surviving spouse with a valid notarial acknowledgment, and in substantially the following form:

> By signing below, I acknowledge that I am giving up all rights to enjoyment of the property described above, regardless of whether or not I survive my spouse and regardless of any rights Iowa law otherwise gives to me with respect to such property. I am specifically waiving my elective share in the property described in this waiver.
>
> This waiver shall apply regardless of any changes made to the trust in the future, including any change to the beneficiaries of the trust.

2. When a settlor of a revocable trust transfers real property to the trustee of the revocable trust and the settlor's spouse signs a conveyance of the real property to such trustee which includes a general waiver of rights of dower, homestead, and distributive share, the spouse is only relinquishing the right to that real property and its value under subsection 1, paragraph *"a"*, for the purpose of conveying marketable title to a subsequent purchaser from the trustee and is not relinquishing the right to the value of the real estate under subsection 1, paragraph *"d"*, unless the spouse specifically states in writing an intent to relinquish the right to the value of the real estate under subsection 1, paragraph *"d"*. The relinquishment of right under subsection 1, paragraph *"a"* shall not prevent the surviving spouse from electing one-third in value of such real property under subsection 1, paragraph *"d"*.

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3. The elective share described in this section shall be in lieu of any property the spouse would otherwise receive under the last will and testament of the decedent, through intestacy, or under the terms of a revocable trust.

[C51, §1329, 1390, 1394, 1421; R60, §2361, 2422, 2477, 2479; C73, §2371, 2436, 2440; C97, §3312, 3362, 3366; C24, 27, 31, 35, 39, §**11918, 11986, 11990, 11991;** C46, 50, 54, 58, 62, §635.7, 636.1, 636.5, 636.6; C66, 71, 73, 75, 77, 79, 81, §633.238]

2005 Acts, ch 38, §14; 2009 Acts, ch 52, §4, 14; 2015 Acts, ch 125, §4, 7

Referred to in §614.14, 633.236, 633.237, 633.239, 633.240, 633.246

633.239 Share to embrace homestead.

The share of the surviving spouse in such real estate shall be set off in such manner as to include the homestead, or so much thereof as will be equal to the share allotted to the spouse pursuant to section 633.238 unless the spouse prefers a different arrangement, but no such different arrangement shall be allowed unless there is sufficient property remaining to pay the claims and charges against the decedent's estate.

[C51, §1395; R60, §2426; C73, §2441; C97, §3367; C24, 27, 31, 35, 39, §**11992;** C46, 50, 54, 58, 62, §636.7; C66, 71, 73, 75, 77, 79, 81, §633.239]

2005 Acts, ch 38, §15

Referred to in §633.236, 633.237

633.240 Election to receive homestead.

In estates in which the surviving spouse has filed an election and in all intestate estates, whether an election is filed or not, the surviving spouse or the spouse's conservator, if applicable, may, in lieu of the spouse's share in the real property possessed by the decedent at any time during the marriage, which has not been sold on execution or other judicial sale, and to which the surviving spouse has made no express written relinquishment of right, elect to receive a life estate in the homestead. Such election shall be made and entered of record as provided in section 633.245. In making such election, the surviving spouse shall have all the rights as to the personal property provided in section 633.238, subsection 1, paragraphs *"b"*, *"c"*, and *"d"*. In case of failure to make such election, the right to receive the life estate in the homestead shall be waived.

[C97, §3377; S13, §3377; C24, 27, 31, 35, 39, §**12012;** C46, 50, 54, 58, 62, §636.27; C66, 71, 73, 75, 77, 79, 81, §633.240]

88 Acts, ch 1064, §3; 2005 Acts, ch 38, §16

Referred to in §633.236, 633.237, 633.245, 633.246

633.241 Time for election to receive life estate in homestead.

If the surviving spouse does not make an election to receive the life estate in the homestead and file it with the clerk within four months from the date of service of notice under section 633.237, it shall be conclusively presumed that the surviving spouse waives the right to make the election. The court on application may, prior to the expiration of the period of four months, for cause shown, enter an order extending the time for making the election.

[C97, §3377; S13, §3377; C24, 27, 31, 35, 39, §**12013;** C46, 50, 54, 58, 62, §636.28; C66, 71, 73, 75, 77, 79, 81, §633.241]

84 Acts, ch 1080, §4; 2005 Acts, ch 38, §17; 2008 Acts, ch 1119, §16, 39

Referred to in §633.236, 633.237

633.242 Rights of election personal to surviving spouse.

The right of the surviving spouse to take an elective share, and the right of the surviving spouse to receive a life estate in the homestead, are personal. They are not transferable and cannot be exercised for the spouse subsequent to the spouse's death. If the surviving spouse dies prior to filing an election, it shall be conclusively presumed that the surviving spouse does not take such elective share.

[C66, 71, 73, 75, 77, 79, 81, §633.242]

2005 Acts, ch 38, §18

Referred to in §633.236, 633.237

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633.243 Filing elections.

The filing of the elective share and the election to receive a life estate in the homestead shall be filed in the office of the clerk in which the decedent's estate is being administered and served on the trustee of the revocable trust. The court where the election is filed shall have exclusive jurisdiction over all matters regarding elections under this chapter.

[C24, 27, 31, 35, 39, §**12010;** C46, 50, 54, 58, 62, §636.25; C66, 71, 73, 75, 77, 79, 81, §633.243]

2005 Acts, ch 38, §19

Referred to in §633.236, 633.237

633.244 Incompetent spouse — election by court.

In case an affidavit is filed that the surviving spouse is incapable of determining whether to take the elective share, or to elect to receive a life estate in the homestead, and does not have a conservator, the court shall fix a time and place of hearing on the matter and cause a notice thereof to be served upon the surviving spouse in such manner and for such time as the court may direct. At the hearing, a guardian ad litem shall be appointed to represent the spouse and the court shall enter such orders as it deems appropriate under the circumstances. The guardian ad litem shall be a practicing attorney.

[S13, §3376, 3377; C24, 27, 31, 35, 39, §**12011, 12014;** C46, 50, 54, 58, 62, §636.26, 636.29; C66, 71, 73, 75, 77, 79, 81, §633.244]

88 Acts, ch 1064, §4; 90 Acts, ch 1271, §1513; 2005 Acts, ch 38, §20

Referred to in §229.27, 633.236, 633.237, 633.245, 633.246

633.245 Record of election.

The elections of the surviving spouse under section 633.236, 633.240, or 633.244 shall be entered on the proper records of the court.

[C73, §2452; C97, §3376; S13, §3376; C24, 27, 31, 35, 39, §**12008;** C46, 50, 54, 58, 62, §636.23; C66, 71, 73, 75, 77, 79, 81, §633.245]

Referred to in §633.236, 633.237, 633.240

633.246 Election not subject to change.

1. An election by or on behalf of a surviving spouse to take the share provided in section 633.211, 633.212, 633.236, 633.238, 633.240, or 633.244 shall be binding and shall not be subject to change except for such causes as would justify an equitable decree for the rescission of a deed.

2. An affirmative election to take under the will, receive the intestate share, or take under the revocable trust shall be irrevocable when filed as provided in section 633.237.

[C66, 71, 73, 75, 77, 79, 81, §633.246]

2009 Acts, ch 52, §5, 14; 2012 Acts, ch 1123, §4, 32

Referred to in §633.236, 633.237

633.246A Medical assistance eligibility.

Unless precluded from doing so under the terms of a premarital agreement, the failure of a surviving spouse to make an election under this subchapter constitutes a transfer of assets for the purpose of determining eligibility for medical assistance pursuant to chapter 249A to the extent that the value received by making the election would have exceeded the value of property received absent the election.

2000 Acts, ch 1060, §7; 2005 Acts, ch 38, §21; 2006 Acts, ch 1104, §2; 2018 Acts, ch 1041, §127

PART 2

PROCEDURE FOR SETTING OFF
ELECTIVE SHARE

633.247 Setting off elective share of surviving spouse.

The share of the surviving spouse under section 633.236 may be set off by the mutual consent of all parties in interest, or by referees appointed by the court. An application to

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have the share set off by referees shall be made by an interested party in writing by filing with the clerk of court. A copy of such application shall be sent to all interested parties.

[C51, §1396, 1397; R60, §2427, 2428; C73, §2443, 2444; C97, §3369; S13, §3377; C24, 27, 31, 35, 39, §**11994, 12015;** C46, 50, 54, 58, 62, §636.9, 636.30; C66, 71, 73, 75, 77, 79, 81, §633.247]

84 Acts, ch 1080, §5; 88 Acts, ch 1064, §5; 2005 Acts, ch 38, §22

Referred to in §633.253

633.248 Referee — notice.

In the absence of mutual consent of all interested parties to the appointment of referees, the court shall fix a time and place for hearing upon such application and of the fact that referees will be appointed if such application is granted, and shall prescribe the time and manner of the service of notice of the hearing.

[C51, §1398; R60, §2429; C73, §2445; C97, §3370; C24, 27, 31, 35, 39, §**11995;** C46, 50, 54, 58, 62, §636.10; C66, 71, 73, 75, 77, 79, 81, §633.248]

2005 Acts, ch 38, §23

Referred to in §633.253

633.249 Mode of setting off share in real estate.

The referees may employ a licensed professional land surveyor, and may cause the shares in real estate to be set off by legally sufficient land descriptions. They shall make a report of their proceedings to the court as early as reasonably possible.

[C51, §1399; R60, §2430; C73, §2446; C97, §3371; C24, 27, 31, 35, 39, §**11996;** C46, 50, 54, 58, 62, §636.11; C66, 71, 73, 75, 77, 79, 81, §633.249]

2012 Acts, ch 1009, §33

Referred to in §633.253

633.250 Report — delinquency.

The court may require a report by such a time as it deems reasonable. If the referees fail to obey this or any other of its orders, the court may discharge them and appoint others in their stead, and impose upon the first referees the payment of all costs previously made, unless they show good cause against it.

[C51, §1400; R60, §2431; C73, §2447; C97, §3372; C24, 27, 31, 35, 39, §**11997;** C46, 50, 54, 58, 62, §636.12; C66, 71, 73, 75, 77, 79, 81, §633.250]

Referred to in §633.253

633.251 Confirmation — new reference.

The court may set the report for hearing and prescribe the notice to be given to interested parties. The court may confirm the report, or may set it aside and refer the matter to the same or other referees, at its discretion.

[C51, §1401; R60, §2432; C73, §2448; C97, §3373; C24, 27, 31, 35, 39, §**11998;** C46, 50, 54, 58, 62, §636.13; C66, 71, 73, 75, 77, 79, 81, §633.251]

Referred to in §633.253

633.252 Confirmation conclusive — possession.

An order confirming a report of the referee shall be binding and conclusive unless appealed within thirty days and the surviving spouse may bring an action to obtain possession of any assets set apart to the surviving spouse. Such elective share constitutes a judgment lien in favor of such surviving spouse against the possessor of such assets.

[C51, §1402; R60, §2433; C73, §2449; C97, §3373; C24, 27, 31, 35, 39, §**11999;** C46, 50, 54, 58, 62, §636.14; C66, 71, 73, 75, 77, 79, 81, §633.252]

2005 Acts, ch 38, §24

Referred to in §633.253

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633.253 Right contested.

Nothing in sections 633.247 through 633.252 shall prevent any person interested from controverting the right of the surviving spouse to the share thus set apart before confirmation of the report of the referees.

[C51, §1403; R60, §2434; C73, §2450; C97, §3374; C24, 27, 31, 35, 39, §**12000;** C46, 50, 54, 58, 62, §636.15; C66, 71, 73, 75, 77, 79, 81, §633.253]

633.254 Sale — division of proceeds.

If it appears to the court, upon application of the personal representative, the surviving spouse, or the report of the referee, that the property, or any part of it, cannot be advantageously divided, the court may order the whole, or any part of such property, sold, and the share of the surviving spouse in the proceeds paid over to the surviving spouse.

[C51, §1404; R60, §2478; C73, §2451; C97, §3375; C24, 27, 31, 35, 39, §**12001;** C46, 50, 54, 58, 62, §636.16; C66, 71, 73, 75, 77, 79, 81, §633.254]

Referred to in §633.256, 633.258

633.255 Purchase of new homestead.

In case the homestead is sold, the surviving spouse may use any or all of the spouse's share to procure a homestead which shall be exempt from liability for all debts from which the former homestead would have been exempt.

[C51, §1406; C73, §2451; C97, §3375; C24, 27, 31, 35, 39, §**12002;** C46, 50, 54, 58, 62, §636.17; C66, 71, 73, 75, 77, 79, 81, §633.255]

633.256 Security to avoid sale.

No sale shall be made under section 633.254 if anyone interested gives security to the satisfaction of the court, conditioned to pay the surviving spouse the appraised value of the share with seven percent interest on the same, within such reasonable time as the court may fix, not exceeding one year.

[C51, §1405; C73, §2451; C97, §3375; C24, 27, 31, 35, 39, §**12003;** C46, 50, 54, 58, 62, §636.18; C66, 71, 73, 75, 77, 79, 81, §633.256]

633.257 Security by surviving spouse.

If no such arrangement is made, the surviving spouse may keep the property by giving like security to pay the claims of all others interested upon like terms.

[C51, §1405; C73, §2451; C97, §3375; C24, 27, 31, 35, 39, §**12004;** C46, 50, 54, 58, 62, §636.19; C66, 71, 73, 75, 77, 79, 81, §633.257]

633.258 Sale prohibited.

Such sale under section 633.254 shall not be ordered so long as those in interest shall express a contrary desire and agree upon some mode of sharing and dividing the rents, profits, or use thereof, or shall consent that the court shall order the division of such rents, profits or use.

[C51, §1405; R60, §2478; C73, §2451; C97, §3375; C24, 27, 31, 35, 39, §**12005;** C46, 50, 54, 58, 62, §636.20; C66, 71, 73, 75, 77, 79, 81, §633.258]

633.259 through 633.263 Reserved.

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SUBCHAPTER VI

WILLS

PART 1

GENERAL PROVISIONS RELATING TO WILLS

633.264 Disposal of property by will.

Subject to the rights of the surviving spouse to take an elective share as provided by section 633.236, any person of full age and sound mind may dispose by will of all the person's property, except an amount sufficient to pay the debts and charges against the person's estate.

[C51, §1277, 1407; R60, §2309, 2435; C73, §2322, 2452; C97, §3270, 3376; S13, §3376; C24, 27, 31, 35, 39, §**11846, 12006;** C46, 50, 54, 58, 62, §633.1, 636.21; C66, 71, 73, 75, 77, 79, 81, §633.264]

2005 Acts, ch 38, §25; 2006 Acts, ch 1030, §77

Referred to in §726.25

633.265 Procedure prescribed by will.

When the interests of creditors will not thereby be prejudiced, a testator may prescribe the entire manner in which the testator's estate shall be administered, and, also, the manner in which the testator's affairs shall be conducted until the testator's estate is finally settled.

[C51, §1326; R60, §2358; C73, §2406; C97, §3336; C24, 27, 31, 35, 39, §**11955;** C46, 50, 54, 58, 62, §635.51; C66, 71, 73, 75, 77, 79, 81, §633.265]

For waiver of bond, see §633.172

633.266 Adjusted gross estate.

Unless otherwise defined, *"adjusted gross estate"* in a will means the entire value of the gross estate as determined under the federal estate tax less the aggregate amount of the deductions allowed by sections 2053 and 2054 of the Internal Revenue Code as defined in section 422.3.

[82 Acts, ch 1053, §1]

2006 Acts, ch 1140, §9 – 11

Referred to in §633A.1102

633.267 Children born or adopted after execution of will.

1. If a testator fails to provide in the testator's will for any child of the testator born to or adopted by the testator after the execution of the testator's last will, such child, whether born before or after the testator's death, shall receive a share in the estate of the testator equal in value to that which the child would have received under section 633.219, after taking into account the spouse's intestate share under section 633.211 or section 633.212, whichever section or sections are applicable, if the testator had died intestate, unless it appears from the will that such omission was intentional.

2. *a.* For the purposes of this section, a child born after the testator's death includes a child of the testator conceived and born after the testator's death, or a child born as the result of the implantation of an embryo after the testator's death, if all of the following conditions are met:

(1) A genetic parent-child relationship between the child and the testator is established.

(2) The testator, in a signed writing, authorized the testator's surviving spouse to use the deceased parent's genetic material to initiate the posthumous procedure that resulted in the child's birth or the testator by specific reference to the genetic material, bequeathed the genetic material to the other parent in a valid will.

(3) The child is born within two years of the death of the testator.

b. Any child of the testator whose share of the estate would be reduced by the birth of a child born as provided in paragraph *"a"* shall have one year from the birth of the child

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within which to bring an action challenging the child's right to a share of the estate under this section.

c. For the purposes of this subsection, *"genetic material"* means sperm, eggs, or embryos.

[C51, §1284, 1285; R60, §2316, 2317; C73, §2334, 2335; C97, §3279; S13, §3279; C24, 27, 31, 35, 39, §**11858;** C46, 50, 54, 58, 62, §633.13; C66, 71, 73, 75, 77, 79, 81, §633.267]

88 Acts, ch 1064, §6; 2008 Acts, ch 1119, §17, 39; 2011 Acts, ch 18, §3

Referred to in §633.477, 633A.3106

633.268 Presumption attending devise to spouse.

Where the testator's spouse is named as a devisee in a will, it shall be presumed, unless the intent is clear and explicit to the contrary, and except as provided in section 633.272, that such devise is in lieu of the intestate share and homestead rights of the surviving spouse.

[C97, §3270; C24, 27, 31, 35, 39, §**11847;** C46, 50, 54, 58, 62, §633.2; C66, 71, 73, 75, 77, 79, 81, §633.268]

633.269 After acquired property.

Any property acquired by the testator after the making of the testator's will shall pass thereby, and in like manner as if title thereto were vested in the testator at the time of making the will, unless the intent is clear and explicit to the contrary.

[C51, §1278; R60, §2310; C73, §2323; C97, §3271; C24, 27, 31, 35, 39, §**11849;** C46, 50, 54, 58, 62, §633.4; C66, 71, 73, 75, 77, 79, 81, §633.269]

633.270 Contractual or mutual wills.

No will shall be construed to be contractual or mutual, unless in such will the testator shall expressly state the intent that such will shall be so construed.

[C66, 71, 73, 75, 77, 79, 81, §633.270]

633.271 Effect of divorce or dissolution.

1. If after making a will the testator is divorced or the testator's marriage is dissolved, all provisions in the will in favor of the testator's spouse or of a relative of the testator's spouse, including but not limited to dispositions, appointments of property, and nominations to serve in any fiduciary or representative capacity, are revoked by the divorce or dissolution of marriage, unless the will provides otherwise.

2. Unless the will provides otherwise, in the event the testator and spouse remarry each other, the provisions of the will revoked by the divorce or dissolution of marriage shall be reinstated unless otherwise revoked by the testator, except for provisions in favor of a person who died prior to the remarriage which shall not be reinstated.

3. For the purposes of this section, *"relative of the testator's spouse"* means a person who is related to the divorced testator's former spouse by blood, adoption, or affinity, and who, subsequent to a divorce or dissolution of marriage, ceased to be related to the testator by blood, adoption, or affinity.

[C66, 71, 73, 75, 77, 79, 81, §633.271]

2000 Acts, ch 1150, §3; 2005 Acts, ch 38, §26

633.272 Partial intestacy.

If part but not all of the estate of a decedent is validly disposed of by will, the part not disposed of by will shall be distributed as provided herein for intestate estates. If the testator left a surviving spouse, and the spouse does not take an elective share, the spouse shall receive, in addition to the property given to the spouse by the will, so much of the intestate property subject to the payment of its proportionate share of debts and charges as the spouse would receive pursuant to section 633.211 or 633.212.

[C66, 71, 73, 75, 77, 79, 81, §633.272]

94 Acts, ch 1165, §42; 2007 Acts, ch 134, §12, 28

Referred to in §633.268

633.273 Antilapse statute.

1. If a devisee dies before the testator, leaving issue who survive the testator, the devisee's

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issue who survive the testator shall inherit the property devised to the devisee per stirpes, unless from the terms of the will, the intent is clear and explicit to the contrary.

2. A person who would have been a devisee under a class gift, if the person had survived the testator, is treated as a devisee for purposes of this section, provided the person's death occurred after the execution of the will, unless from the terms of the will, the intent is clear and explicit to the contrary.

[C51, §1287; R60, §2319; C73, §2337; C97, §3281; C24, 27, 31, 35, 39, §**11861;** C46, 50, 54, 58, 62, §633.16; C66, 71, 73, 75, 77, 79, 81, §633.273]

89 Acts, ch 130, §1; 95 Acts, ch 63, §5

Referred to in §633.273A, 633.274

633.273A Disposition of failed devise.

Unless from the terms of the will the intent is clear and explicit to the contrary, and except as provided in section 633.273:

1. A devise, other than a residuary devise, that fails for any reason becomes a part of the residuary estate.

2. If the residuary estate is devised to two or more persons, the share of a residuary devisee that fails for any reason passes to the other residuary devisee or to the other residuary devisees in proportion to the interest of each in the remaining part of the residuary estate.

2013 Acts, ch 33, §1, 9

633.274 Exception to antilapse statute.

The devise to a spouse of the testator, where the spouse does not survive the testator, shall lapse notwithstanding the provisions of section 633.273, unless from the terms of the will, the intent is clear and explicit to the contrary.

[C66, 71, 73, 75, 77, 79, 81, §633.274]

633.275 Testamentary additions to trusts.

A devise or bequest, the validity of which is determinable by the law of this state, may be made by a will to the trustee of a trust established, or to be established, by the testator, or by the testator and some other person or persons, or by some other person or persons, including a funded or unfunded life insurance trust, although the trustor has reserved some or all rights of ownership of the insurance contracts, if the trust is identified in the testator's will, and if its terms are set forth in a written instrument other than a will executed before or concurrently with the execution of the testator's will, or in the valid last will of a person who has predeceased the testator regardless of the existence, size, or character of the corpus of the trust. The devise or bequest is not invalid because the trust is amendable or revocable, or both, or because the trust was amended after the execution of the will or after the death of the testator. Unless the testator's will provides otherwise, the property so devised or bequeathed shall not be deemed to be held under a testamentary trust of the testator, but shall become a part of the trust to which it is given and shall be administered and disposed of in accordance with the instrument or will setting forth the terms of the trust, including any amendments thereto made before the death of the testator, regardless of whether any such amendment was made before or after the execution of the testator's will, and, if the testator's will so provides, including any amendments to the trust made after the death of the testator. A revocation or termination of the trust before the death of the testator causes the devise or bequest to lapse. This section does not invalidate a devise or bequest made by a will executed prior to January 1, 1964.

[C66, 71, 73, 75, 77, 79, 81, §633.275, 633.276; 81 Acts, ch 195, §1]

Referred to in §633.277

633.276 Separate identification of bequest.

A will may refer to a written statement, letter, or list to dispose of items of tangible personal property not otherwise specifically disposed of by the will, except tangible personal property used in trade or business. Tangible personal property, for purposes of this section, includes household goods, furnishings, furniture, personal effects, clothing, jewelry, books, works of

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art, ornaments, and automobiles. If the writing is dated and is either in the handwriting of the testator or is signed by testator, and if it describes the items and distributees with reasonable certainty, the personal representative shall distribute the described items of tangible personal property to the distributees entitled to them. The writing may be referred to as one to be in existence at the time of the testator's death. The writing may be prepared before or after the execution of the will. The writing may be altered, added to, or changed in any respect by the testator after its preparation, and it may be a writing which has no significance apart from its effect upon the dispositions made by the will. Property passing by the writing shall be considered as property passing as a specific bequest under will.

[81 Acts, ch 195, §2]

Referred to in §450.4

633.277 Uniformity of interpretation.

Section 633.275 shall be so construed as to effectuate its general purpose to make uniform the law of those states which have adopted a similar provision.

[C66, 71, 73, 75, 77, 79, 81, §633.277]

633.278 Devise of encumbered property.

When any property subject to a mortgage, other lien or security interest, is specifically devised, the devisee shall take such property so devised subject to such mortgage, other lien or security interest, unless the will provides expressly or by necessary implication that such mortgage, other lien or security interest be otherwise paid. If there is a testamentary direction to discharge such mortgage, other lien or security interest, the rules of abatement specified in section 633.436 shall be applied.

[C66, 71, 73, 75, 77, 79, 81, §633.278]

PART 2

EXECUTION AND REVOCATION

633.279 Signed and witnessed.

1. *Formal execution.* All wills and codicils, except as provided in section 633.283, to be valid, must be in writing, signed by the testator, or by some person in the testator's presence and by the testator's express direction writing the testator's name thereto, and declared by the testator to be the testator's will, and witnessed, at the testator's request, by two competent persons who signed as witnesses in the presence of the testator and in the presence of each other; provided, however, that the validity of the execution of any will or instrument which was executed prior to January 1, 1964, shall be determined by the law in effect immediately prior to said date.

2. *Self-proved will.*

a. An attested will may be made self-proved at the time of its execution, or at any subsequent date, by the acknowledgment thereof by the testator and the affidavits of the witnesses, each made before a person authorized to administer oaths and take acknowledgments under the laws of this state, and evidenced by such person's certificate, under seal, attached or annexed to the will, in form and content substantially as follows:

Affidavit

State of.....)
County of.....) ss

We, the undersigned, ..., ... and ....., the testator and the witnesses, respectively, whose names are signed to the attached or foregoing instrument, being first duly sworn, declare to the undersigned authority that at the date of the instrument, we all knew the identity of each other; the instrument was exhibited to the witnesses by the testator, who declared it to be the testator's last will and testament and

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was signed by the testator or by another at the direction of the testator at ....., in the County of ....., State of ....., on the date shown in the instrument, and in the presence of each other as subscribing witnesses; that we, as witnesses, declare to the undersigned authority that in our presence the testator executed and acknowledged such will as the testator's will and that we, in the testator's presence, at the testator's request, and in the presence of each other, did subscribe our names thereto as attesting witnesses on the date of such will; and that the witnesses were sixteen years of age or older.

.....
Testator

.....
Witness

.....
Witness

.....

Subscribed, sworn and acknowledged before me by ....., the testator; and subscribed and sworn before me by ..... and ....., witnesses, this ..... day of ..... (month), ... (year)

.....

Signature of notarial officer

(Stamp)

[.....]
Title of office
[My commission expires]

b. A self-proved will shall constitute proof of due execution of such instrument as required by section 633.293 and may be admitted to probate without testimony of witnesses.

3. *Execution of remote will or codicil in counterparts.* When a will or codicil is executed using remote signing under this section, the original document may be executed in one or more counterparts by parties located in different locations, and all such counterparts may be aggregated to comprise the complete will or codicil of the testator.

4. *Remote will or codicil under disaster proclamation.* Any will or codicil executed using the remote signing procedures permitted under the proclamation of disaster emergency of the governor issued April 2, 2020, and expired February 15, 2022, shall be deemed to satisfy the presence requirements of this section if the will or codicil was executed during the effective period of the proclamation of disaster emergency.

5. *Definition.* For purposes of this section, *"presence"* means any manner, physical or electronic, in which the witness and testator can see and hear the acts of each other in real time.

[C51, §1281; R60, §2313; C73, §2326; C97, §3274; C24, 27, 31, 35, 39, §**11852;** C46, 50, 54, 58, 62, §633.7; C66, 71, 73, 75, 77, 79, 81, §633.279]

2000 Acts, ch 1058, §56; 2011 Acts, ch 25, §73; 2012 Acts, ch 1050, §57, 60; 2013 Acts, ch 33, §2, 9; 2015 Acts, ch 30, §180; 2023 Acts, ch 133, §2, 3

Referred to in §622.1

Subsection 4 applies retroactively to wills and codicils executed on or after April 2, 2020; 2023 Acts, ch 133, §3

633.280 Competency of witnesses.

Any person who is sixteen years of age, or older, and who is competent to be a witness generally in this state, may act as an attesting witness to a will.

[C66, 71, 73, 75, 77, 79, 81, §633.280]

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633.281 Interest of witnesses.

No will is invalidated because attested by an interested witness; but any interested witness shall, unless the will is also attested by two competent and disinterested witnesses, forfeit so much of the provisions therein made for the interested witness as in the aggregate exceeds in value, as of the date of the decedent's death, that which the interested witness would have received had the testator died intestate. No attesting witness is interested unless the witness is devised or bequeathed some portion of the testator's estate.

[C51, §1282, 1283; R60, §2314, 2315; C73, §2327, 2328; C97, §3275; C24, 27, 31, 35, 39, §**11854;** C46, 50, 54, 58, 62, §633.9; C66, 71, 73, 75, 77, 79, 81, §633.281]

633.282 Defect cured by codicil.

If a codicil to a defectively executed will is duly executed, and such will is clearly identified in said codicil, the will and the codicil shall be considered as one instrument and the execution of both shall be deemed sufficient.

[C97, §3274; C24, 27, 31, 35, 39, §**11853;** C46, 50, 54, 58, 62, §633.8; C66, 71, 73, 75, 77, 79, 81, §633.282]

633.283 Will executed in foreign state or country.

A will executed outside this state, in the mode prescribed by the law, either of the place where executed or of the testator's domicile, shall be deemed to be legally executed, and shall be of the same force and effect as if executed in the mode prescribed by the laws of this state, provided said will is in writing and subscribed by the testator.

[C97, §3309; C24, 27, 31, 35, 39, §**11893;** C46, 50, 54, 58, 62, §633.49; C66, 71, 73, 75, 77, 79, 81, §633.283]

Referred to in §633.279

633.284 Revocation — cancellation — revival.

A will can be revoked in whole or in part only by being canceled or destroyed by the act or direction of the testator, with the intention of revoking it, or by the execution of a subsequent will. When done by cancellation, the revocation must be witnessed in the same manner as the making of a new will. No will, nor any part thereof, which shall be in any manner revoked, or which shall be or become invalid, can be revived otherwise than by a re-execution thereof, or by the execution of another will or codicil in which the revoked or invalid will, or part thereof, is incorporated by reference.

[C51, §1288, 1289; R60, §2320, 2321; C73, §2329, 2330; C97, §3276; S13, §3276; C24, 27, 31, 35, 39, §**11855;** C46, 50, 54, 58, 62, §633.10; C66, 71, 73, 75, 77, 79, 81, §633.284]

PART 3

CUSTODY

633.285 Custodian — filing — penalty.

After being informed of the death of the testator, the person having custody of the testator's will shall deliver it to the court having jurisdiction of the testator's estate. Every person who willfully refuses or fails to deliver a will after being ordered by the court to do so shall be guilty of contempt of court. The person shall also be liable to any person aggrieved for the damages which may be sustained by such refusal or failure.

[C51, §1291, 1292; R60, §2323, 2324; C73, §2338, 2339; C97, §3282; C24, 27, 31, 35, 39, §**11862;** C46, 50, 54, 58, 62, §633.17; C66, 71, 73, 75, 77, 79, 81, §633.285]

Referred to in §633.286

633.286 Deposit of will with clerk.

The clerk shall maintain a file for the safekeeping of wills. There shall be placed therein wills deposited with the clerk by living testators or by persons on their behalf, and wills of

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deceased testators not accompanied by petitions for the probate thereof, when deposited with the clerk by persons having custody thereof as provided in section 633.285.

[C51, §1290; R60, §2322; C73, §2331; C97, §3277; C24, 27, 31, 35, 39, §**11856;** C46, 50, 54, 58, 62, §633.11; C66, 71, 73, 75, 77, 79, 81, §633.286]

Referred to in §633.645

633.287 Manner of deposit.

Every such will shall be enclosed in a sealed wrapper. The clerk shall indorse thereon the name of the testator, the name of the depositor, the date of deposit, and, if provided, the name of the person to be notified of the deposit of such will upon the death of the testator. The clerk shall hold such will until disposed of as provided in section 633.288 or 633.289.

[C66, 71, 73, 75, 77, 79, 81, §633.287]

Referred to in §633.645

633.288 Delivery by clerk during lifetime of testator.

During the lifetime of the testator, such will shall be delivered only to the testator, or to some person authorized by the testator by an order in writing duly acknowledged.

[C66, 71, 73, 75, 77, 79, 81, §633.288]

Referred to in §633.287, 633.645

633.289 Delivery by clerk after death of testator.

After being informed of the death of a testator, the clerk shall notify the person, if any, named in the indorsement on the wrapper of said will. If no petition for the probate thereof has been filed within thirty days after the death of the testator, it shall be publicly opened, and the court shall make such orders as it deems appropriate for the disposition of said will. The clerk shall notify the executor named therein and such other persons as the court shall designate of such action. If the proper venue is in another court, the clerk, upon request, shall transmit such will to such court, but before such transmission, the clerk shall make a true copy thereof and retain the same in the clerk's files.

[C66, 71, 73, 75, 77, 79, 81, §633.289]

Referred to in §633.287, 633.645

PART 4

PROCEDURE FOR PROBATE OF WILLS

633.290 Petitions after death of testator.

1. After the death of the testator, any interested person may file a verified petition in the district court of the proper county for any of the following:

a. To have the will admitted to probate.

b. For the appointment of the executor.

c. To request a hearing before the will is admitted to probate.

d. To request a hearing before the appointment of the executor.

e. For the production of the purported will of the decedent to be filed by the person believed by the petitioner to be in possession of the will.

2. Petitions for any of the reasons specified in subsection 1 may be combined.

[C66, 71, 73, 75, 77, 79, 81, §633.290]

2013 Acts, ch 30, §192; 2013 Acts, ch 33, §3, 9

Referred to in §635.1

633.291 Contents of petition for probate of will.

A petition for probate of a will shall state:

1. The name, domicile, and date of death of the decedent.

2. If the decedent was not domiciled in the state at the time of the decedent's death, then, that the decedent had property within the county in which the petition is filed, or any other basis for jurisdiction in such county.

[C66, 71, 73, 75, 77, 79, 81, §633.291]

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633.292 Contents of petition for appointment of executor.

A petition for the appointment of an executor shall state the name and address of the person nominated or proposed as executor, and that such person is qualified to act as executor. If the person proposed in said petition is not the person nominated in the will, the petition shall state the reason why the person nominated is not proposed as executor. Unless bond is waived in the will, the petition shall state the estimated value of the personal property of the estate plus the estimated gross annual income of the estate during the period of administration.

[C66, 71, 73, 75, 77, 79, 81, §633.292]

633.293 Hearing upon petition.

Upon the filing of a petition for probate of a will, the court or the clerk may, in its or the clerk's discretion, hear it forthwith, or at such time and place as the court or clerk may direct, with or without requiring notice, and upon proof of due execution of the will, admit the same to probate.

[C51, §1294; R60, §2326; C73, §2341; C97, §3284; S13, §3284; C24, 27, 31, 35, 39, §**11865;** C46, 50, 54, 58, 62, §633.20; C66, 71, 73, 75, 77, 79, 81, §633.293]

Referred to in §633.279

633.294 Order of preference for appointment of executor.

Letters testamentary may be granted to one or more persons found to be qualified. Preference for appointment shall be in the following order:

1. The person designated in the will;
2. Any beneficiary named in the will, or a person nominated by the beneficiaries;
3. Any creditor of the deceased, or a person nominated by such creditor;
4. Such other person as the court may find to be qualified.

[C66, 71, 73, 75, 77, 79, 81, §633.294]

633.295 Testimony of witnesses.

The proof may be made by the oral or written testimony of one or more of the subscribing witnesses to the will. If such testimony is in writing, it shall be substantially in the following form executed and sworn to before or after the death of the decedent:

In the District Court of Iowa
in and for ..... County.

In the Matter of	Probate No. .....
the Estate of	TESTIMONY OF SUBSCRIBING
....., Deceased	WITNESS ON
State of .....)	PROBATE OF WILL
..... County) ss	

I, ..., being first duly sworn, state:

I reside in the County of ....., State of .....; I knew the identity of the testator on the ..... day of ..... (month), ... (year), the date of the instrument, the original or exact reproduction of which is attached hereto, now shown to me, and purporting to be the last will and testament of the said .....; I am one of the subscribing witnesses to said instrument; at the said date of said instrument, I knew the identity of ....., the other subscribing witness; that said instrument was exhibited to me and to the other subscribing witness by the testator, who declared the same to be the testator's last will and testament, and was signed by the testator at ....., in the County of ....., State of ....., on the date shown in said instrument, in the presence of myself and the other subscribing witness; and the other subscribing witness and I then and there, at the request of the testator, in the presence of said testator and in the presence of each other, subscribed our names thereto as witnesses.

.....

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Name of Witness
.....
Address
Subscribed and sworn to before me this ..... day of ..... (month), ... (year)

.....
Signature of notarial officer

(Stamp)

[.....]
Title of office
[My commission expires: .....]

[C66, 71, 73, 75, 77, 79, 81, §633.295]
2000 Acts, ch 1058, §56; 2012 Acts, ch 1050, §58, 60; 2013 Acts, ch 33, §4, 9; 2014 Acts, ch 1021, §1, 4 – 6; 2016 Acts, ch 1073, §172
Referred to in §633.296, 633.319

633.296 Deposition.

If it is desired to prove the execution of the will by deposition, rather than by use of the affidavit form provided in section 633.295, upon application, the clerk shall issue a commission to some officer authorized by the law of this state to take depositions, with the will annexed, and the officer taking the deposition shall exhibit it to the witness for identification, and, when identified by the witness, shall mark it as "Exhibit ....." and cause the witness to connect the witness' identification with it as such exhibit. Before sending out the commission, the clerk shall make and retain in the clerk's office a true copy of such will.

[C97, §3285; C24, 27, 31, 35, 39, §**11866;** C46, 50, 54, 58, 62, §633.21; C66, 71, 73, 75, 77, 79, 81, §633.296]

633.297 Witnesses unavailable.

If all of such witnesses are deceased or otherwise not available, then it shall be permissible to prove said will by the sworn testimony of two credible disinterested witnesses that the signature to the will is in the handwriting of the person whose will it purports to be, and that the signatures of the witnesses are in the handwriting of such witnesses, or it may be proved by other sufficient evidence of the execution of such will.

[C46, 50, 54, 58, 62, §633.22; C66, 71, 73, 75, 77, 79, 81, §633.297]
Other evidence, proof, §622.24

633.298 Order admitting or disallowing probate of will.

The court or the clerk shall enter an order either admitting said will to probate, or disallowing probate because of insufficient proof thereof.

[C66, 71, 73, 75, 77, 79, 81, §633.298]

633.299 Order appointing executor.

If a petition for appointment of an executor has been filed, the order admitting the will to probate shall include appointment of an executor thereof, unless the court or clerk shall determine that no appointment should be made at such time.

[C51, §1299, 1302; R60, §2331, 2334; C73, §2332, 2333; C97, §3278; C24, 27, 31, 35, 39, §**11857;** C46, 50, 54, 58, 62, §633.12; C66, 71, 73, 75, 77, 79, 81, §633.299]

633.300 Certificate of probate.

When a will has been admitted to probate the clerk shall have a certificate of such fact, endorsed thereon or annexed thereto, signed by the clerk and attested by the seal of the court;

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and, when so certified, it, or the transcript of the record properly authenticated, may be read in evidence in all courts without further proof.

[C51, §1300; R60, §2332; C73, §2342; C97, §3286; C24, 27, 31, 35, 39, §**11867;** C46, 50, 54, 58, 62, §633.23; C66, 71, 73, 75, 77, 79, 81, §633.300]

93 Acts, ch 70, §13
Referred to in §633.301

633.301 Copy of will for executor.

Upon request by the executor, when a will has been admitted to probate and certified pursuant to section 633.300, the clerk shall cause a certified copy thereof to be placed in the hands of the executor to whom letters are issued. The clerk shall retain the will in a separate file provided for that purpose until the time for contest has expired, and promptly thereafter shall place it with the files of the estate.

[C51, §1295, 1298; R60, §2327, 2330; C73, §2343, 2344; C97, §3287; S13, §3287; C24, 27, 31, 35, 39, §**11868;** C46, 50, 54, 58, 62, §633.24; C66, 71, 73, 75, 77, 79, 81, §633.301]

93 Acts, ch 70, §14; 2003 Acts, ch 151, §53; 2023 Acts, ch 124, §3
Referred to in §633.302

633.302 Clerk filing copies of will.

When the clerk places an original will in a separate file as provided in section 633.301, the clerk shall place and keep a true copy of such will in the probate file containing the proceedings in the estate which it governs.

[C66, 71, 73, 75, 77, 79, 81, §633.302]

633.303 Charitable trusts — copy of wills to attorney general. Repealed by 2009 Acts, ch 35, §3. See §633A.5107 and 633A.5108.

633.304 Notice of probate of will with administration.

1. As used in this section, "*heir*" means only such person as would, in an intestate estate, be entitled to a share under section 633.219.

2. On admission of a will to probate, the executor, as soon as letters are issued, shall cause notice to be published once each week for two consecutive weeks in a daily or weekly newspaper of general circulation published in the county in which the estate is pending. At any time during the pendency of administration that the executor has knowledge of the name and address of a person believed to own or possess a claim which will not or may not be paid or otherwise satisfied during administration, the executor shall provide notice by ordinary mail to each such claimant at the claimant's last known address. The executor shall also, as soon as practicable give notice, except to any executor, by ordinary mail to the surviving spouse, each heir of the decedent, and each devisee under the will admitted to probate whose identities are reasonably ascertainable, at such persons' last known addresses, of admission of the will to probate and of the appointment of the executor. In the notice shall be included a notice that any action to set aside the probate of the will must be brought within the later to occur of four months from the date of the second publication of the notice or one month from the date of mailing of this notice or thereafter be forever barred, a notice to debtors to make payment, and a notice to creditors having claims against the estate to file them with the clerk within four months from the second publication of the notice, or thereafter be forever barred.

3. The notice shall be substantially in the following form:

In the District Court of Iowa
in and for ..... County.

	Probate No. .....
In the Estate of	NOTICE OF PROBATE OF WILL,
....., Deceased	OF APPOINTMENT OF EXECUTOR, AND NOTICE TO CREDITORS

To All Persons Interested in the Estate of ....., Deceased, who died on or about ..... (date):

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You are hereby notified that on the ..... day of ..... (month), ... (year), the last will and testament of ....., deceased, bearing the date of the ..... day of ..... (month), ... (year), was admitted to probate in the above-named court and that ..... was appointed executor of the estate. Any action to set aside the will must be brought in the district court of said county within the later to occur of four months from the date of the second publication of this notice or one month from the date of mailing of this notice to all heirs of the decedent and devisees under the will whose identities are reasonably ascertainable, or thereafter be forever barred.

Notice is further given that all persons indebted to the estate are requested to make immediate payment to the undersigned, and creditors having claims against the estate shall file them with the clerk of the above-named district court, as provided by law, duly authenticated, for allowance, and, unless so filed by the later to occur of four months from the date of second publication of this notice or one month from the date of mailing of this notice (unless otherwise allowed or paid), a claim is thereafter forever barred.

Dated this ..... day of ..... (month), ... (year)

.....
Executor of estate

.....
Address

.....
Attorney for executor

.....
Address

Date of second publication

..... day of ..... (month), ... (year)

(Date to be inserted by publisher)

[C51, §1357, 1358; R60, §2389, 2390; C73, §2366; C97, §3304; C24, 27, 31, 35, 39, §**11890;** C46, 50, 54, 58, 62, §633.46; C66, 71, 73, 75, 77, 79, 81, §633.304]

84 Acts, ch 1080, §6; 89 Acts, ch 35, §3; 93 Acts, ch 111, §3; 2000 Acts, ch 1058, §67; 2000 Acts, ch 1150, §4; 2002 Acts, ch 1119, §98; 2013 Acts, ch 90, §217; 2014 Acts, ch 1092, §137; 2015 Acts, ch 30, §181; 2016 Acts, ch 1073, §173

Referred to in §590.1, 633.230, 633.305, 633.309, 633A.3109, 633A.3111, 635.13

633.304A Notice of probate of will — medical assistance claims.

1. On admission of a will to probate, the executor shall, in accordance with section 633.410, provide by electronic transmission on a form approved by the department of health and human services to the entity designated by the department of health and human services, a notice of admission of the will to probate and of the appointment of the executor, which shall include a notice to file claims with the clerk or to provide electronic notification to the executor that the department has no claim within six months of sending this notice, or thereafter be forever barred.

2. The notice shall be in substantially the following form:

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In the District Court of Iowa
in and for ..... County.

	Probate No. .....
In the Estate of	NOTICE OF PROBATE OF WILL,
....., Deceased	OF APPOINTMENT OF EXECUTOR, AND
	NOTICE TO CREDITORS

To the Department of Health and Human Services, Who May Be Interested in the Estate of ....., Deceased, who died on or about ..... (date):

You are hereby notified that on the ..... day of .....(month), ...(year), the last will and testament of ....., deceased, bearing date of the ..... day of ..... (month), ... (year) was admitted to probate in the above-named court and that ..... was appointed executor of the estate.

You are further notified that the birthdate of the deceased is ..... and the deceased's social security number is...-...-.... The name of the spouse is ..... The birthdate of the spouse is ..... and the spouse's social security number is...-...-...., and that the spouse of the deceased is alive as of the date of this notice, or deceased as of ..... (date).

You are further notified that the deceased was/was not a disabled or a blind child of the medical assistance recipient by the name of ....., who had a birthdate of ..... and a social security number of...-...-...., and the medical assistance debt of that medical assistance recipient was waived pursuant to section 249A.53, subsection 2, paragraph *"a"*, subparagraph (1), and is now collectible from this estate pursuant to section 249A.53, subsection 2, paragraph *"b"*.

Notice is hereby given that if the department of health and human services has a claim against the estate for the deceased person or persons named in this notice, the claim shall be filed with the clerk of the above-named district court, as provided by law, duly authenticated, for allowance within six months from the date of sending this notice and, unless otherwise allowed or paid, the claim is thereafter forever barred. If the department does not have a claim, the department shall return the notice to the executor with notification that the department does not have a claim within six months from the date of sending this notice.

Dated this ..... day of ..... (month), ... (year)

.....
Executor of estate

.....
Address

.....
Attorney for executor

.....
Address

2001 Acts, ch 109, §2; 2002 Acts, ch 1119, §99; 2007 Acts, ch 134, §13; 2010 Acts, ch 1137, §5; 2016 Acts, ch 1073, §174; 2023 Acts, ch 19, §1276
Referred to in §633.410, 635.13

633.305 Notice if no administration.

1. On admission of a will to probate without administration of the estate, the proponent shall cause to be published, in the manner prescribed in section 633.304, a notice of the admission of the will to probate. As soon as practicable following the admission of the will to

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probate, the proponent shall give notice of the admission of the will to probate by ordinary mail addressed to the surviving spouse, each heir of the decedent, and each devisee under the will admitted to probate whose identities are reasonably ascertainable, at such persons' last known addresses. The notice of the admission of the will to probate shall include a notice that any action to set aside the will must be brought within the later to occur of four months from the date of the second publication of the notice or one month from the date of mailing of this notice, or thereafter be barred.

2. As used in this section, "*heir*" means only such person as would, in an intestate estate, be entitled to a share under section 633.219.

3. The notice shall be substantially in the following form:

In the District Court of Iowa
in and for ..... County.

	Probate No. .....
In the Estate of	NOTICE OF PROOF OF WILL
....., Deceased	WITHOUT ADMINISTRATION

To All Persons Interested in the Estate of ....., Deceased, who died on or about ..... (date):

You are hereby notified that on the ..... day of ..... (month), ... (year), the last will and testament of ....., deceased, bearing date of the ..... day of ..... (month), ... (year), was admitted to probate in the above-named court and there will be no present administration of the estate. Any action to set aside the will must be brought in the district court of the county within the later to occur of four months from the date of the second publication of this notice or one month from the date of mailing of this notice to all heirs of the decedent and devisees under the will whose identities are reasonably ascertainable, or thereafter be forever barred.

Dated this ..... day of ..... (month), ... (year)

.....
Proponent
.....
Attorney for estate
.....
Address
Date of second publication
..... day of ..... (month), ... (year)
(Date to be inserted by publisher)

[C66, 71, 73, 75, 77, 79, 81, §633.305]

84 Acts, ch 1080, §7; 89 Acts, ch 35, §4; 93 Acts, ch 111, §4; 2000 Acts, ch 1058, §68; 2000 Acts, ch 1150, §5; 2002 Acts, ch 1119, §100; 2006 Acts, ch 1129, §11; 2008 Acts, ch 1032, §85; 2016 Acts, ch 1073, §175

Referred to in §590.1, 633.230

633.306 Record in foreign county.

Whenever it shall appear that the testator died seized of real estate located in a county of this state other than that in which probate is granted, a complete transcript, properly authenticated, of the record entry of the order of court admitting the will to probate, and, if a copy of such will is not contained therein, a certified copy of such will shall be attached thereto, and the same shall be filed by the clerk in the office of the clerk of the district court in such other county, who shall cause the same to be entered in the probate docket, and said transcript shall be recorded in full in the electronic record kept for the recording of wills in

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such county. When so recorded, such record may be read in evidence in all courts without further proof.

[S13, §3287; C24, 27, 31, 35, 39, §**11869;** C46, 50, 54, 58, 62, §633.25; C66, 71, 73, 75, 77, 79, 81, §633.306]

2018 Acts, ch 1027, §5, 8

Real property conveyed or encumbered in foreign county, see also §633.401

633.307 Costs of transcript.

The cost of such transcript and of the recording thereof shall be taxed against the estate of the decedent unless administration thereof is closed, in which event it shall be paid by the owner of the real estate involved.

[S13, §3287; C24, 27, 31, 35, 39, §**11870;** C46, 50, 54, 58, 62, §633.26; C66, 71, 73, 75, 77, 79, 81, §633.307]

PART 5

ACTIONS TO SET ASIDE OR CONTEST OF WILLS

633.308 Setting aside probate of will.

Any interested person may petition to set aside the probate of a will by filing a written petition in the probate proceedings. The petition for such purpose shall state the grounds therefor.

[C51, §1297; R60, §2329; C73, §2353; C97, §3296; C24, 27, 31, 35, 39, §**11882;** C46, 50, 54, 58, 62, §633.38; C66, 71, 73, 75, 77, 79, 81, §633.308]

633.309 Time within which action must be commenced.

1. An action to contest or set aside the probate of a will must be commenced in the court in which the will was admitted to probate within the later to occur of four months from the date of second publication of notice of admission of the will to probate or one month following the mailing of the notice to all heirs of the decedent and devisees under the will whose identities are reasonably ascertainable, at such persons' last known addresses.

2. A party claiming the decedent's will was procured in whole or in part by tortious interference with inheritance must join such claim together in a timely will contest. The time period set out in this section applies to both the will contest and procurement of the decedent's will by tortious interference with inheritance if the party making the claim was given notice pursuant to section 633.304.

[C51, §1659; R60, §1075, 1865, 2740; C73, §486, 2529; C97, §3447; S13, §2963-g, 3447; C24, 27, 31, 35, 39, §**11007;** C46, 50, 54, 58, 62, §614.1(3); C66, 71, 73, 75, 77, 79, 81, §633.309]

84 Acts, ch 1080, §8; 89 Acts, ch 35, §5; 2023 Acts, ch 124, §4

633.310 Objections prior to admission of will to probate.

Nothing contained in this part shall prevent any interested person from filing objections to probate of a proposed will prior to admission of the will to probate. If such objections are filed prior to the admission of the will to probate, the will shall not be admitted to probate pending trial and determination as to whether or not the instrument is the last will of the decedent.

[C24, 27, 31, 35, 39, §**11833;** C46, 50, 54, 58, 62, §632.2; C66, 71, 73, 75, 77, 79, 81, §633.310]

2020 Acts, ch 1063, §342

633.311 Contest or objection shall be tried as a law action.

An action objecting to the probate of a proffered will, or to set aside a will, is triable in the probate court as an action at law, and the rules of civil procedure governing law actions, including demand for jury trial, shall be applicable thereto.

[C97, §3283; C24, 27, 31, 35, 39, §**11864;** C46, 50, 54, 58, 62, §633.19; C66, 71, 73, 75, 77, 79, 81, §633.311]

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633.312 Joinder of parties.

In all actions to contest or set aside a will, all known interested parties who have not joined with the contestants as plaintiffs in the action, shall be joined with proponents as defendants. When additional interested parties become known, the court shall order them brought in as party defendants. All such defendants shall be brought in by serving them with notice pursuant to the rules of civil procedure.

[C66, 71, 73, 75, 77, 79, 81, §633.312]

633.313 Election of defendants to join with contestants.

Any person named as a defendant in an action to contest or set aside a will may, at time of appearance, or by leave of court at any time thereafter, elect to join with the contestants.

[C66, 71, 73, 75, 77, 79, 81, §633.313]

633.314 Taxation of costs.

The court shall tax the costs in an action to contest or set aside a will. No costs shall be taxed against a losing party who has been joined in the action but who does not appear.

[C66, 71, 73, 75, 77, 79, 81, §633.314]

633.315 Allowance for defending will.

When any person is designated as executor in a will, or has been appointed as executor, and defends or prosecutes any proceedings in good faith and with just cause, whether successful or not, that person shall be allowed out of the estate necessary expenses and disbursements, including reasonable attorney fees in such proceedings.

[C66, 71, 73, 75, 77, 79, 81, §633.315]

633.316 Notice to devisees in other wills.

If the ground of objection is that another will of the decedent has been discovered, each devisee named in such other will shall be joined in the action.

[C66, 71, 73, 75, 77, 79, 81, §633.316]

633.317 Where will is filed after letters of administration have been granted.

If, after letters of administration have been granted, a will of the decedent is admitted to probate, such letters of administration are thereby revoked, and the person to whom such letters were issued shall promptly file a final report and make an accounting to the court.

[C66, 71, 73, 75, 77, 79, 81, §633.317]

633.318 Where will is filed after letters testamentary have been granted.

If, after a will has been admitted to probate, another instrument purporting to be the will of the decedent, which has not been previously presented for probate, is filed, the court shall determine whether or not the former grant of letters should be revoked pending determination of which instrument constitutes the will of the decedent.

[C66, 71, 73, 75, 77, 79, 81, §633.318]

633.319 Proof of execution.

If the lack of the due execution of a will constitutes a ground for objection, proof of such execution shall not be made by affidavit as provided in section 633.295.

[C66, 71, 73, 75, 77, 79, 81, §633.319]

633.320 Declaratory judgment to determine last will.

The executor or any person named as a beneficiary in a will may bring an action for a declaratory judgment to have such will declared to be the last will of the decedent. In such action, all known interested persons, including heirs of the decedent and persons named as beneficiaries in said instrument and other known instruments purporting to be wills of the decedent, shall be joined as parties.

[C66, 71, 73, 75, 77, 79, 81, §633.320]

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633.321 through 633.329 Reserved.

SUBCHAPTER VII

ADMINISTRATION OF ESTATES OF DECEDENTS

PART 1

GENERAL PROVISIONS — LIMITATION

633.330 Character of proceedings.

The administration of the estate of a decedent from the filing of the petition for probate and admission or for administration until the order approving the final report and discharge of the last personal representative shall be considered as one proceeding for purposes of jurisdiction. Such entire proceeding is a proceeding in rem.

[C66, 71, 73, 75, 77, 79, 81, §633.330]

Referred to in §633.515, 635.7

633.331 Limitation of administration.

Probate of a will, original administration of an intestate estate, or ancillary administration of an estate, shall not be granted after five years from the death of the decedent, whether the decedent died within or without this state, unless a petition for probate or administration is filed prior to the expiration of the five-year period.

[C51, §1325; R60, §2357; C73, §2367; C97, §3305; S13, §3305; C24, 27, 31, 35, 39, §**11891;** C46, 50, 54, 58, 62, §633.47; C66, 71, 73, 75, 77, 79, 81, §633.331; 81 Acts, ch 196, §1; 82 Acts, ch 1076, §1]

2020 Acts, ch 1063, §343

EXEMPT PROPERTY AND INSURANCE

633.332 Exempt personal property.

When the decedent left a surviving spouse, all personal property which in the hands of the decedent as head of a family would be exempt from execution, which is bequeathed or set aside to the surviving spouse in accordance with the provisions of this chapter, shall be exempt in the hands of such surviving spouse as in the hands of the decedent.

[C51, §1329; R60, §2361; C73, §2371; C97, §3312; C24, 27, 31, 35, 39, §**11918;** C46, 50, 54, 58, 62, §635.7; C66, 71, 73, 75, 77, 79, 81, §633.332]

633.333 Proceeds of insurance.

The avails of any life or accident insurance, or other sum of money made payable to the decedent's estate by any mutual aid or benevolent society upon the death or disability of a member thereof, are not subject to the debts of the decedent, except by contract or by express provision in the will, and shall be disposed of like other property left by the decedent.

[C51, §1330; R60, §2362; C73, §1182, 2372; C97, §3313; C24, 27, 31, 35, 39, §**11919;** C46, 50, 54, 58, 62, §635.8; C66, 71, 73, 75, 77, 79, 81, §633.333]

Referred to in §633.335

633.334 Surviving spouse included as "heir".

The words *"heirs"* and *"legal heirs"*, and other equivalent words used to designate the beneficiaries in any life insurance policy or certificate of membership in any mutual aid or

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benevolent association, where no contrary intention is expressed in such instrument, shall be construed to include the surviving husband or wife of the insured.

[C97, §3313; C24, 27, 31, 35, 39, §**11921;** C46, 50, 54, 58, 62, §635.10; C66, 71, 73, 75, 77, 79, 81, §633.334]

Referred to in §633.335

633.335 Share of survivor.

The share of a survivor in the proceeds of a policy or certificate made payable as provided in sections 633.333 and 633.334 shall be the same as that provided by law for the distribution of the personal property of intestates.

[C97, §3313; C24, 27, 31, 35, 39, §**11922;** C46, 50, 54, 58, 62, §635.11; C66, 71, 73, 75, 77, 79, 81, §633.335]

2020 Acts, ch 1063, §344

WRONGFUL DEATH

633.336 Damages for wrongful death.

1. When a wrongful act produces death, damages recovered as a result of the wrongful act shall be disposed of as personal property belonging to the estate of the deceased person except to the extent that the damages are for loss of services and support.

2. Except to the extent previously determined, the probate court shall determine the amount belonging to the estate and the amount belonging to the persons suffering the loss of services and support.

3. The amount belonging to the estate shall be at least the amount necessary to pay for all of the following:

a. Court costs and reasonable fees and further allowances for the personal representatives and their attorneys to administer the estate of the deceased person.

b. Department of health and human services for payments made for medical assistance pursuant to chapter 249A, paid on behalf of the decedent from the time of the injury which gives rise to the decedent's death up until the date of the decedent's death.

4. The probate court shall then determine whether there are debts and charges classified under section 633.425 related to the wrongful death that should be paid from the remaining portion belonging to the estate.

5. The balance of the portion belonging to the estate shall be distributed pursuant to the decedent's will or the laws of intestate succession.

6. Damages for loss of services and support shall be apportioned among the persons suffering the loss of services and support in a manner as the court may deem equitable consistent with those losses sustained by each person.

[R60, §4111; C73, §2526; C97, §3313; C24, 27, 31, 35, 39, §**11920;** C46, 50, 54, 58, 62, §635.9; C66, 71, 73, 75, 77, 79, 81, §633.336]

89 Acts, ch 111, §2; 2007 Acts, ch 132, §2, 3; 2023 Acts, ch 19, §1277; 2026 Acts, ch 1074, §3

Section stricken and rewritten

633.337 through 633.341 Reserved.

PART 2

TEMPORARY ADMINISTRATION

633.342 Appointment of temporary administrator pending administration.

1. When, from any cause, probate of a will or administration cannot be immediately granted, a temporary administrator may be appointed to collect, manage, preserve and dispose of the property of the deceased, as the court may prescribe, and no appeal from such appointment shall prevent the administrator's proceeding in the discharge of the administrator's duties.

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2. Such temporary administrator shall make and file an inventory of the property of the deceased in the same manner as is required of personal representative, and shall preserve such property from injury, and may do all needful acts under the direction of the court, including the sale of property and the payment of claims as directed by the court. Upon the granting of administration, the powers of the temporary administrator shall cease, and the administration of the estate shall be transferred to the personal representative to whom letters are granted.

[C51, §1320 – 1324; R60, §2352 – 2356; C73, §2357 – 2361; C97, §3299, 3300; C24, 27, 31, 35, 39, §**11885, 11886;** C46, 50, 54, 58, 62, §633.41, 633.42; C66, §633.342, 633.343; C71, 73, 75, 77, 79, 81, §633.342]

633.343 Appointment of temporary administrator during administration.

At any time during the administration of an estate, the court, for good cause shown, may appoint a temporary administrator to carry out such orders of the court as may be necessary for the proper administration of such estate. No appeal from such appointment shall prevent the temporary administrator from proceeding in the discharge of the administrator's duties.

[C71, 73, 75, 77, 79, 81, §633.343]

633.344 through 633.347 Reserved.

PART 3

TITLE AND POSSESSION
OF DECEDENT'S PROPERTY

633.348 Right to retain existing property.

Notwithstanding the provisions of chapter 633A, subchapter IV, part 3, of this chapter, any personal representative may continue to hold any investment or property originally received by the personal representative and also any increase thereof.

[C66, 71, 73, 75, 77, 79, 81, §633.348]

99 Acts, ch 125, §106, 109; 2005 Acts, ch 38, §55

633.349 Security to sustain devise or bequest.

When a person by will makes such a disposition of the person's property as to prejudice the rights of creditors, the will may be sustained, by giving security to the satisfaction of the court for the payment of the debts and charges to the extent of the value of the property devised.

[C51, §1339; R60, §2371; C73, §2384; C97, §3320; C24, 27, 31, 35, 39, §**11930;** C46, 50, 54, 58, 62, §635.19; C66, 71, 73, 75, 77, 79, 81, §633.349]

633.350 Title to decedent's estate — when property passes — possession and control thereof — liability for administration expenses, debts, and family allowance.

Except as otherwise provided in this probate code, when a person dies, the title to the person's property, real and personal, passes to the person to whom it is devised by the person's last will, or, in the absence of such disposition, to the persons who succeed to the estate as provided in this probate code, but all of the property shall be subject to the possession of the personal representative as provided in section 633.351 and to the control of the court for the purposes of administration, sale, or other disposition under the provisions of law, and such property, except homestead and other exempt property, shall be chargeable with the payment of debts and charges of the estate. There shall be no priority as between real and personal property, except as provided in this probate code or by the will of the decedent. If real property is titled at any time in a decedent's estate, such property shall be treated as titled in the name of the personal representative of the estate.

[C66, 71, 73, 75, 77, 79, 81, §633.350]

2005 Acts, ch 38, §51; 2009 Acts, ch 52, §6, 14; 2012 Acts, ch 1123, §5

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633.351 Possession of real and personal property.

During the period of administration, the personal representative shall take possession of the decedent's real estate, except the homestead and other property exempt to the surviving spouse. Every personal representative shall take possession of all the personal property of the decedent, except the property exempt to the surviving spouse. The personal representative may maintain an action for the possession of such real and personal property or to determine the title to any property of the decedent. Until property is distributed, the personal representative shall take reasonable steps to safeguard such property, pay any expenses related to such property, and collect any income generated by such property. Unless otherwise provided by the decedent's will, all such expenses shall be paid from the residuary estate and all such income shall be considered a part of the residuary estate.

[C51, §1327; R60, §2359; C73, §2402 – 2404, 2407; C97, §3333, 3334, 3337; C24, 27, 31, 35, 39, §**11952, 11953, 11956;** C46, 50, 54, 58, 62, §635.48, 635.49, 635.52; C66, 71, 73, 75, 77, 79, 81, §633.351]

2012 Acts, ch 1123, §6

Referred to in §633.350

633.352 Collection of rents and payment of taxes and charges.

Unless otherwise provided by the will, the provisions of chapter 637 that conflict with this subchapter VII, part 3, shall not apply to the allocation and distribution of estate income.

[C73, §2403 – 2405; C97, §3334, 3335; C24, 27, 31, 35, 39, §**11953, 11954;** C46, 50, 54, 58, 62, §635.49, 635.50; C66, 71, 73, 75, 77, 79, 81, §633.352]

99 Acts, ch 124, §31; 2012 Acts, ch 1123, §7; 2013 Acts, ch 30, §164; 2018 Acts, ch 1041, §127

633.353 Surrender of possession upon application by personal representative.

Upon application by the personal representative, and after such notice, if any, as the court may prescribe, for good cause shown, the court may enter an order authorizing said personal representative to surrender any of such property to the person or persons who, under the will or under the rules of intestate succession, will ultimately be entitled to such property.

[C66, 71, 73, 75, 77, 79, 81, §633.353]

633.354 Surrender of possession upon application by any interested person.

Upon application of any interested person and after such notice to the personal representative and to such other persons, if any, as the court may prescribe, and for good cause shown, the court may enter an order authorizing said personal representative to surrender any of such property to the person or persons who, under the will or under the rules of intestate succession, will ultimately be entitled to such property. The court may require a bond or other security conditioned as it may determine in connection with the delivery of such property.

[C66, 71, 73, 75, 77, 79, 81, §633.354]

633.355 Delivery of specific devise after twelve months.

Unless the court, for cause shown, determines that the possession of the personal representative shall continue for a longer period, the personal representative shall deliver all specifically devised property to the devisees entitled thereto after the expiration of twelve months from the date of appointment of the personal representative. This section shall not preclude the court from directing that such delivery be made before such period has expired, nor shall the personal representative be prevented from delivering such property at an earlier time.

[C51, §1381 – 1383; R60, §2413 – 2415; C73, §2429 – 2431; C97, §3355 – 3357; C24, 27, 31, 35, 39, §**11978 – 11980;** C46, 50, 54, 58, 62, §635.73 – 635.75; C66, 71, 73, 75, 77, 79, 81, §633.355]

2012 Acts, ch 1123, §8

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633.356 Distribution of property by affidavit — very small estates.

1. When the decedent's probate assets consist only of personal property and the gross value of the decedent's personal property is, or has been at any time since the decedent's death, one hundred thousand dollars or less, and if forty days have elapsed since the death of the decedent, a successor as defined in subsection 2 may, by furnishing an affidavit prepared pursuant to subsection 3 or 8, and without procuring letters of appointment, do any of the following with respect to one or more items of such personal property:

a. Receive any item of tangible personal property of the decedent.

b. Have any evidence of a debt, obligation, interest, right, security, or chose in action belonging to the decedent transferred.

c. Collect the proceeds from any life insurance policy or any other item of property for which a beneficiary has not been designated.

2. *"Successor"* means:

a. If the decedent died testate, the reasonably ascertainable beneficiary or beneficiaries who succeeded to the item of property under the decedent's will. For the purposes of this subsection, the trustee of a trust created during the decedent's lifetime is a beneficiary under the decedent's will if the trust succeeds to the property under the decedent's will.

b. If the decedent died intestate, the reasonably ascertainable person or persons who succeeded to the property under the laws of intestate succession of this state.

c. If the decedent received medical assistance benefits from the state, the Iowa Medicaid agency that provided the benefits is a successor pursuant to subsection 8.

3. *a.* To collect money, receive tangible personal property, or have evidences of intangible personal property transferred under this section, a successor shall furnish to the holder of the decedent's property an affidavit under penalty of perjury stating all of the following:

(1) The decedent's name, social security number, and date and place of death.

(2) That at least forty days have elapsed since the death of the decedent, as shown by an attached certified copy of the death certificate of the decedent.

(3) That the decedent's probate assets consist only of personal property, with no interest in real estate, and that the gross value of the decedent's personal property is, or has been at any time since the decedent's death, one hundred thousand dollars or less.

(4) A general description of the property of the decedent that is to be paid, transferred, or delivered to or for the benefit of each successor.

(5) The name, address, tax identification number and relationship to the decedent of each successor, and whether any successor is under a legal disability.

(6) If applicable pursuant to subsection 2, paragraph *"a"*, that the attached copy of the decedent's will is the last will of the decedent and has been delivered to the office of a clerk of the district court in accordance with Iowa law.

(7) That no persons other than the successors listed in the affidavit have a right to the interest of the decedent in the described property.

(8) That the affiant requests that the described property be paid, delivered, or transferred to or for the benefit of each successor.

(9) That no debt is owed to the department of health and human services for reimbursement of Medicaid benefits; or if debt is owed, that the debt will be paid to the extent of funds received pursuant to the affidavit.

(10) That no inheritance or other taxes are owed to the department of revenue for a death occurring prior to January 1, 2025, or if taxes are owed, that the taxes will be paid to the extent of funds received pursuant to the affidavit.

(11) That creditors, if any, will be paid to the extent of funds received pursuant to the affidavit.

(12) That the affiant affirms under penalty of perjury that the affidavit is true and correct.

b. If there are two or more successors, any of the successors may execute an affidavit under this subsection.

c. Child support services, as created in section 252B.2, shall make available a form meeting the requirements of this subsection that may be used, if appropriate, by a successor as defined in subsection 2, paragraph *"a"* or *"b"*, when child support services or the collection

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services center, as created in section 252B.13A, is the holder of the decedent's property in the form of undistributed child support owed to the decedent.

4. *a.* If the decedent had evidence of ownership of the property described in the affidavit and the holder of the property would have the right to require presentation of the evidence of ownership before the duty of the holder to pay, deliver, or transfer the property to the decedent would have arisen, the evidence of the ownership, if available, shall be presented with the affidavit to the holder of the decedent's property.

b. If the evidence of ownership is not presented to the holder of the property, the holder may require, as a condition for the payment, delivery, or transfer of the property, that the affiant provide the holder with a bond in a reasonable amount determined by the holder to be sufficient to indemnify the holder against all liability, claims, demands, loss, damages, costs, and expenses that the holder may incur or suffer by reason of the payment, delivery, or transfer of the property. This subsection does not preclude the holder and the affiant from dispensing with the requirement that a bond be provided, and instead entering into an agreement satisfactory to the holder concerning the duty of the affiant to indemnify the holder.

c. Judgments rendered by any court in this state and mortgages belonging to a decedent whose personal property is being distributed pursuant to this section may, without prior order of court, be released, discharged, or assigned, in whole or in part, as to any property, and deeds may be executed in performance of real estate contracts entered into by the decedent, where an affidavit made pursuant to subsection 3 or 8 is filed in the office of the county recorder of the county wherein any judgment, mortgage, or real estate contract appears of record.

5. Reasonable proof of the identity of each successor seeking distribution by virtue of the affidavit shall be provided to the satisfaction of the holder of the decedent's property.

6. *a.* If the requirements of this section are satisfied:

(1) The property described in the affidavit shall be paid, delivered, or transferred to or for the benefit of each successor.

(2) A transfer agent of a security described in the affidavit shall change registered ownership on the books of the corporation from the decedent to or for the benefit of each successor.

(3) The holder of the property may return the attached certified copy of the decedent's death certificate to the affiant.

b. If the holder of the decedent's property refuses to pay, deliver, or transfer any property or evidence thereof to or for the benefit of the successor within a reasonable time, a successor may recover the property or compel its payment, delivery, or transfer in an action brought for that purpose against the holder of the property. If an action is brought against the holder under this subsection, the court shall award attorney fees to the person bringing the action if the court finds that the holder of the decedent's property acted unreasonably in refusing to pay, deliver, or transfer the property to or for the benefit of the successor as required by this subsection.

7. *a.* If the requirements of this section are satisfied, receipt by the holder of the decedent's property of the affidavit under subsection 3 or 8 constitutes sufficient acquittance for the payment of money, delivery of property, or transferring the registered ownership of property pursuant to this section and discharges the holder from any further liability with respect to the money or property. The holder may rely in good faith on the statements in the affidavit and has no duty to inquire into the truth of any statement in the affidavit.

b. If the requirements of this section are satisfied, the holder is not liable for any debt owed by the decedent by reason of paying money, delivering property, or transferring registered ownership of property pursuant to this section. If an action is brought against the holder under this section, the court shall award attorney fees to the holder if the court finds that the holder acted reasonably in paying, delivering, or transferring the property as required by this section.

8. *a.* If an affidavit, executed under this section for a deceased distributee of an estate being administered in this state, is filed with the clerk of the district court in which the estate is being administered, the court shall direct the personal representative to pay the money or

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deliver the property to or for the benefit of each successor to the extent the court determines that the deceased distributee would have been entitled to money or property of the estate.

b. When the department of health and human services is entitled to money or property of a decedent pursuant to section 249A.53, subsection 2, and no affidavit has been presented by a successor as defined in subsection 2, paragraph *"a"* or *"b"*, within ninety days of the date of the decedent's death, the funds in the account or other property, up to the amount of the claim of the department, shall be paid to the department upon presentation by the department or an entity designated by the department of an affidavit to the holder of the decedent's property. Such affidavit shall include the information specified in subsection 3, except that the department may submit proof of payment of funeral expenses as verification of the decedent's death instead of a certified copy of the decedent's death certificate. The amount of the department's claim shall also be included in the affidavit, which shall entitle the department to receive the funds as a successor. The department shall issue a refund within sixty days to any claimant with a superior priority pursuant to section 633.425, if notice of such claim is given to the department, or to the entity designated by the department to receive notice, within one year of the department's receipt of funds. This paragraph shall apply to funds or property of the decedent transferred to the custody of the treasurer of state as unclaimed property pursuant to chapter 556.

9. Upon receipt of an affidavit under subsection 3 and reasonable proof under subsection 5 of the identity of each successor seeking distribution by virtue of the affidavit, the holder of the property shall disclose to the affiant whether the value of the property held by the holder is, or has been at any time since the decedent's death, fifty thousand dollars or less. An affidavit furnished for the purpose of determining whether the value of the property is, or has been at any time since the decedent's death, fifty thousand dollars or less need not contain the language required under subsection 3, paragraph *"a"*, subparagraph (3), but shall state that the affiant reasonably believes that the gross value of the decedent's personal property that would otherwise be distributed by will or intestate succession is, or has been at any time since the decedent's death, fifty thousand dollars or less and there is no real property or for deaths occurring before January 1, 2025, the real property passes to persons exempt from inheritance tax as joint tenants with full rights of survivorship pursuant to chapter 450.

10. The procedure provided by this section may be used only if no administration of the decedent's estate is pending.

91 Acts, ch 36, §6; 2001 Acts, ch 140, §3 – 5; 2004 Acts, ch 1015, §2 – 6; 2006 Acts, ch 1104, §3; 2010 Acts, ch 1137, §6; 2013 Acts, ch 30, §261; 2013 Acts, ch 33, §5; 2014 Acts, ch 1021, §2; 2014 Acts, ch 1026, §128; 2018 Acts, ch 1035, §1, 2; 2019 Acts, ch 24, §87; 2023 Acts, ch 19, §1278, 1279; 2025 Acts, ch 148, §40 – 43, 53, 54; 2026 Acts, ch 1048, §2 – 4

Referred to in §144.23A, 249A.53, 421.59, 611.22, 638.7, 638.8, 638.15

2025 amendments to section apply retroactively to January 1, 2025, to the estates of decedents dying on or after January 1, 2025; 2025 Acts, ch 148, §54

Subsection 1, unnumbered paragraph 1 amended

Subsection 3, paragraph a, subparagraph (3) stricken and rewritten

Subsection 3, NEW paragraph c

633.357 Custodial independent retirement accounts.

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

a. "Custodial independent retirement account" means an individual retirement account in accordance with section 408(a) of the Internal Revenue Code or a Roth individual retirement account in accordance with section 408A of the Internal Revenue Code, the assets of which are not held in trust.

b. "Designator" means a person entitled to designate the beneficiary or beneficiaries of a custodial independent retirement account.

2. The assets of a custodial independent retirement account shall pass on or after the death of the designator of the custodial independent retirement account to the beneficiary or beneficiaries specified in the custodial independent retirement account agreement signed by the designator or designated by the designator in writing pursuant to the custodial independent retirement account agreement. Assets that pass to a beneficiary pursuant to this section shall not be considered part of the designator's probate estate except to the

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extent that the designator's estate is a beneficiary. The designation of a beneficiary shall not be considered testamentary and does not have to be witnessed.

3. This section applies to a custodial independent retirement account established and a beneficiary designation made prior to, on, or after July 1, 1999. This section shall be considered to be declarative of the law as the law existed immediately prior to July 1, 1999.

4. This section shall not be construed to imply that assets or benefits that are payable upon the death of a person to a beneficiary or beneficiaries designated in or pursuant to a written arrangement not described in this section, other than a will, are part of the person's probate estate or that the arrangement is testamentary.

99 Acts, ch 56, §4

633.358 Charitable organization beneficiary affidavit and third-party protection.

1. For the purposes of this section, *"beneficiary designation"* means the provision in an instrument designating a beneficiary, other than in a will or an instrument creating a trust, and may also mean the instrument itself, including but not limited to any of the following:

a. An annuity or insurance policy.

b. An account with a designation for payment on death.

c. A security registered in beneficiary form.

d. A pension, profit-sharing, retirement, or other employment-related benefit plan.

e. Any other nonprobate transfer at death.

2. If a charitable organization, as defined in section 15E.311, is a beneficiary of an interest in property created by beneficiary designation, that charitable organization may present an affidavit to the holder of the property or to any person with information about the property for the purpose of obtaining the property or information regarding the property. The affidavit shall state all of the following:

a. The decedent's name and last known address.

b. A general description of the property to the extent known.

c. The charitable organization's name, address, and primary contact information.

d. The charitable organization is a charitable organization as defined in section 15E.311.

e. A request that the property be paid or transferred to the charitable organization or that information about the property be given to the charitable organization.

f. No one other than the charitable organization has a right to the interest in the property listed in the affidavit.

g. The affidavit has been signed by a duly authorized representative of the charitable organization under penalty of perjury before a notary public as provided in chapter 9B.

h. The information in the affidavit is true and correct.

3. The affidavit shall be accompanied by all of the following:

a. A copy of the charitable organization's determination letter from the internal revenue service recognizing its tax-exempt status.

b. A copy of the charitable organization's certificate of existence issued by the secretary of state as conclusive evidence that the domestic or foreign corporation is in good standing.

c. A statement that on information or belief of the affiant, the property owner is deceased supported by a death certificate of the decedent, or probate notice published by the personal representative of the decedent's estate, or proof of payment of the decedent's funeral expenses, or the decedent's obituary as verification of the decedent's death.

d. A corporate resolution or similar statement of authority of the affiant to act on behalf of the charitable organization.

e. Federal internal revenue service form W-9 completed by an authorized representative of the charitable organization.

4. The holder of the property shall not request any additional personal information from any individual employed by, or serving on the board of the charitable organization, including but not limited to any of the following:

a. Social security number or driver's license number.

b. Contact information.

c. Personal financial information.

5. If the requirements of this section are satisfied, all of the following apply:

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a. The decedent's property shall be paid, delivered, or transferred to or for the benefit of the charitable organization if the affidavit has requested the transfer of ownership of the property to the charitable organization.

b. A transfer agent of a security described in the affidavit shall change registered ownership on the books of the corporation from the decedent to or for the benefit of the charitable organization if the affidavit has requested the transfer of ownership of the property to the charitable organization.

c. The information requested in the affidavit shall be delivered to the organization.

6. The holder of the property and any person who in good faith delivers the property or information requested in reliance on information a charitable organization provides under this section, who has no knowledge that representations contained in the affidavit are incorrect, shall not be liable to any person for so acting and may assume without inquiry the existence of the facts contained in the affidavit. The time to verify a charitable organization's authority shall not exceed thirty days from the date of delivery of the affidavit. Any right or title acquired from the charitable organization in consideration of the provision of property or information under this section is not invalid in consequence of misapplication by the charitable organization. A transaction and a lien created by a transaction entered into by the charitable organization and anyone acting in reliance on the affidavit under this section is enforceable against the property the charitable organization has requested.

7. If the holder of the property refuses to provide the requested property or information within thirty days after receiving the affidavit, the charitable organization may bring an action against the holder of the property to recover the property or receive the information or to compel the delivery of the property. An action brought under this section must be brought within one year after the date of the act or failure to act. If the court finds that the holder of the property acted unreasonably in failing to deliver the property or information as requested in the affidavit, the court may award to the charitable organization any or all of the following:

a. Damages sustained by the charitable organization.

b. Costs of the action.

c. A penalty in an amount determined by the court between five hundred dollars and ten thousand dollars.

d. Reasonable attorney fees based on the value of the time reasonably expended by the attorney and not by the amount of the recovery on behalf of the charitable organization.

2024 Acts, ch 1135, §1

633.359 and 633.360 Reserved.

PART 4

INVENTORY

633.361 Report and inventory.

Within one hundred twenty days after qualification by the personal representative, unless a longer time is granted by the court, the personal representative shall file with the clerk a report and inventory of the property of the decedent, so far as the same has come to the knowledge of the personal representative. The report and inventory shall be verified or affirmed under penalty of perjury. It shall include the following information:

1. Name, age, and residence of decedent.
2. Date of death.
3. Whether decedent died testate or intestate.
4. Name and post office address of the personal representative.
5. Name and post office address of the surviving spouse, if any.
6. Name, relationship, and post office address of each beneficiary under the will if the decedent died testate or of each heir if the decedent died intestate. If any persons take by representation, the personal representative shall list the deceased person through whom those persons take and shall also list the persons taking under that deceased person.

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7. If the decedent died testate, the name and address of each child, if any, born to or adopted by decedent after execution of the will.

8. Legal descriptions and estimated values of all the real estate of the decedent in the state of Iowa.

9. Legal descriptions and estimated values of all real estate of the decedent outside of the state of Iowa.

10. Personal property regarded as exempt from execution, with estimated values.

11. All other personal property of the decedent, with estimated values.

12. A listing of all other items, with estimated values, which are subject to inheritance tax for deaths occurring before January 1, 2025, or federal estate tax.

13. A report concerning any reductions in the amount of unified credit available for federal estate tax purposes.

[C51, §1328; R60, §2360; C73, §2370; C97, §3310; S13, §1481-a26; C24, §7319, 11913; C27, 31, 35, 39, §**11913;** C46, 50, 54, 58, 62, §635.1; C66, 71, 73, 75, 77, 79, 81, §633.361]

83 Acts, ch 177, §36, 38; 84 Acts, ch 1092, §1; 2014 Acts, ch 1026, §129; 2025 Acts, ch 148, §44, 53, 54; 2026 Acts, ch 1074, §4

Referred to in §450.22, 635.7

2025 amendment to subsection 12 applies retroactively to January 1, 2025, to the estates of decedents dying on or after January 1, 2025; 2025 Acts, ch 148, §54

Unnumbered paragraph 1 amended

633.362 Filing mandatory.

Such inventory must be filed in all cases, notwithstanding the provisions of any will or the action of any heirs or devisees waiving the filing thereof, and no administration shall be closed until the same has been filed.

[C97, §3310; C24, 27, 31, 35, 39, §**11915;** C46, 50, 54, 58, 62, §635.4; C66, 71, 73, 75, 77, 79, 81, §633.362]

633.363 Reporting failure to court.

The failure of the personal representative promptly to make said inventory and report shall be forthwith reported by the clerk to the court for such order as may be necessary to enforce the making and filing of the same.

[C27, 31, 35, §11913-b1; C39, §**11913.1;** C46, 50, 54, 58, 62, §635.2; C66, 71, 73, 75, 77, 79, 81, §633.363]

633.364 Supplementary inventory.

Whenever any additional information or property not mentioned in the inventory comes to the knowledge of a personal representative, the personal representative shall make a supplementary inventory thereof, such supplementary inventory to be filed within thirty days after such discovery.

[C51, §1333; R60, §2365; C73, §2376; C97, §3310; C24, 27, 31, 35, 39, §**11914;** C46, 50, 54, 58, 62, §635.3; C66, 71, 73, 75, 77, 79, 81, §633.364]

633.365 Appraisement.

Property belonging to the estate need not be appraised unless required for inheritance tax purposes for deaths occurring before January 1, 2025, under the provisions of this probate code, or by order of court.

[C51, §1331, 1332; R60, §2363, 2364; C73, §2373, 2374, 2378; C97, §3311; S13, §3311; C24, 27, 31, 35, 39, §**11916, 11917;** C46, 50, 54, 58, 62, §635.5, 635.6; C66, 71, 73, 75, 77, 79, 81, §633.365]

2005 Acts, ch 38, §51; 2025 Acts, ch 148, §45, 53, 54

2025 amendment applies retroactively to January 1, 2025, to the estates of decedents dying on or after January 1, 2025; 2025 Acts, ch 148, §54

633.366 Debts of executor.

The naming of any person as executor in a will shall not operate as a discharge or bequest of any right of action owned by the testator against such persons, if it is a right that otherwise

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survives against such person. Every such right of action shall be included among the assets of the decedent in the inventory.

[C66, 71, 73, 75, 77, 79, 81, §633.366]

633.367 Inventory and appraisement as evidence.

Inventories and appraisements may be given in evidence in all proceedings, but shall not be conclusive, and other evidence may be introduced to vary the effect thereof.

[C66, 71, 73, 75, 77, 79, 81, §633.367]

633.368 Property for payment of creditor's claims.

The property liable for the payment of debts and charges against a decedent's estate shall include all property transferred by the decedent with intent to defraud the decedent's creditors or any of them, or transferred by any other means which is in law void or voidable as against the creditors or any of them; and the right to recover such property, so far as necessary for the payment of the debts and charges against the estate of the decedent, shall be exclusively in the personal representative, who shall take such steps as may be necessary to recover the same. Such property shall constitute general assets for the payment of all creditors.

[C73, §2381; C97, §3317; C24, 27, 31, 35, 39, §**11927;** C46, 50, 54, 58, 62, §635.16; C66, 71, 73, 75, 77, 79, 81, §633.368]

633.369 through 633.373 Reserved.

PART 5

ALLOWANCE FOR SURVIVING SPOUSE AND MINOR CHILDREN

633.374 Allowance to surviving spouse.

1. The personal representative of the estate shall mail to the surviving spouse pursuant to section 633.40, subsection 5, a written notice regarding the right to request a spousal allowance. The notice shall inform the surviving spouse of the surviving spouse's right to submit an application to the court within four months of service of the notice, for support for a period of twelve months following the death of the decedent, and for support of the decedent's dependents who reside with the spouse for the same period of time.

2. The court shall, upon application, set off and order paid to the surviving spouse, as part of the costs of administration, sufficient of the decedent's property including assets held in a revocable trust of which the decedent is the settlor to the extent that estate assets are not sufficient as it deems reasonable for the proper support of the surviving spouse for the period of twelve months following the death of the decedent. Notice of hearing upon the application shall be given to the surviving spouse, personal representative if the application is not made by the personal representative, trustee of any revocable trust of which the decedent is the settlor, and all other interested persons. The court shall take into consideration the station in life of the surviving spouse, the assets and condition of the estate and any revocable trust of which the decedent is the settlor, the nonprobate assets received by the surviving spouse by reason of the death of the decedent, and the income and other resources of the surviving spouse. If the trustee of a revocable trust of which the decedent was a settlor has previously made payments under section 633A.3114 to the spouse, the court shall reduce the award by the amount of such payments. The allowance shall also include such additional amount as the court deems reasonable for the proper support, during such period, of dependents of the decedent who reside with the surviving spouse. Such allowance to the surviving spouse shall not abate upon the death or remarriage of such spouse. If an application for support has not been filed within four months following service of the notice by or on behalf of the surviving spouse and the dependents of the decedent who reside with the surviving spouse,

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the surviving spouse and the dependents of the decedent shall be deemed to have waived the right to apply for support during the administration of the estate.

3. A surviving spouse who qualifies for a support allowance under this section may waive the right to such allowance for the surviving spouse and for the dependents of the decedent who reside with the surviving spouse by filing an affidavit acknowledging receipt of notice and irrevocably waiving the right to support under this section.

[C51, §1338; R60, §2370; C73, §2375, 2377; C97, §3314; C24, 27, 31, 35, 39, §**11923, 11924;** C46, 50, 54, 58, 62, §635.12, 635.13; C66, 71, 73, 75, 77, 79, 81, §633.374]

2008 Acts, ch 1119, §18, 39; 2012 Acts, ch 1123, §9, 32

Referred to in §633.376

633.375 Review of allowance to surviving spouse.

The court may, upon the petition of any interested person, and after hearing pursuant to notice to all interested parties, review the allowance and increase or decrease the amount and make such other orders as it may deem proper.

[C51, §1338; R60, §2370; C73, §2375, 2377; C97, §3314; C24, 27, 31, 35, 39, §**11923;** C46, 50, 54, 58, 62, §635.12; C66, 71, 73, 75, 77, 79, 81, §633.375]

2012 Acts, ch 1123, §10, 32

633.376 Allowance to children who do not reside with surviving spouse.

1. The court may also make an allowance under the same terms and conditions as provided in section 633.374 of an amount the court deems reasonable in light of the assets and condition of the estate, to provide for proper support during the period of twelve months following the decedent's death to a child of the decedent who does not reside with the surviving spouse and is any of the following:

a. Less than eighteen years of age.

b. Between the ages of eighteen and twenty-two years who is any of the following:

(1) Regularly attending an accredited school in pursuance of a course of study leading to a high school diploma or its equivalent.

(2) Regularly attending a course of career and technical training either as a part of a regular school program or under special arrangements adapted to the individual person's needs.

(3) Is, in good faith, a full-time student in a college, university, or community college.

(4) Has been accepted for admission to a college, university, or community college and the next regular term has not yet begun.

c. Is a child of any age who is dependent because of physical or mental disability.

2. The estate's personal representative shall mail pursuant to section 633.40, subsection 5, to the legal guardian of each child qualified under subsection 1 and to each child or the guardian ad litem for such child if necessary, who has no legal guardian, a written notice regarding the right to request an allowance. The notice shall inform the child and the child's guardian or guardian ad litem, if applicable, of the right to submit an application to the court, within four months after service of the notice, for support for a period of twelve months following the decedent's death. If an application for support has not been filed within four months after service of the notice by or on behalf of the child qualifying for support under subsection 1, the child shall be deemed to have waived the right to support under this section. A child who qualifies for support under this section or the child's guardian or guardian ad litem may waive the child's right to such support by filing an affidavit acknowledging receipt of notice and irrevocably waiving the child's right to support under this section.

[C66, 71, 73, 75, 77, 79, 81, §633.376]

83 Acts, ch 101, §127; 86 Acts, ch 1245, §1497; 90 Acts, ch 1253, §120; 2009 Acts, ch 52, §7, 14; 2012 Acts, ch 1123, §11, 32; 2013 Acts, ch 90, §177; 2016 Acts, ch 1108, §71

633.377 Review of allowance to minor children.

The court may, upon the petition of any interested person, and after hearing pursuant to notice to all interested parties, review the allowance made to the minor children who do not

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reside with the surviving spouse and may increase or decrease the amount and make such other orders as it may deem proper.

[C51, §1338; R60, §2370; C73, §2375, 2377; C97, §3314; C24, 27, 31, 35, 39, §**11923;** C46, 50, 54, 58, 62, §635.12; C66, 71, 73, 75, 77, 79, 81, §633.377]

2012 Acts, ch 1123, §12, 32

633.378 through 633.382 Reserved.

PART 6

SALE OF PROPERTY

633.383 When power given in will.

When power to sell, mortgage, lease, pledge or exchange property of the estate has been given to any personal representative under the terms of any will, the statutory requirements with reference to procedure for such purposes shall not apply.

[C51, §1297; R60, §2329; C73, §2353; C97, §3295, 3296; C24, 27, 31, 35, 39, §**11879 – 11882;** C46, 50, 54, 58, 62, §633.35 – 633.38; C66, 71, 73, 75, 77, 79, 81, §633.383]

633.384 Equitable conversion and power of sale.

A testamentary direction to sell real property, and the exercise of a testamentary power of sale of real property, shall constitute an equitable conversion of real estate into personal property, but shall not affect distribution of the estate under the provisions of the will.

[C51, §1297; R60, §2329; C73, §2353; C97, §3295, 3296; C24, 27, 31, 35, 39, §**11879 – 11882;** C46, 50, 54, 58, 62, §633.35 – 633.38; C66, 71, 73, 75, 77, 79, 81, §633.384]

633.385 Conversion.

1. *When realty treated as personalty.* Real property acquired by the personal representative by the completion of foreclosure proceedings, or by the forfeiture of real estate contracts, after the death of the decedent shall be deemed to be personal property for the purpose of administration and distribution of the estate.

2. *When personalty treated as realty.* In all cases of sale of real property by a personal representative under order of court, the surplus of the proceeds of such sale remaining after the payment of debts and charges shall be deemed to be real property and disposed of in the same proportions as the real property would have been if it had not been sold.

[C66, 71, 73, 75, 77, 79, 81, §633.385]

633.386 Sale, mortgage, pledge, lease or exchange of property — purposes.

1. Any real or personal property belonging to the decedent, except exempt personal property and the homestead, may be sold, mortgaged, pledged, leased or exchanged by the personal representative for any of the following purposes:

a. The payment of debts and charges against the estate;

b. The distribution of the estate or any part thereof;

c. Any other purpose in the best interests of the estate.

2. Exempt personal property under such provisions as the court may direct, if not set off to the surviving spouse, may be sold, mortgaged, pledged, leased, or exchanged, provided that the surviving spouse consents thereto.

3. The homestead, under such provisions as the court may direct, if not set off to the surviving spouse and if the surviving spouse has not elected to occupy the homestead, may be sold, mortgaged, pledged, leased or exchanged.

4. The proceeds from the sale of any exempt personal property or from the sale of the homestead shall be held by the personal representative subject to the rights of the surviving

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spouse or issue, unless such surviving spouse or issue has expressly waived the rights to such proceeds.

[C51, §1341 – 1343; R60, §2373 – 2375; C73, §2386 – 2388; C97, §3322, 3323; C24, 27, 31, §11932, 11933; C35, §11932, 11933, 11951-g2; C39, §**11932, 11933, 11951.2;** C46, 50, 54, 58, 62, §635.21 – 635.23, 635.42; C66, 71, 73, 75, 77, 79, 81, §633.386]

633.387 Sale of personal property without order of court.

Personal property of a perishable nature and personal property for which there is a regularly established market may be sold by the personal representative without order of court.

[C51, §1341; R60, §2373; C73, §2386; C97, §3322; C24, 27, 31, 35, 39, §**11932;** C46, 50, 54, 58, 62, §635.21; C66, 71, 73, 75, 77, 79, 81, §633.387]

Referred to in §450.7

633.388 Petition to sell, mortgage, exchange, pledge or lease property.

A petition to sell, mortgage, exchange, pledge or lease any real or personal property shall set forth the reasons for the application and describe the property involved. It may apply for different authority as to separate parts of the property; or it may apply in the alternative for authority to sell, mortgage, exchange, pledge or lease. Whenever it is for the best interests of the estate, real and personal property of the estate may be sold, mortgaged, exchanged, pledged or leased as a unit.

[C51, §1342, 1343; R60, §2374, 2375; C73, §2387, 2388; C97, §3323; C24, 27, §11933; C35, §11933, 11951-g4; C39, §**11933, 11951.4;** C46, 50, 54, 58, 62, §635.23, 635.44; C66, 71, 73, 75, 77, 79, 81, §633.388]

Referred to in §633.391, 633.400

633.389 Notice on sale, mortgage, exchange, pledge, or lease of property.

Upon the filing of the petition, unless notice is waived in writing or unless all interested persons are also personal representatives and have signed the petition, notice in accordance with section 633.40, shall be served on all persons interested in the property, provided that as to personal property and as to the lease of real property not specifically devised, for a period not to exceed one year, the court may hear the petition without notice. When notice is required, the notice shall state briefly the nature of the application. Upon satisfactory proof, the court may order the sale, mortgage, exchange, pledge, or lease of the property described, or any part of the property, at a price and upon terms and conditions as the court may authorize. For the purposes of this section, the term *"all persons interested"* includes only distributees in the estate and persons who have requested notice as provided by this probate code.

[C51, §1342 – 1344; R60, §2374 – 2376; C73, §2387 – 2389; C97, §3323, 3324; C24, §11933, 11934, 11935; C27, 31, §11933, 11935; C35, §11933, 11935, 11951-g5; C39, §**11933, 11935, 11951.5;** C46, 50, 54, 58, 62, §635.23 – 635.25, 635.45; C66, 71, 73, 75, 77, 79, 81, §633.389; 81 Acts, ch 193, §2]

2005 Acts, ch 38, §51; 2016 Acts, ch 1088, §1

633.390 Sale subject to mortgage.

When a claim is secured by a mortgage on property, the court may, with the consent of the mortgagee, order the sale of the property subject to the mortgage, and such consent shall release the estate should a deficiency later appear.

[C66, 71, 73, 75, 77, 79, 81, §633.390]

633.391 Quieting adverse claims.

A petition to determine questions of conflicting and controverted title, or to remove clouds from any title or interest of property involved, may be combined with the petition provided in section 633.388.

[C66, 71, 73, 75, 77, 79, 81, §633.391]

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633.392 Terms of sale.

In all sales of property, the court may authorize credit to be given by the personal representative on such terms as the court may prescribe. Credit for more than twelve months shall be extended only after hearing pursuant to notice to interested parties.

[C51, §1347, 1348, 1350; R60, §2379, 2380, 2382; C73, §2392, 2393, 2395; C97, §3326; C24, 27, 31, 35, 39, §**11938;** C46, 50, 54, 58, 62, §635.27; C66, 71, 73, 75, 77, 79, 81, §633.392]

633.393 Purchase by holder of lien.

At any sale of real or personal property upon which there is a mortgage, pledge, or other lien, the holder of such lien may become the purchaser, and may apply the amount of the lien on the purchase price in the following manner. If no claim thereon has been filed or allowed, the court, at the hearing on the report of sale and for confirmation of the sale, may examine into the validity and enforceability of the lien or charge and the amount due thereunder and secured thereby, and may authorize the personal representative to accept the receipt of such purchaser for the amount due thereunder and secured thereby as payment pro tanto. If such mortgage, pledge, or other lien is a valid claim against the estate and has been allowed, the receipt of the purchaser for the amount due the purchaser from the proceeds of the sale is a payment pro tanto. If the amount for which the property is purchased, whether or not a claim for it has been filed or allowed, is insufficient to defray the expenses and discharge the mortgage, pledge, or other lien, the purchaser must pay an amount sufficient to pay the balance of such expenses. Nothing permitted under the terms of this section shall be deemed to be an allowance of a claim based upon such mortgage, pledge, or other lien.

[C66, 71, 73, 75, 77, 79, 81, §633.393]

633.394 Order to sell, mortgage, pledge, exchange or lease to be refused if bond given.

1. *Bond to prevent sale.* Any person interested in the estate may prevent a sale, mortgage, pledge, exchange or lease of the whole or any part of the real estate or personal property for any purpose, by giving bond to the satisfaction of the court, conditioned that the person will pay such demands against the estate as the court shall require, not to exceed the value of the property thus kept from sale, mortgage, pledge, exchange, or lease, as soon as called upon by the court for that purpose.

2. *Breach of bond — procedure.* If the conditions of such bond are broken, the property will be liable for the debts, unless it has passed into the hands of innocent purchasers, and the executor or administrator may take possession thereof and sell it under the direction of the court, or may prosecute the bond, or pursue both remedies at the same time, if the court so directs.

3. *Effect of bond.* If the conditions of the bond are complied with, the property shall pass by devise, bequest, distribution, or descent in the same manner as though there had been no debts against the estate.

[C51, §1351 – 1353; R60, §2383 – 2385; C73, §2396 – 2398; C97, §3328, 3329; C24, 27, 31, 35, 39, §**11941 – 11943;** C46, 50, 54, 58, 62, §635.30 – 635.32; C66, 71, 73, 75, 77, 79, 81, §633.394]

633.395 Validity of proceedings.

No proceedings for sale, mortgage, pledge, lease, exchange or conveyance by a personal representative of property belonging to the estate shall be subject to collateral attack on account of any irregularity in the proceedings which is not such as to deprive the court of jurisdiction.

[C66, 71, 73, 75, 77, 79, 81, §633.395]

633.396 Order for sale, mortgage, pledge, exchange or lease of real property.

The order shall describe the property to be sold, mortgaged, pledged, exchanged or leased, and may designate the sequence in which the several parcels shall be sold, mortgaged, pledged, exchanged or leased. An order for sale may direct whether the property shall be sold at private sale or public auction, and, if the latter, the place or places of sale. The order of sale may prescribe the terms, conditions and manner of sale. The court may, in its discretion, provide for appraisal for its guidance as to value of the property, and determine

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whether or not additional bond shall be deposited by the personal representative. If real property is to be mortgaged, it may fix the maximum amount of principal, the earliest and latest dates of maturity, and the purposes for which the proceeds shall be used. An order for sale, mortgage, pledge, exchange or lease shall remain in force until terminated by the court.

[C51, §1345 – 1350; R60, §2377 – 2382; C73, §2390 – 2395; C97, §3325 – 3327; C24, 27, 31, 35, 39, §**11937 – 11940;** C46, 50, 54, 58, 62, §635.26 – 635.29; C66, 71, 73, 75, 77, 79, 81, §633.396]

633.397 Sale at public auction.

In all sales of property at public auction, the personal representative shall give such notice, in such form and manner, and to such persons or parties, as the court may prescribe. If no provision for notice is made by the court, the notice shall be published once each week for two consecutive weeks in some newspaper of general circulation in the county where sale is to be held, the last publication to be not less than one day nor more than seven days before the day of sale. If the property to be sold is located in more than one county, the sale may be held and notice given in any one or more of said counties. Unless otherwise provided by order of the court, the notice shall state the time and place of the sale and describe the property to be sold. Proof of service of the notice required shall be filed before confirmation of the sale.

[C51, §1347, 1348, 1350; R60, §2379, 2380, 2382; C73, §2392, 2393, 2395; C97, §3326; C24, 27, 31, 35, 39, §**11938;** C46, 50, 54, 58, 62, §635.27; C66, 71, 73, 75, 77, 79, 81, §633.397]

633.398 Adjournment of sale at public auction.

The personal representative may adjourn any sale from time to time when, in the personal representative's discretion, it is deemed for the best interests of the estate to do so, but no adjournment shall be to a time more than three months from the date first fixed for the sale. Every adjournment shall be announced publicly at the time and place at which adjournment is made.

[C51, §1347, 1348, 1350; R60, §2379, 2380, 2382; C73, §2392, 2393, 2395; C97, §3326; C24, 27, 31, 35, 39, §**11938;** C46, 50, 54, 58, 62, §635.27; C66, 71, 73, 75, 77, 79, 81, §633.398]

633.399 Report for approval.

After making any such sale, mortgage, exchange or lease of real property, the personal representative shall make a verified report thereof to the court. The court shall examine said report, and if satisfied that the sale, mortgage, exchange, or lease has been at a price and upon terms advantageous to the estate, and, in all respects, made in conformity with law, and that it ought to be confirmed, shall confirm the same and order the personal representative to deliver a deed, mortgage, lease or other proper instruments to the persons entitled thereto; provided, however, that in the event said real property has been sold at private sale without an appraisal for inheritance tax purposes for a death occurring before January 1, 2025, or for purpose of such sale, or, if it has been so appraised and has been sold at private sale for less than the appraised value thereof, then, upon the filing of such report, the court may enter an order fixing a time and place for hearing thereon and prescribe a notice of such hearing to be served upon all interested persons, any one of whom, prior to the time fixed for such hearing, may file written objections to the entry of an order approving said sale. If not satisfied that the sale, mortgage, exchange, or lease has been made in conformity with law and that it is to the best interests of the estate, the court may reject the sale, mortgage, exchange, or lease, and enter such orders as the court may deem advisable.

[C51, §1354, 1355; R60, §2386, 2387; C73, §2399, 2400; C97, §3330, 3331; C24, 27, 31, §11944 – 11947; C35, §11944 – 11947, 11951-g6, -g7; C39, §**11944 – 11947, 11951.6, 11951.7;** C46, 50, 54, 58, 62, §635.33 – 635.36, 635.46, 635.47; C66, 71, 73, 75, 77, 79, 81, §633.399]

2025 Acts, ch 148, §46, 53, 54

Referred to in §633.400

2025 amendment applies retroactively to January 1, 2025, to the estates of decedents dying on or after January 1, 2025; 2025 Acts, ch 148, §54

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633.400 Joining report with petition.

The report of any private sale, mortgage, exchange, or lease of real property, as provided in section 633.399, may be joined with the petition provided in section 633.388.

[C66, 71, 73, 75, 77, 79, 81, §633.400]

633.401 Record in foreign county.

When real property so conveyed or encumbered is located in a county other than that in which such proceedings are had, a complete transcript of the record of all proceedings relating thereto shall be filed by the personal representative in the office of the clerk in such county.

[C97, §3331; C24, 27, 31, 35, 39, §**11949;** C46, 50, 54, 58, 62, §635.38; C66, 71, 73, 75, 77, 79, 81, §633.401]

633.402 Sale defined.

For purposes of this part, sale of property includes but is not limited to the granting of an easement, the granting of an option, the granting of a right of refusal, and the granting or conveyance of any other interest, title, or right regarding property.

[81 Acts, ch 193, §3]

2018 Acts, ch 1041, §127; 2020 Acts, ch 1062, §65; 2021 Acts, ch 76, §145

633.403 through 633.409 Reserved.

PART 7

CLAIMS AGAINST DECEDENT'S ESTATE, AND TIME AND MANNER OF FILING CLAIMS

633.410 Limitation on filing claims against decedent's estate.

1. All claims against a decedent's estate, other than charges, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract or otherwise, are forever barred against the estate, the personal representative, and the distributees of the estate, unless filed with the clerk within the later to occur of four months after the date of the second publication of the notice to creditors or, as to each claimant whose identity is reasonably ascertainable, one month after service of notice by ordinary mail to the claimant's last known address.

2. Notwithstanding subsection 1, claims for debts created under section 249A.53, subsection 2, relating to the recovery of medical assistance payments shall be barred under this section unless filed with the clerk within six months after sending notice by electronic transmission, on the form prescribed in section 633.231 for intestate estates or on the form prescribed in section 633.304A for testate estates, to the entity designated by the department of health and human services to receive notice.

3. Notice is not required to be given by mail to any creditor whose claim will be paid or otherwise satisfied during administration and the personal representative may waive the limitation on filing provided under this section. This section does not bar claims for which there is insurance coverage, to the extent of the coverage, or claimants entitled to equitable relief due to peculiar circumstances.

[C51, §1373; R60, §2405; C73, §2421; C97, §3349; C24, 27, 31, 35, 39, §**11972;** C46, 50, 54, 58, 62, §635.68; C66, 71, 73, 75, 77, 79, 81, §633.410]

84 Acts, ch 1080, §9; 85 Acts, ch 92, §1; 89 Acts, ch 35, §6; 95 Acts, ch 68, §7; 2001 Acts, ch 109, §3; 2007 Acts, ch 134, §14; 2010 Acts, ch 1137, §7; 2023 Acts, ch 19, §1280

Referred to in §633.231, 633.304A, 633.413, 633.414, 633.415, 633.444

633.411 Pleading statute of limitations.

It shall be within the discretion of the personal representative to determine whether or not the applicable statute of limitations shall be pleaded to bar a claim which the personal

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representative believes to be just, provided, however, that this section shall not apply where the personal representative was appointed upon the application of a creditor.

[C66, 71, 73, 75, 77, 79, 81, §633.411]

633.412 When claim not affected by statute of limitations.

A claim shall not be barred by the statute of limitations if the claim was not barred at the time of the decedent's death and is filed against the decedent's estate within four months from the date of the decedent's death.

[C51, §1373; R60, §2405; C73, §2421; C97, §3349; C24, 27, 31, 35, 39, §**11972;** C46, 50, 54, 58, 62, §635.68; C66, 71, 73, 75, 77, 79, 81, §633.412]

84 Acts, ch 1080, §10

Referred to in §633.414

633.413 Claims barred when no administration commenced.

All claims barrable under the provisions of section 633.410 shall, in any event, be barred if administration of the estate, whether testate or intestate, original or ancillary is not commenced within five years after the death of the decedent.

[C51, §1325, 1356; R60, §2357, 2388; C73, §2367, 2401; C97, §3305, 3332; S13, §3305; C24, 27, 31, 35, 39, §**11891, 11951;** C46, 50, 54, 58, 62, §633.47, 635.40; C66, 71, 73, 75, 77, 79, 81, §633.413]

Referred to in §633.414

633.414 Liens not affected by failure to file claim.

Nothing in sections 633.410, 633.412, and 633.413 shall affect or prevent any action or proceeding to enforce any mortgage, pledge, or other lien upon property of the estate.

[C66, 71, 73, 75, 77, 79, 81, §633.414]

633.415 Commencement or continuance of separate action.

1. Any action pending against the decedent at the time of the decedent's death that survives, shall also be considered a claim filed against the estate if notice of substitution is served upon the personal representative as defendant within the time provided for filing claims in section 633.410; however, this provision shall not bar parties entitled to equitable relief due to peculiar circumstances. A copy of the proof of service of notice of such proceedings shall be filed in the probate proceedings but shall not be jurisdictional.

2. A separate action based on a debt or other liability of the decedent may be commenced against a personal representative of the decedent in lieu of filing a claim in the estate. Such an action shall be commenced by serving an original notice on the personal representative within the time provided for filing claims in section 633.410 and such action shall also be considered a claim filed against the estate. Such action may be commenced only in a county wherein the venue would have been proper had the decedent survived and the action been commenced against the decedent. A copy of the proof of service of notice shall be filed in the probate proceedings but shall not be jurisdictional.

3. A judgment or decree in favor of the plaintiff in any such action shall constitute an adjudication against the estate.

4. In all cases where by the death of the party to be charged, the bringing of the action against the estate shall have been delayed beyond the period provided by the statute of limitations, the action may be brought if the original notice is served on the personal representative as defendant, and proof of service of notice of such proceeding is filed in the probate proceedings within the time provided for filing claims in section 633.410.

[C51, §1373; R60, §2405; C73, §2421; C97, §3349; C24, 27, 31, 35, 39, §**11972;** C46, 50, 54, 58, 62, §635.68; C66, 71, 73, 75, 77, 79, 81, §633.415]

2016 Acts, ch 1011, §121

Referred to in §633.416, 633.417

633.416 Compulsory counterclaims — rules of civil procedure.

In an action commenced by or against the fiduciary under the provisions of section 633.415, or in any action pending by or against the decedent that survives under the provisions of

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section 633.415, the rules of civil procedure as to compulsory counterclaims shall apply in such action.

[C66, 71, 73, 75, 77, 79, 81, §633.416]
See R.C.P. 1.241 et seq.

633.417 Separate action in lieu of proceeding on claims.

The provisions of sections 633.438 through 633.448 are not applicable to actions continued or commenced under section 633.415.

[C66, 71, 73, 75, 77, 79, 81, §633.417]
2019 Acts, ch 59, §215

633.418 Form and verification of claims — general requirements.

No claim shall be allowed against an estate on application of the claimant unless it shall be in writing, filed with the clerk, stating the claimant's name and address and, if available, telephone number and electronic mail address, describing the nature and the amount thereof, if ascertainable, and accompanied by the affidavit of the claimant, or someone for the claimant, that the amount is justly due, or if not yet due, when it will or may become due, that no payments have been made thereon which are not credited, and that there are no offsets to the same, to the knowledge of the affiant, except as therein stated. If the claim is contingent, the nature of the contingency shall also be stated.

[C51, §1359; R60, §2391; C73, §2408; C97, §3338; C24, 27, 31, 35, 39, §**11957, 11958;** C46, 50, 54, 58, 62, §635.53, 635.54; C66, 71, 73, 75, 77, 79, 81, §633.418]
2018 Acts, ch 1027, §6, 10; 2018 Acts, ch 1172, §33, 43

633.419 Requirements when claim founded on written instrument.

If a claim is founded on a written instrument, the original or a copy thereof with all endorsements must be attached to the claim. The original instrument must be exhibited to the personal representative or court, upon demand, unless it is lost or destroyed, in which case its loss or destruction must be stated in the claim.

[C51, §1359; R60, §2391; C73, §2408; C97, §3338; C24, 27, 31, 35, 39, §**11957;** C46, 50, 54, 58, 62, §635.53; C66, 71, 73, 75, 77, 79, 81, §633.419]

633.420 How claim entitled.

All claims filed against the estate shall be entitled in the name of the claimant against the personal representative as such, naming the estate, and in all further proceedings thereon that title shall be preserved.

[C73, §2409; C97, §3339; C24, 27, 31, 35, 39, §**11960;** C46, 50, 54, 58, 62, §635.56; C66, 71, 73, 75, 77, 79, 81, §633.420]

633.421 Unsecured claims not yet due.

Upon proof of an unsecured claim which will become due at some future time, the same may be paid if the claimant will consent to such discount as the court thinks reasonable; otherwise, the court shall direct the investment of an amount which will provide for the payment of the claim when it becomes due.

[C51, §1364, 1377; R60, §2396, 2409; C73, §2413, 2425; C97, §3342, 3352; C24, 27, 31, 35, 39, §**11964, 11975;** C46, 50, 54, 58, 62, §635.60, 635.70; C66, 71, 73, 75, 77, 79, 81, §633.421]

633.422 Secured claims not yet due.

When a creditor holds any security for a claim not yet due, the creditor may file the claim as a claim not yet due with the right of withdrawing the claim if the compromise offer is not satisfactory, and, after such withdrawal, rely entirely on the creditor's security, or the creditor may elect to rely entirely on the creditor's security without the necessity of filing a claim.

[C51, §1364, 1377; R60, §2396, 2409; C73, §2413, 2425; C97, §3342, 3352; C24, 27, 31, 35, 39, §**11964, 11975;** C46, 50, 54, 58, 62, §635.60, 635.70; C66, 71, 73, 75, 77, 79, 81, §633.422]

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633.423 Procedure for secured claims.

When a creditor holds any security for the creditor's claim, the security shall be described in the claim. If the claim is secured by a mortgage, pledge or other lien which has been recorded, it shall be sufficient to describe the lien by date, and refer to the volume, page and place of recording. The claim shall be allowed in the amount remaining unpaid at the time of its allowance, and the judgment allowing it shall describe the security. Payment of the claim shall be upon the basis of the full amount thereof if the creditor shall surrender the creditor's security; otherwise payment shall be upon the basis of one of the following:

1. If the creditor shall exhaust the security before receiving payment, then upon the full amount of the claim allowed, less the amount realized upon exhausting the security.

2. If the creditor shall not have exhausted, or shall not have the right to exhaust, the security, then upon the full amount of the claim allowed, less the value of the security determined by agreement, or as the court may direct.

[C66, 71, 73, 75, 77, 79, 81, §633.423]

2020 Acts, ch 1063, §345

633.424 Contingent claims.

Contingent claims which cannot be allowed as absolute debts shall, nevertheless, be filed in the court and proved. If allowed as a contingent claim, the order of allowance shall state the nature of the contingency. If such claim shall become absolute before distribution of the estate, it shall be paid in the same manner as absolute claims of the same class. In all other cases, the court may provide for the payment of contingent claims in any one of the following methods:

1. The creditor and personal representative may determine, by agreement, arbitration, or compromise, the value of the claim, according to its probable present worth, and upon approval thereof by the court, the contingent claim may be allowed and paid in the same manner as an absolute claim.

2. The court may order the personal representative to make distribution of the estate but to retain sufficient funds to pay the claim if and when the same becomes absolute. However, for this purpose, the estate shall not be kept open longer than two years after distribution of the remainder of the estate. If the contingent claim has not become absolute within that time, distribution shall be made to the distributees of the funds so retained, after paying any costs and expenses accruing during such period. The distributees shall be liable to the creditor to the extent of the estate received by them, if the contingent claim becomes absolute after distribution. When distribution is so made to distributees, the court may require the distributees to give bond for the satisfaction of their liability to the contingent creditor.

3. The court may order distribution of the estate as though the contingent claim did not exist, but the distributees shall be liable to the creditor to the extent of the estate received by them, if the contingent claim becomes absolute after distribution. The court may require the distributees to give bond for the performance of their liability to the contingent creditor.

4. Such other method as the court may order.

[C51, §1365; R60, §2397; C73, §2414; C97, §3343; C24, 27, 31, 35, 39, §**11965;** C46, 50, 54, 58, 62, §635.61; C66, 71, 73, 75, 77, 79, 81, §633.424]

2020 Acts, ch 1063, §346

CLASSIFICATION, ALLOWANCE, AND PAYMENT OF DEBTS AND CHARGES

633.425 Classification of debts and charges.

In any estate in which the assets are, or appear to be, insufficient to pay in full all debts and charges of the estate, the personal representative shall classify the debts and charges as follows:

1. Court costs.
2. Other costs of administration.
3. Reasonable funeral and burial expenses.

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4. All debts and taxes having preference under the laws of the United States.

5. Reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending at the decedent's last illness.

6. All taxes having preferences under the laws of this state.

7. Any debt for medical assistance paid pursuant to section 249A.53, subsection 2.

8. All debts owing to employees for labor performed during the ninety days next preceding the death of the decedent.

9. All unpaid support payments as defined in section 598.1, subsection 9, and all additional unpaid awards and judgments against the decedent in any dissolution, separate maintenance, uniform support, or paternity action to the extent that the support, awards, and judgments have accrued at the time of death of the decedent.

10. All other claims allowed.

[C51, §1370 – 1372, 1374, 1376, 1378, 1379; R60, §2402 – 2404, 2406, 2408, 2410, 2411; C73, §2418 – 2420, 2422, 2424, 2426, 2427; C97, §3347, 3348, 3350, 3353; S13, §3348; C24, 27, 31, 35, 39, §**11969 – 11971, 11973, 11976;** C46, 50, 54, 58, 62, §635.65 – 635.67, 635.69, 635.71; C66, 71, 73, 75, 77, 79, 81, §633.425; 82 Acts, ch 1197, §1]

94 Acts, ch 1120, §11

Referred to in §217.37, 230.30, 249A.53, 252.13, 331.805, 602.8107, 633.336, 633.356, 633.426, 633A.3104

Labor or wage claims preferred, §626.69, 680.7

633.426 Order of payment of debts and charges.

Payment of debts and charges of the estate shall be made in the order provided in section 633.425, without preference of any claim over another of the same class. If the assets of the estate are insufficient to pay in full all of the claims of a class, then such claims shall be paid on a pro rata basis, without preference between claims then due and those of the same class not due.

[C51, §1378, 1379; R60, §2410, 2411; C73, §2426, 2427; C97, §3353; C24, 27, 31, 35, 39, §**11976;** C46, 50, 54, 58, 62, §635.71; C66, 71, 73, 75, 77, 79, 81, §633.426]

2008 Acts, ch 1032, §86

Referred to in §633A.3104

633.427 Payment of contingent claims by distributees — contribution.

If a contingent claim has been filed and allowed against an estate and all the assets of the estate have been distributed, and the claim becomes absolute, the creditor has the right to recover on the claim against those distributees whose distributive shares have been increased because the amount of the claim as finally determined was not paid prior to final distribution, if an action for recovery is commenced within four months after the claim becomes absolute. Such distributees are jointly and severally liable, but a distributee is not liable for an amount exceeding the amount of the estate or fund so distributed to that distributee. If more than one distributee is liable to the creditor, the creditor shall make parties to the action all such distributees who can be reached by process. By its judgment, the court shall determine the amount of the liability of each of the distributees as between themselves, but if any distributee is insolvent or unable to pay that distributee's proportion, or is beyond the reach of process, the others, to the extent of their respective liabilities, are nevertheless liable to the creditor for the whole amount of the creditor's debt. If any person liable for the debt fails to pay that person's just proportion to the creditors, the person is liable to indemnify all who, by reason of the failure, have paid more than their just proportion of the debt, the indemnity to be recovered in the same action or in separate actions.

[C66, 71, 73, 75, 77, 79, 81, §633.427]

84 Acts, ch 1080, §11

633.428 Allowance by personal representative.

Where a claim has been filed and is admitted in writing by the personal representative, it shall stand allowed in the absence of fraud or collusion.

[C73, §2410; C97, §3340; S13, §3340; C24, 27, 31, 35, 39, §**11961;** C46, 50, 54, 58, 62, §635.57; C66, 71, 73, 75, 77, 79, 81, §633.428]

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633.429 Compelling payment of claims.

No claimant shall be entitled to compel payment unless the claimant's claim has been duly filed and allowed.

[C66, 71, 73, 75, 77, 79, 81, §633.429]

633.430 Execution and levies prohibited.

No execution shall issue upon, nor shall any levy be made against, any property of the estate under any judgment against a decedent or a personal representative, but the provisions of this section shall not be construed to prevent the enforcement of mortgages.

[C51, §1368; R60, §2400; C73, §2416; C97, §3345; C24, 27, 31, 35, 39, §**11967;** C46, 50, 54, 58, 62, §635.63; C66, 71, 73, 75, 77, 79, 81, §633.430]

633.431 Claims of personal representative.

If the personal representative is a creditor of the decedent, the personal representative shall file the claim as other creditors, and the court shall appoint some competent person as temporary administrator to represent the estate in the matter of allowing or disallowing such claim. The same procedure shall be followed in the case of corepresentatives where all such representatives are creditors of the estate; but if one of the corepresentatives is not a creditor of the estate, such disinterested representative shall represent the estate in the matter of allowing or disallowing such claim against the estate by a corepresentative.

[C51, §1369; R60, §2401; C73, §2417; C97, §3346; C24, 27, 31, 35, 39, §**11968;** C46, 50, 54, 58, 62, §635.64; C66, 71, 73, 75, 77, 79, 81, §633.431]

Referred to in §633.432

633.432 Allowance or disallowance of claim of personal representative.

1. A temporary administrator appointed pursuant to section 633.431 shall, upon investigation, file a report with the court recommending the allowance or disallowance of a claim filed pursuant to section 633.431. The recommendation may, but need not, include information on the substantive merits of allowing or disallowing the claim. The recommendation shall include a statement that, upon investigation, a legitimate dispute either does or does not exist as to such a claim.

2. Unless the court allows the claim, the claim shall be disposed of as a contested claim in accordance with the provisions of sections 633.439 through 633.448.

[C66, 71, 73, 75, 77, 79, 81, §633.432]

2014 Acts, ch 1021, §3; 2019 Acts, ch 59, §216

633.433 Payment of debts and charges before expiration of four-month period.

As soon as the personal representative is possessed of sufficient means over and above the other costs of administration, the personal representative shall pay any allowance made by the court for the surviving spouse and children of the decedent, and may pay the expenses of funeral, burial, and last illness. Prior to the expiration of four months after the date of the second publication of notice to creditors, the personal representative shall pay other debts and charges against the estate as the court orders, and the court may require bond or other security to be given by the creditor to refund such part of the payment as may be necessary to make payment in accordance with this probate code. All payments made by the personal representative without order of court are at the personal representative's own peril.

[C51, §1370, 1371, 1374, 1376, 1378, 1379; R60, §2402, 2403, 2406, 2408, 2410, 2411; C73, §2418, 2419, 2422, 2424, 2426, 2427; C97, §3347, 3350, 3353; C24, 27, 31, 35, 39, §**11969, 11973, 11976;** C46, 50, 54, 58, 62, §635.65, 635.69, 635.71; C66, 71, 73, 75, 77, 79, 81, §633.433]

84 Acts, ch 1080, §12; 2005 Acts, ch 38, §51

633.434 Payment of debts and charges after expiration of period following notice.

1. The personal representative shall, as soon as practicable following appointment, make reasonably diligent efforts to ascertain the names and addresses of all persons believed to own or possess claims against a decedent's estate.

2. Upon the expiration of the later to occur of four months after the date of the second

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publication of notice to creditors or one month after the service of the notice by ordinary mail upon all claimants whose identities are reasonably ascertainable, at their last known addresses and whose claims will not or may not be paid or otherwise satisfied during administration, the personal representative shall pay the debts and charges against the estate in accordance with this probate code. If it appears at any time that the estate is or may be insolvent, that there are insufficient funds on hand, or that there is other good and sufficient cause, the personal representative may report that fact to the court and apply for any order that the personal representative deems necessary.

[C51, §1370, 1371, 1374, 1376, 1378, 1379; R60, §2402, 2403, 2406, 2408, 2410, 2411; C73, §2418, 2419, 2422, 2424, 2426, 2427; C97, §3347, 3350, 3353; C24, 27, 31, 35, 39, §**11969, 11973, 11976;** C46, 50, 54, 58, 62, §635.65, 635.69, 635.71; C66, 71, 73, 75, 77, 79, 81, §633.434]

84 Acts, ch 1080, §13; 89 Acts, ch 35, §7; 2005 Acts, ch 38, §27; 2019 Acts, ch 24, §104

633.435 Debts and charges not filed.

The personal representative may pay any valid debts and charges against the estate even though no claim for such debts and charges has been filed, but all such payments made by the personal representative shall be at the personal representative's own peril.

[C66, 71, 73, 75, 77, 79, 81, §633.435]

633.436 General order for abatement.

1. Except as provided in sections 633.211 and 633.212, shares of the distributees shall abate, for the payment of debts and charges, federal estate taxes, legacies, the shares of children born or adopted after the making of a will, or the share of the surviving spouse who elects to take against the will, without any preference or priority as between real and personal property, in the following order:

a. Property not disposed of by the will;

b. Property devised to the residuary devisee, except property devised to a surviving spouse who takes under the will;

c. Property disposed of by the will, but not specifically devised and not devised to the residuary devisee, except property devised to a surviving spouse who takes under the will;

d. Property specifically devised, except property devised to a surviving spouse who takes under the will;

e. Property devised to a surviving spouse who takes under the will.

2. A general devise charged on any specific property or fund shall, for purposes of abatement, be deemed property specifically devised to the extent of the value of the property on which it is charged. Upon the failure or insufficiency of the property on which it is charged, it shall be deemed property not specifically devised to the extent of such failure or insufficiency.

[C51, §1284, 1285; R60, §2316, 2317; C73, §2334, 2335; C97, §3279; S13, §3279, 3279-a; C24, 27, 31, 35, 39, §**11858, 11859;** C46, 50, 54, 58, 62, §633.13, 633.14; C66, 71, 73, 75, 77, 79, 81, §633.436]

85 Acts, ch 19, §3; 2008 Acts, ch 1119, §19; 2010 Acts, ch 1138, §58; 2014 Acts, ch 1076, §22

Referred to in §633.278, 633.437

633.437 Contrary provision as to abatement.

1. When provisions of the will, trust or other testamentary instrument of the decedent provide explicitly for an order of abatement contrary to the provisions of section 633.436, the provisions of the will or other testamentary instrument shall determine the order of abatement.

2. Except as provided in subsection 1 of this section, if the provisions of the will, the testamentary plan, or the express or the implied purpose of the devise would be defeated by the order of abatement as provided in section 633.436, then upon application to the court by a fiduciary or a distributee, and after notice to all interested parties, the court shall determine the order for abatement of the shares of distributees in such other manner as may be found necessary to give effect to the intention of the testator. In order to change the order of abatement as provided in section 633.436, it will be necessary for the court to find it clear and

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convincing that the provisions of the will, the testamentary plan, or the express or implied purpose of the devise would be defeated by the order of abatement stated in section 633.436.

[C66, 71, 73, 75, 77, 79, 81, §633.437]

DENIAL AND CONTEST OF CLAIMS

633.438 General denial of claims.

Where a claim has been filed, but not admitted in writing by the personal representative before a request for hearing has been given as hereinafter provided, the claim shall be considered as generally denied by the personal representative without any pleading on behalf of the personal representative.

[C73, §2410; C97, §3340; S13, §3340; C24, 27, 31, 35, 39, §**11961;** C46, 50, 54, 58, 62, §635.57; C66, 71, 73, 75, 77, 79, 81, §633.438]

2021 Acts, ch 23, §1

Referred to in §633.417, 633.666

633.439 Disallowance by personal representative.

At any time after the filing of a claim against an estate, the personal representative may give the claimant and the claimant's attorney of record, if any, written notice of disallowance of claim. The notice shall be given by certified mail addressed to the claimant at the address stated in the claim and to the claimant's attorney of record, if any.

[C66, 71, 73, 75, 77, 79, 81, §633.439; 81 Acts, ch 193, §4]

Referred to in §633.417, 633.432, 633.440, 633.666

633.440 Contents of notice of disallowance.

A notice of disallowance under section 633.439 shall advise the claimant that the claim has been disallowed and will be forever barred unless the claimant shall within twenty days after the date of mailing the notice, file a request for hearing on the claim with the clerk.

[C66, 71, 73, 75, 77, 79, 81, §633.440]

99 Acts, ch 56, §5; 2021 Acts, ch 23, §2; 2022 Acts, ch 1021, §164

Referred to in §633.417, 633.432, 633.666

633.441 Proof of service.

Proof of service of the notice of disallowance shall be made by affidavit, shall show the date and place of mailing, and shall be filed with the clerk.

[C66, 71, 73, 75, 77, 79, 81, §633.441]

Referred to in §633.417, 633.432, 633.666

633.442 Claims barred after twenty days.

Unless the claimant shall within twenty days after the date of mailing the notice of disallowance, file a request for hearing with the clerk, the claim shall be deemed disallowed, and shall be forever barred.

[C66, 71, 73, 75, 77, 79, 81, §633.442]

2021 Acts, ch 23, §3

Referred to in §633.417, 633.432, 633.443, 633.666

633.443 Request for hearing by claimant.

At the time of the filing of a claim against an estate, or at any time thereafter prior to the time that the claim may be barred by the provisions of section 633.442, or the approval of the final report of the personal representative after notice to the claimant, the claimant may file a request for hearing with the clerk.

[C51, §1359, 1361; R60, §2391, 2393; C73, §2408; C97, §3338; C24, 27, 31, 35, 39, §**11959;** C46, 50, 54, 58, 62, §635.55; C66, 71, 73, 75, 77, 79, 81, §633.443]

2021 Acts, ch 23, §4

Referred to in §633.417, 633.432, 633.666

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633.444 Applicability of rules of civil procedure.

The personal representative shall file a pre-answer motion or answer to a claim within twenty days from the filing of the request for hearing on the claim in the same manner as though the claim were a petition filed in an ordinary action, and thereafter, all provisions of law and rules of civil procedure applicable to motions, pleadings and the trial of ordinary actions shall apply; provided, however, that a restatement of such claim shall not be barred by the provisions of section 633.410.

[C66, 71, 73, 75, 77, 79, 81, §633.444]

2021 Acts, ch 23, §5

Referred to in §633.417, 633.432, 633.666

633.445 Offsets and counterclaims.

At the time of the filing of an answer to a claim, the personal representative shall plead all offsets against the claim, and shall plead all counterclaims against the claimant of which the personal representative has knowledge. An offset or counterclaim may or may not diminish or defeat the recovery sought by the opposing party. It may claim relief exceeding the amount, or different in kind, from that sought in the claim.

[C66, 71, 73, 75, 77, 79, 81, §633.445]

Referred to in §633.417, 633.432, 633.666

633.446 Burden of proof.

The burden of proving that a claim is unpaid shall not be placed upon the party filing a claim against the estate; but the personal representative may on the trial of the cause, subject the claimant to an examination on the question of payment or consideration, and the estate shall not be concluded or bound thereby.

[C97, §3340; S13, §3340; C24, 27, 31, 35, 39, §**11962;** C46, 50, 54, 58, 62, §635.58; C66, 71, 73, 75, 77, 79, 81, §633.446]

Referred to in §633.417, 633.432, 633.666

633.447 Trial and hearing.

The trial of a claim and the offsets or counterclaims, if any, shall be to the court without a jury. However, the court may, in its discretion, either on its own motion or upon the motion of any party, submit the matter to a jury. In the event that the amount of the claim or a counterclaim exceeds the sum stated in section 631.1, subsection 1, either party shall be entitled to a jury trial, if a written demand is made as provided in the rules of civil procedure in relation to the trial of ordinary actions.

[C51, §1360, 1362, 1366; R60, §2392, 2394, 2398; C73, §2411, 2415; C97, §3341, 3344; C24, 27, 31, 35, 39, §**11963, 11966;** C46, 50, 54, 58, 62, §635.59, 635.62; C66, 71, 73, 75, 77, 79, 81, §633.447]

2019 Acts, ch 59, §217; 2021 Acts, ch 23, §6

Referred to in §633.417, 633.432, 633.666

Demand for jury trial, see R.C.P. 1.902

633.448 Allowance and judgment.

Upon the trial of a claim, offsets, and counterclaims, the amount owing by or to the estate, if any, shall be determined. A claim against the estate shall be allowed for the net amount. Judgment shall be rendered for any amount found to be due the estate. If a judgment is rendered against a claimant for any net amount, execution may issue in the same manner as on judgments in civil cases. The judgment against any interested party may be deducted from any amounts the estate owes to the interested party.

[C66, 71, 73, 75, 77, 79, 81, §633.448]

2021 Acts, ch 23, §7; 2022 Acts, ch 1032, §101

Referred to in §633.417, 633.432, 633.666

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633.449 Payment of federal estate taxes.

All federal estate taxes, distinguished from state inheritance taxes, owing by the estate of a decedent shall be paid from the property of the estate, unless the will of the decedent, or other trust instrument, provides expressly to the contrary.

[C66, 71, 73, 75, 77, 79, 81, §633.449]

2008 Acts, ch 1119, §20; 2010 Acts, ch 1138, §59; 2014 Acts, ch 1076, §23

633.450 through 633.468 Reserved.

PART 8

ACCOUNTING, DISTRIBUTION, FINAL REPORT, AND DISCHARGE

633.469 Interlocutory report.

1. The personal representative may at any time file an interlocutory accounting to the court showing the condition of the estate, the estate's debts and property, the amount of money received, and the disposition made of any of the assets of the estate.

2. The court may on application of any interested party, or on its own motion, order an interlocutory accounting at any time. Such an accounting shall embrace all matters directed by the court. The court may order such further accountings from time to time as the court may determine to be to the best interests of the estate.

[C51, §1422, 1423; R60, §2447, 2448; C73, §2469; C97, §3394, 3420; C24, 27, 31, 35, 39, §**12042, 12043, 12070;** C46, 50, 54, 58, 62, §638.2, 638.3, 638.33; C66, 71, 73, 75, 77, 79, 81, §633.469]

2019 Acts, ch 59, §218

633.470 Waiver of accounting.

The distributee, if under no legal disability, may waive the accounting.

[C66, 71, 73, 75, 77, 79, 81, §633.470]

633.471 Right of retainer.

When a distributee of an estate is indebted to the estate, or if a distributee takes as an heir of a deceased devisee indebted to the estate, the amount of such indebtedness, if due, or the present worth of the indebtedness, if not due, shall be treated as a setoff and retained by the personal representative out of any testate or intestate property, real or personal, of the estate to which such distributee is entitled. In intestate estates, the personal representative shall have the same right of setoff and retainer against an heir whose ancestor was indebted to the estate. The right of setoff and retainer shall be prior and superior to the rights of judgment creditors, heirs or assigns of such distributee.

[C51, §1383 – 1386; R60, §2415 – 2418; C73, §2431 – 2434; C97, §3357 – 3360; C24, 27, 31, 35, 39, §**11980 – 11983;** C46, 50, 54, 58, 62, §635.75 – 635.78; C66, 71, 73, 75, 77, 79, 81, §633.471]

2012 Acts, ch 1123, §13, 32

633.472 Property distributed in kind.

Property not otherwise disposed of by the personal representative may be distributed in kind.

[C51, §1384, 1385, 1392; R60, §2416, 2417, 2424; C73, §2432, 2433, 2438; C97, §3358, 3359, 3364; C24, 27, 31, 35, 39, §**11981, 11982, 11988;** C46, 50, 54, 58, 62, §635.76, 635.77, 636.3; C66, 71, 73, 75, 77, 79, 81, §633.472]

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633.473 Final settlement — time limit.

Final settlement shall be made within three years, after the second publication of the notice to creditors, unless otherwise ordered by the court after notice to all interested parties.

[C51, §1393; R60, §2425; C73, §2439, 2469; C97, §3365, 3394; C24, 27, 31, 35, 39, §**11989, 12044;** C46, 50, 54, 58, 62, §636.4, 638.4; C66, 71, 73, 75, 77, 79, 81, §633.473]

Referred to in §635.8

633.474 Reserved.

633.475 Compromise of personal taxes.

For the purpose of facilitating the speedy settlement and distribution of estates, the county treasurer of such county, by and with the consent of the board of supervisors may compromise and agree upon the amount of personal taxes at any time due or to become due the county from an estate, and payment in accordance with such compromise or agreement shall be for the satisfaction of all taxes in such estate matter. No compensation shall be allowed any person because of such compromise or agreement.

[C39, §**12781.1, 12781.2;** C46, 50, 54, 58, 62, §682.35, 682.36; C66, 71, 73, 75, 77, 79, 81, §633.475]

633.476 Action against distributees — costs — tender.

In an action against the distributees, where the judgment is to be against them in proportion to the respective amounts received by them from the estate, costs awarded against them shall be in like proportion, and anyone may tender the amount due from that distributee to the plaintiff, which shall have the same effect, as far as the distributee is concerned, as though that distributee were the sole defendant.

[C51, §1440, 1441; R60, §2465, 2466; C73, §2485, 2486; C97, §3408; C24, 27, 31, 35, 39, §**12060;** C46, 50, 54, 58, 62, §638.20; C66, 71, 73, 75, 77, 79, 81, §633.476]

633.477 Final report.

Each personal representative shall, in the personal representative's final report, set forth:

1. An accurate description of all the real estate of which the decedent died seized, stating the nature and extent of the decedent's interest therein, which has not been sold and conveyed by the personal representative.
2. Whether the deceased died testate or intestate.
3. The name and place of residence of the surviving spouse, or that none survived the deceased.
4. In intestate estates, the name and place of residence of each of the heirs and their relationship to the deceased.
5. In testate estates, the name and place of residence of each of the devisees and their relationship to the deceased, and the name and residence of after-born children, if any, as defined in section 633.267.
6. Whether any legacy or devise remains a charge on the real estate, and, if so, the nature and amount thereof.
7. Whether any distributee is under any legal disability.
8. The name of the conservator or trustee for any distributee, and the court from which the letters were issued.
9. An accounting of all property coming into the hands of the personal representative and a detailed accounting of all cash receipts and disbursements. The accounting may be omitted if waived by all interested parties.
10. A statement as to whether or not all statutory requirements pertaining to taxes have been complied with including whether the federal estate tax due has been paid, whether a lien continues to exist for any federal estate tax, and whether inheritance tax was paid or a return was filed in this state for a death occurring before January 1, 2025.
11. Upon the request of the personal representative, an itemization of services performed, time spent for such services, and responsibilities assumed by the personal representative's attorney for all estates of decedents dying after January 1, 1981. If the itemization is not

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included, there shall be set forth a statement that the personal representative was informed of the provisions of this subsection and did not request the itemization.

12. A statement as to whether all statutory requirements pertaining to claims have been complied with and a statement as to whether all claims, including charges, have been paid and whether a lien continues to exist on any property as security for any claim.

13. A statement as to whether the decedent left any genetic material, and if the decedent left genetic material, if the personal representative has reserved sufficient estate assets to fund the distribution to which posthumous heirs, if any, would be entitled to receive; that the personal representative will wait until two years after the decedent's date of death to make final distributions; and that the personal representative will submit a supplemental report after such final distributions have been made.

[C73, §2491; C97, §3412; C24, 27, 31, 35, 39, §**12071;** C46, 50, 54, 58, 62, §638.34; C66, 71, 73, 75, 77, 79, 81, §633.477]

87 Acts, ch 54, §1; 89 Acts, ch 35, §8; 2005 Acts, ch 38, §28; 2011 Acts, ch 18, §4; 2025 Acts, ch 148, §47, 53, 54

Referred to in §633.479

2025 amendment to subsection 10 applies retroactively to January 1, 2025, to the estates of decedents dying on or after January 1, 2025; 2025 Acts, ch 148, §54

633.478 Notice of application for discharge.

A personal representative shall not be discharged from further duty or responsibility upon final settlement until notice of the final report or of an application for discharge has been served upon all persons interested, in accordance with section 633.40, unless notice is waived. An order prescribing notice may be made before or after the filing of the final report.

[C97, §3422; C24, 27, 31, 35, 39, §**12073;** C46, 50, 54, 58, 62, §638.36; C66, 71, 73, 75, 77, 79, 81, §633.478; 81 Acts, ch 193, §5]

Referred to in §633.479

633.479 Discharge.

1. Upon final settlement of an estate, an order shall be entered discharging the personal representative from further duties and responsibilities. The order approving the final report shall constitute a waiver of the omission from the final report of any of the recitals required in section 633.477.

2. *a.* An order approving the final report and discharging the personal representative shall not be required if all of the following apply:

(1) All distributees otherwise entitled to notice are adults and are under no legal disability.

(2) All distributees have signed waivers of notice as provided in section 633.478.

(3) All distributees have signed statements of consent agreeing that the prayer of the final report shall constitute an order approving the final report and discharging the personal representative.

(4) All of the statements of consent are dated not more than thirty days prior to the date of the final report.

(5) Compliance with section 422.27, and section 450.58 for deaths occurring before January 1, 2025, have been fulfilled.

(6) Any required receipts, sworn statements, and certificates are on file.

b. If the requirements of paragraph *"a"* have been met, final order shall not be required and the prayer of the final report shall be considered as granted and shall have the same force and effect as an order of discharge of the personal representative and an order approving the final report.

[C51, §1434; R60, §2459; C73, §2476; C97, §3400; C24, 27, 31, 35, 39, §**12052;** C46, 50, 54, 58, 62, §638.12; C66, 71, 73, 75, 77, 79, 81, §633.479]

83 Acts, ch 44, §1; 2003 Acts, ch 151, §54; 2004 Acts, ch 1073, §50; 2019 Acts, ch 59, §219; 2025 Acts, ch 148, §48, 53, 54

Referred to in §633.480

2025 amendment to subsection 2, paragraph a, subparagraph (5) applies retroactively to January 1, 2025, to the estates of decedents dying on or after January 1, 2025; 2025 Acts, ch 148, §54

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633.480 Certificate to county recorder for tax purposes with administration.

After discharge as provided in section 633.479, the personal representative shall deliver to the county recorder of the county in which the real estate is situated a certificate pertaining to each parcel of real estate described in the final report of the personal representative which has not been sold by the personal representative. The certificate shall include the name and complete mailing address, as shown on the final report, of the individual or entity in whose name each parcel of real estate is to be taxed. The county recorder shall deliver the certificate to the county auditor as provided in section 558.58.

[C66, 71, 73, 75, 77, 79, 81, §633.480; 82 Acts, ch 1054, §2, ch 1118, §1]

84 Acts, ch 1221, §7; 91 Acts, ch 116, §19; 2001 Acts, ch 45, §10; 2003 Acts, ch 151, §55

Referred to in §633.481, 635.7

633.481 Certificate to county recorder for tax purposes without administration.

When an inventory or report is filed under section 450.22 for deaths occurring before January 1, 2025, without administration of the estate of the decedent, the heir or heir's attorney shall prepare and deliver to the county recorder of the county in which the real estate is situated a certificate pertaining to each parcel of real estate described in the inventory or report. Any fees for certificates or recording fees required by this section or section 633.480 shall be assessed as costs of administration. The fees for recording and indexing the instrument shall be as provided in section 331.604. The county recorder shall deliver the certificates to the county auditor as provided in section 558.58.

[C66, 71, 73, 75, 77, 79, 81, §633.481; 82 Acts, ch 1054, §3]

84 Acts, ch 1221, §8; 86 Acts, ch 1079, §6; 90 Acts, ch 1081, §4; 2003 Acts, ch 151, §56; 2009 Acts, ch 27, §37; 2025 Acts, ch 148, §49, 53, 54

Referred to in §635.7

2025 amendment applies retroactively to January 1, 2025, to the estates of decedents dying on or after January 1, 2025; 2025 Acts, ch 148, §54

633.482 through 633.486 Reserved.

PART 9

REOPENING

633.487 Limitation on rights.

No person, having been served with notice of the hearing upon the final report and accounting of a personal representative or having waived such notice, shall, after the entry of the final order approving the same and discharging the said personal representative, have any right to contest, in any proceeding, other than by appeal, the correctness or the legality of the inventory, the accounting, distribution, or other acts of the personal representative, or the list of heirs set forth in the final report of the personal representative, provided, however, that nothing contained in this section shall prohibit any action against the personal representative and the personal representative's surety under the provisions of section 633.186 on account of any fraud committed by the personal representative.

[C97, §3422; C24, 27, 31, 35, 39, §**12073;** C46, 50, 54, 58, 62, §638.36; C66, 71, 73, 75, 77, 79, 81, §633.487]

633.488 Reopening settlement.

Whenever a final report has been approved and a final accounting has been settled in the absence of any person adversely affected and without notice to the person, the hearing on such report and accounting may be reopened at any time within five years from the entry of the order approving the same, upon the application of such person, and, upon a hearing, after such notice as the court may prescribe to be served upon the personal representative and the distributees, the court may require a new accounting, or a redistribution from the distributees. In no event, however, shall any distributee be liable to account for more than the property distributed to that distributee. If any property of the estate shall have passed

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into the hands of good faith purchasers for value, the rights of such purchasers shall not, in any way, be affected.

[C51, §1431; R60, §2456; C73, §2475; C97, §3399; C24, 27, 31, 35, 39, §**12051;** C46, 50, 54, 58, 62, §638.11; C66, 71, 73, 75, 77, 79, 81, §633.488]

633.489 Reopening administration.

Upon the petition of any interested person, the court may, with such notice as it may prescribe, order an estate reopened if other property be discovered, if any necessary act remains unperformed, or for any other proper cause appearing to the court. It may reappoint the personal representative, or appoint another personal representative, to administer any additional property or to perform other such acts as may be deemed necessary. The provisions of law as to original administration shall apply, insofar as applicable, to accomplish the purpose for which the estate is reopened, but a claim which is already barred can, in no event, be asserted in the reopened administration.

[S13, §3305; C24, 27, 31, 35, 39, §**11892;** C46, 50, 54, 58, 62, §633.48; C66, 71, 73, 75, 77, 79, 81, §633.489]

633.490 through 633.494 Reserved.

SUBCHAPTER VIII

FOREIGN WILLS AND ANCILLARY ADMINISTRATION

PART 1

FOREIGN WILLS

633.495 Admission of wills of nonresidents.

A will of a nonresident of this state, not probated in any other state or county, may be admitted to probate in any county of this state where either real or personal property of the deceased nonresident is located.

[C66, 71, 73, 75, 77, 79, 81, §633.495]

633.496 Foreign probated wills.

A will probated in any other state or country shall be admitted to probate in this state upon the production of a copy of the will and of the original record of probate. The will and record of probate must be authenticated by the certificate of the clerk of the court in which the will was probated, or, if there is no clerk, then by the certificate of the judge of the court, and by the seal of office of that officer if the officer or office has a seal.

[C51, §1296; R60, §2328; C73, §2351; C97, §3294; C24, 27, 31, 35, 39, §**11877;** C46, 50, 54, 58, 62, §633.33; C66, 71, 73, 75, 77, 79, 81, §633.496]

2023 Acts, ch 66, §145

633.497 Foreign wills as a muniment of title.

After the expiration of the five-year period from the date of the death of the decedent, an exemplified copy of a will which has not been denied probate in Iowa, and of the order admitting it to probate in a foreign state or country, may be recorded in the office of the county recorder of any county where real estate owned by the testator is located. The record of such a will and of the order admitting the will to probate shall operate to dispose of said property as though said will had been admitted to probate in this state. Nothing contained in this section shall operate to defeat the rights, acquired prior to such record, of purchasers for value whose rights are shown of record.

[C66, 71, 73, 75, 77, 79, 81, §633.497]

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633.498 Foreign wills — procedure.
All provisions of law relating to the carrying of domestic wills into effect after their probate shall apply, so far as applicable, to foreign wills admitted to probate in this state.
[C73, §2352; C97, §3295; C24, 27, 31, 35, 39, §**11878;** C46, 50, 54, 58, 62, §633.34; C66, 71, 73, 75, 77, 79, 81, §633.498]

633.499 Reserved.

PART 2

ANCILLARY ADMINISTRATION

633.500 Appointment of foreign administrator.
Notwithstanding any other provision of this probate code, if administration of the estate of a deceased intestate nonresident has been granted in accordance with the law of the state where the nonresident resided, the duly qualified administrator of the estate of the nonresident may upon application be appointed administrator in this state, unless another has already been appointed and provided that a resident administrator be appointed to serve with the nonresident administrator; provided further, however, that for good cause shown, the court may appoint the nonresident administrator to act alone without the appointment of a resident administrator.
[C51, §1309; R60, §2341; C73, §2368; C97, §3306; C24, 27, 31, 35, 39, §**11894;** C46, 50, 54, 58, 62, §633.50; C66, 71, 73, 75, 77, 79, 81, §633.500]
2005 Acts, ch 38, §51
Referred to in §633.501

633.501 Application for appointment of foreign administrator.
The application for any such appointment under section 633.500 shall contain the name and address of the foreign administrator and of the resident administrator, if any, to be appointed, and shall be accompanied by a certificate of the clerk of the court of original jurisdiction certifying that such estate is under administration, and a certification of the original letters or other authority authorizing the nonresident administrator to act in that estate.
[C66, 71, 73, 75, 77, 79, 81, §633.501]

633.502 Appointment of foreign fiduciary.
Notwithstanding any other provision of this probate code, the duly qualified fiduciary under a will admitted to probate in another state, may upon application be appointed fiduciary in this state, after said will has been admitted to probate in this state, provided that a resident fiduciary be appointed to serve with the nonresident fiduciary; provided further, however, that, for good cause shown, the court may appoint, the nonresident fiduciary to act alone without the appointment of a resident fiduciary.
[C51, §1310; R60, §2342; C73, §2369; C97, §3306; C24, 27, 31, 35, 39, §**11895;** C46, 50, 54, 58, 62, §633.51; C66, 71, 73, 75, 77, 79, 81, §633.502]
2005 Acts, ch 38, §51

633.503 Application for appointment of foreign executor or trustee.
The application for appointment of a nonresident executor or trustee shall include the name and address of the nonresident executor or trustee, and the name and address of the resident executor or trustee, if any, to be appointed. It shall be accompanied by a certificate of the clerk of the foreign court granting the original letters or other authority conferring the power upon the nonresident executor or trustee to act as such. The application shall also state the cause for the appointment of the nonresident executor or trustee to act as the sole executor or trustee, if such appointment is desired. When the will has not been admitted to probate in any other state, the application shall include the name and address of the executor or trustee,

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if any, named in the will of the nonresident, and of the resident executor or trustee to be appointed.

[C66, 71, 73, 75, 77, 79, 81, §633.503]

633.504 Removal of property — payment of claims.

In all estates of nonresidents, being administered in this state, the court may require payment of all claims filed and allowed belonging to residents of this state, and all legacies or distributive shares payable to residents of this state, before allowing any of the property in the estate to be removed from the state.

[C97, §3306; C24, 27, 31, 35, 39, §**11896;** C46, 50, 54, 58, 62, §633.52; C66, 71, 73, 75, 77, 79, 81, §633.504]

633.505 through 633.509 Reserved.

SUBCHAPTER IX

ESTATES OF ABSENTEES

633.510 Administration authorized — petition.

Administration may be had upon the estate of an absentee. A petition therefor must be filed in the office of the clerk and must allege:

1. Whether the absentee was a resident or a nonresident of this state, and the absentee's address at the absentee's last known domicile; that the absentee has, without known cause, left the absentee's usual place of residence, and concealed the absentee's whereabouts from the absentee's family, for a period of five years.

2. That the said absentee has property in this state, describing it with reasonable certainty, all or part of which is situated in the county in which the petition is filed.

3. The names of the persons, so far as known to the petitioner, who would be entitled to share in the estate of the absentee if the absentee were dead.

4. In the case of a nonresident, whether administration upon the estate has been granted in the state of last known domicile.

5. Facts showing that the petitioner is a party who would be entitled to administer the estate of the said absentee in case the absentee were known to be dead.

[C97, §3307; S13, §3307; C24, 27, 31, 35, 39, §**11901;** C46, 50, 54, 58, 62, §634.1; C66, 71, 73, 75, 77, 79, 81, §633.510]

2014 Acts, ch 1026, §130

633.511 Notice.

Upon filing of such petition, the court shall, by a proper order, prescribe the notice and the return day therein, which shall be addressed to and served upon such absentee and the alleged distributees of the absentee's estate.

[C97, §3307; S13, §3307; C24, 27, 31, 35, 39, §**11902;** C46, 50, 54, 58, 62, §634.2; C66, 71, 73, 75, 77, 79, 81, §633.511]

633.512 Service.

Said notice shall in all cases be served:

1. By publication in the county in which the petition is filed, once each week for three consecutive weeks, in a newspaper designated by the court; and

2. Upon all the alleged distributees of the estate of said absentee by ordinary mail addressed to them at their last known address.

[C97, §3307; S13, §3307; C24, 27, 31, 35, 39, §**11903;** C46, 50, 54, 58, 62, §634.3; C66, 71, 73, 75, 77, 79, 81, §633.512]

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633.513 Proof of service — filing.

Proof of the publication and service of such notice shall be filed with the clerk aforesaid on or before the day set for hearing.

[C97, §3307; S13, §3307; C24, 27, 31, 35, 39, §**11904;** C46, 50, 54, 58, 62, §634.4; C66, 71, 73, 75, 77, 79, 81, §633.513]

633.514 Hearing — continuance — orders.

If, on the day set for hearing, the absentee fails to appear, the court shall appoint some disinterested person as guardian ad litem to appear for the absentee and all distributees not appearing, and said cause shall thereupon stand continued for twenty days. The guardian ad litem shall be a practicing attorney. The court shall have authority to make further continuance upon proper showing. The guardian ad litem shall investigate the matter and things alleged in the petition. Upon the further hearing, the court shall hear the proofs, and, if satisfied of the truth of the allegations of the petition, shall enter an order establishing the death of the absentee as a matter of law.

[C97, §3307; S13, §3307; C24, 27, 31, 35, 39, §**11905;** C46, 50, 54, 58, 62, §634.5; C66, 71, 73, 75, 77, 79, 81, §633.514]

90 Acts, ch 1271, §1514

Referred to in §633.515

633.515 Administration.

Upon the entry of such further order under section 633.514, administration of the estate of such absentee, whether testate or intestate, shall proceed as provided herein for the administration of the estates of other decedents, notwithstanding the provisions of section 633.330.

[S13, §3307, 3307-a; C24, 27, 31, 35, 39, §**11906 – 11910;** C46, 50, 54, 58, 62, §634.6 – 634.10; C66, 71, 73, 75, 77, 79, 81, §633.515]

633.516 Rights of absentee barred — sale by spouse.

An order establishing the death of an absentee forever bars the rights of homestead and distributive share of the absentee, and the absentee's interest in and to any real estate owned or held by the spouse of the absentee, and in which the spouse may have a legal or equitable interest. Conveyance of any such real estate by the spouse, after four months from date of publication of second notice of the appointment of a personal representative, is free and clear of any claim or right of homestead or distributive share on the part of the absentee.

[S13, §3307-b; C24, 27, 31, 35, 39, §**11911;** C46, 50, 54, 58, 62, §634.11; C66, 71, 73, 75, 77, 79, 81, §633.516]

84 Acts, ch 1080, §14

633.517 Missing soldiers or sailors — presumption of death.

1. A written finding of presumed death, made by the secretary of defense, or other officer or employee of the United States authorized to make such finding, pursuant to the federal Missing Persons Act, 56 Stat. 143, 1092, and Pub. L. No. 408, Ch. 371, 2d Session 78th Congress codified at 10 U.S.C. §1501 et seq., as now or hereafter amended, or a duly certified copy of such a finding, shall be received in any court, office, or other place in this state, as evidence of the death of the person therein found to be dead, and of the date, circumstances, and place of the disappearance.

2. An official written report or record, or a duly certified copy thereof, that a person is missing, missing in action, interned in a neutral country, or beleaguered, besieged, or captured by an enemy, or is dead, or is alive, made by any officer or employee of the United States authorized by the Act referred to in subsection 1 of this section, or by any other law of the United States, to make such a report or record, shall be received in any court, office or other place in this state as evidence that such person is missing, missing in action, interned in a neutral country, or beleaguered, besieged, or captured by an enemy, or is dead, or is alive, as the case may be.

3. For the purposes of subsections 1 and 2 of this section, any finding, report, or record, or

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duly certified copy thereof, purporting to have been signed by such an officer or employee of the United States as is described in said subsections, shall prima facie be deemed to have been signed and issued by such an officer or employee pursuant to law, and the person signing the same shall prima facie be deemed to have acted within the scope of the person's authority. If a copy purports to have been certified by a person authorized by law to certify the same, such certified copy shall be prima facie evidence of the person's authority so to certify.

[C46, 50, 54, 58, 62, §634.12; C66, 71, 73, 75, 77, 79, 81, §633.517]

2010 Acts, ch 1061, §77; 2015 Acts, ch 29, §108

633.518 Presumption of death — petition and inquiry.

If a petition is presented by an interested person to a district judge or magistrate alleging that a designated person has disappeared and after a diligent search cannot be found, and if it appears to the satisfaction of the judge or magistrate that the circumstances surrounding the disappearance afford reasonable grounds for the belief that the person has suffered death from accidental or other violent means, the judge or magistrate shall summon and impanel a jury of six qualified persons to inquire into the facts surrounding and the presumption to be raised from the disappearance. If no one submits a petition within forty days of the reported disappearance, a judge or magistrate may submit the petition from personal knowledge of the case.

2002 Acts, ch 1108, §28

633.519 Presumption of death — verdict and entry of order.

If a jury in an inquiry regarding the disappearance of an individual renders a unanimous verdict in writing that sufficient evidence has been presented to them from which it fairly may be presumed that the missing person has met death, and if the judge or magistrate concurs in the verdict, then, after a period of six months has elapsed, the person shall be presumed to be dead and the judge or magistrate shall enter an order to that effect. However, in cases where there is clear and convincing evidence of the presumed death, the judge or magistrate may enter the order prior to the elapsing of the six-month period.

2002 Acts, ch 1108, §29

633.520 Presumption of death — natural or man-made disaster.

A written finding of presumed death of a person resulting from a natural or man-made disaster, made by a local, state, or federal officer or employee authorized to make such a finding, or a duly certified copy of such a finding, shall be received by a judge or magistrate as evidence of the death of the person therein found to be dead, and of the date, circumstances, and place of the disappearance. Upon receipt of such evidence the judge or magistrate may enter an order of presumption of death of the person. Upon presentation of a certified court order, a certificate of death shall be filed pursuant to section 144.26.

2002 Acts, ch 1108, §30

633.521 and 633.522 Reserved.

SUBCHAPTER X

UNIFORM SIMULTANEOUS DEATH ACT

633.523 No sufficient evidence of survivorship.

Where the title to property or the devolution thereof depends upon priority of death, and there is no sufficient evidence that the persons have died otherwise than simultaneously, the property of each person shall be disposed of as if the person had survived, except as provided otherwise in sections 633.524 through 633.527.

[C46, 50, 54, 58, 62, §637.1; C66, 71, 73, 75, 77, 79, 81, §633.523]

2021 Acts, ch 80, §363

Referred to in §633.527, 633.528, 633A.4704

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633.524 Beneficiaries of another person's disposition of property.

Where two or more beneficiaries are designated to take successively, by reason of survivorship, under another person's disposition of property, and there is no sufficient evidence that these beneficiaries have died otherwise than simultaneously, the property thus disposed of shall be divided into as many equal portions as there are successive beneficiaries, and these portions shall be distributed respectively to those who would have taken in the event that each designated beneficiary had survived.

[C46, 50, 54, 58, 62, §637.2; C66, 71, 73, 75, 77, 79, 81, §633.524]
Referred to in §633.523, 633.527, 633.528, 633A.4704

633.525 Joint tenants.

Where there is no sufficient evidence that two joint tenants have died otherwise than simultaneously, the property so held shall be distributed one-half as if one had survived and one-half as if the other had survived. If there are more than two joint tenants and all of them have so died, the property thus distributed shall be in the proportion that one bears to the whole number of joint tenants.

[C46, 50, 54, 58, 62, §637.3; C66, 71, 73, 75, 77, 79, 81, §633.525]
Referred to in §633.523, 633.528, 633A.4704

633.526 Insurance policies.

Where the insured and the beneficiary in a policy of life or accident insurance have died, and there is no sufficient evidence that they have died otherwise than simultaneously, the proceeds of the policy shall be distributed as if the insured had survived the beneficiary.

[C46, 50, 54, 58, 62, §637.4; C66, 71, 73, 75, 77, 79, 81, §633.526]
Referred to in §633.523, 633.527, 633.528, 633A.4704

633.527 Limitation of application.

Sections 633.523, 633.524, and 633.526 shall not apply in the case of wills, living trusts, deeds, contracts of insurance, or other contracts wherein provision has been made for distribution of property different from the provisions of those sections.

[C46, 50, 54, 58, 62, §637.6; C66, 71, 73, 75, 77, 79, 81, §633.527]
2003 Acts, ch 95, §5
Referred to in §633.523, 633.528, 633A.4704

633.528 Uniformity of interpretation.

Sections 633.523 through 633.527 shall be so construed and interpreted as to effectuate their general purpose to make uniform the law relating to simultaneous death.

[C46, 50, 54, 58, 62, §637.7; C66, 71, 73, 75, 77, 79, 81, §633.528]
2020 Acts, ch 1063, §347
Referred to in §633A.4704

633.529 through 633.534 Reserved.

SUBCHAPTER XI

FELONIOUS DEATH

633.535 Person causing death or injury.

1. A person who intentionally and unjustifiably causes or procures the death of another shall not receive any property, benefit, or other interest by reason of the death as an heir, distributee, beneficiary, appointee, or in any other capacity whether the property, benefit, or other interest passed under any form of title registration, testamentary or nontestamentary instrument, intestacy, renunciation, or any other circumstance. The property, benefit, or other interest shall pass as if the person causing death died before the decedent.

2. A joint tenant who intentionally and unjustifiably causes or procures the death of another joint tenant which affects their interests so that the share of the decedent passes as the decedent's property has no rights by survivorship. This provision applies

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to joint tenancies and tenancies by the entireties in real and personal property, joint and multiple-party accounts in banks, savings and loan associations, credit unions, and other institutions, and any other form of co-ownership with survivorship rights.

3. A named beneficiary of a bond, life insurance policy, or life insurance contract who intentionally and unjustifiably causes or procures the death of the principal obligee or person upon whose life the policy is issued or whose death generates the benefits under the bond or contract is not entitled to any benefit under the bond, policy, or contract, and the benefits become payable as though the person causing death had predeceased the decedent.

4. *a.* A named beneficiary of a bond, life insurance policy, or life insurance contract convicted of a felony referenced in paragraph "*d*" that was perpetrated against the principal obligee or person upon whose life the policy is issued or whose death generates the benefits, in the six months immediately prior to the obligee's or person's death, is not entitled to any benefit under the bond, policy, or contract.

b. The procedure set out in section 633.536 applies and the benefits become payable as though the convicted obligee or person had predeceased the decedent.

c. However, a principal obligee or person upon whose life the policy is issued or whose death generates the benefits, in the six months immediately prior to the obligee's or person's death, may affirm by a signed, notarized affidavit that the beneficiary should receive any benefit under the bond, policy, or contract despite a felony conviction referenced in this subsection.

d. This subsection applies to a conviction for any of the following felonies:

(1) Any felony contained in chapter 707.
(2) Any felony contained in chapter 708.
(3) Any felony contained in chapter 709.
(4) Any felony contained in chapter 710.
(5) Any felony contained in chapter 710A.

[C97, §3386; S13, §3386; C24, 27, 31, 35, 39, §**12032;** C46, 50, 54, 58, 62, §636.47; C66, 71, 73, 75, 77, 79, 81, §633.535]

87 Acts, ch 9, §1; 88 Acts, ch 1134, §111; 2017 Acts, ch 123, §1, 2
Referred to in §633.536, 633.537

633.536 Procedure to deny benefits to a person causing death or injury.

A determination under section 633.535 may be made by any court of competent jurisdiction by a preponderance of the evidence separate and apart from any criminal proceeding arising from the death. However, such a civil proceeding shall not proceed to trial, and the person causing death is not required to submit to discovery in such a civil proceeding until the criminal proceeding has been finally determined by the trial court, or in the event no criminal charge has been brought, until six months after the date of death. A person convicted of murder or voluntary manslaughter of the decedent is conclusively presumed to have intentionally and unjustifiably caused the death for purposes of this section and section 633.535.

[C97, §3386; S13, §3386; C24, 27, 31, 35, 39, §**12033;** C46, 50, 54, 58, 62, §636.48; C66, 71, 73, 75, 77, 79, 81, §633.536]

87 Acts, ch 9, §2
Referred to in §633.535

633.537 Third party nonliability.

Any insurance company, bank, or other obligor making payment according to the terms of its policy or obligation is not liable by reason of section 633.535 unless prior to payment it has received at its home office or principal address written notice of the claimed applicability of section 633.535.

[C97, §3386; S13, §3386; C24, 27, 31, 35, 39, §**12034;** C46, 50, 54, 58, 62, §636.49; C66, 71, 73, 75, 77, 79, 81, §633.537]

87 Acts, ch 9, §3

633.538 through 633.542 Reserved.

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SUBCHAPTER XII

PROCEEDINGS FOR ESCHEAT

633.543 Proceedings for escheat.

When the court has reason to believe that any property of the estate of a decedent within the county should by law escheat, the court must forthwith inform the attorney general of the state of Iowa thereof, and appoint some suitable person as personal representative to take charge of such property, unless a personal representative has already been appointed.

[C51, §1443; R60, §2468; C73, §2461; C97, §3388; C24, 27, 31, 35, 39, §**12036;** C46, 50, 54, 58, 62, §636.51; C66, 71, 73, 75, 77, 79, 81, §633.543]

633.544 Notice to persons interested.

The personal representative must give such notice of the death of the deceased, and of the amount and kind of property left by the decedent within the state, as, in the opinion of the court appointing the personal representative shall be best calculated to notify those interested, or supposed to be interested, in the property.

[C51, §1444; R60, §2469; C73, §2462; C97, §3389; C24, 27, 31, 35, 39, §**12037;** C46, 50, 54, 58, 62, §636.52; C66, 71, 73, 75, 77, 79, 81, §633.544]

633.545 Sale — proceeds.

If within six months from the giving of notice, a claimant does not appear, the property may be sold and the proceeds paid over by the personal representative to the department of administrative services for the benefit of the permanent school fund.

[C51, §1445; R60, §2470; C73, §2463; C97, §3390; C24, 27, 31, 35, 39, §**12038;** C46, 50, 54, 58, 62, §636.53; C66, 71, 73, 75, 77, 79, 81, §633.545]

83 Acts, ch 185, §56, 62; 88 Acts, ch 1134, §112; 2003 Acts, ch 145, §286

633.546 Payment to person entitled.

The money or any portion of it shall be paid at any time within ten years after the sale of the property or the appropriation of the money, but not afterwards, to anyone showing entitlement thereto.

[C51, §1446; R60, §2471; C73, §2464; C97, §3391; C24, 27, 31, 35, 39, §**12039;** C46, 50, 54, 58, 62, §636.54; C66, 71, 73, 75, 77, 79, 81, §633.546]

633.547 through 633.550 Reserved.

SUBCHAPTER XIII

OPENING GUARDIANSHIPS FOR ADULTS AND CONSERVATORSHIPS FOR ADULTS AND MINORS

PART 1

GENERAL PROVISIONS

633.551 General provisions.

1. The determination of incompetency of the adult respondent to a petition for guardianship or conservatorship or an adult subject to guardianship or conservatorship shall be supported by clear and convincing evidence.

2. The burden of persuasion is on the petitioner in an initial proceeding to appoint a guardian or conservator. In a proceeding to modify or terminate a guardianship or conservatorship, if the guardian or conservator is the petitioner, the burden of persuasion remains with the guardian or conservator. In a proceeding to terminate a guardianship or conservatorship, if the protected person is the petitioner, the protected person shall make a

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prima facie showing of some decision-making capacity. Once a prima facie showing is made, the burden of persuasion is on the guardian or conservator to show by clear and convincing evidence that the protected person is incompetent.

3. In determining whether a guardianship or conservatorship is to be established, modified, or terminated, the district court shall consider if a limited guardianship or conservatorship pursuant to section 633.635 or 633.637 is appropriate. In making the determination, the court shall make findings of fact to support the powers conferred on the guardian or conservator.

4. In proceedings to establish, modify, or terminate a guardianship or conservatorship, in determining if the respondent or protected person is incompetent as defined in section 633.3, the court shall consider credible evidence as to whether there are other less restrictive alternatives, including third-party assistance, that would meet the needs of the respondent or the protected person. However, neither party to the action shall have the burden to produce such evidence relating to other less restrictive alternatives, including but not limited to third-party assistance.

5. Except as otherwise provided in sections 633.672 and 633.673, in proceedings to establish a guardianship or conservatorship, the costs, including attorney fees, court visitor fees, and expert witness fees, shall be assessed against the respondent or the respondent's estate unless the proceeding is dismissed either voluntarily or involuntarily, in which case fees and costs may be assessed against the petitioner for good cause shown.

6. Except as otherwise provided in this subchapter, the Iowa rules of civil procedure shall govern proceedings to establish, modify, or terminate a guardianship or conservatorship.

97 Acts, ch 178, §4; 2007 Acts, ch 134, §15, 28; 2019 Acts, ch 57, §9, 43, 44; 2020 Acts, ch 1062, §66

Referred to in §633.552, 633.553, 633.635, 633.675, 633.717

PART 2

APPOINTMENT OF GUARDIANS AND CONSERVATORS — MEDIATION IN GUARDIANSHIPS AND CONSERVATORSHIP ACTIONS

633.552 Basis for appointment of guardian for an adult.

1. On petition and after notice and hearing, the court may appoint a guardian for an adult if the court finds by clear and convincing evidence that all of the following are true:

a. The decision-making capacity of the respondent is so impaired that the respondent is unable to care for the respondent's safety, or to provide for necessities such as food, shelter, clothing, or medical care without which physical injury or illness may occur.

b. The appointment of a guardian is in the best interest of the respondent.

2. Section 633.551 applies to the appointment of a guardian under subsection 1.

3. If the court appoints a guardian based upon the mental incapacity of the protected person because the protected person has an intellectual disability, as defined in section 4.1, the court shall make a separate determination as to the protected person's competency to vote. The court shall find a protected person incompetent to vote only upon determining that the person lacks sufficient mental capacity to comprehend and exercise the right to vote.

2019 Acts, ch 57, §10, 43, 44

Referred to in §48A.2, 229.27, 235B.18, 622.10, 633.563, 633.567, 633.635, 633.675, 633B.102

Former §633.552 repealed effective January 1, 2020, by 2019 Acts, ch 57, §41, 43

633.553 Basis for appointment of conservator for an adult.

1. On petition and after notice and hearing, the court may appoint a conservator for an adult if the court finds by clear and convincing evidence that both of the following are true:

a. The decision-making capacity of the respondent is so impaired that the respondent is unable to make, communicate, or carry out important decisions concerning the respondent's financial affairs.

b. The appointment of a conservator is in the best interest of the respondent.

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2. Section 633.551 applies to the appointment of a conservatorship under subsection 1.

2019 Acts, ch 57, §11, 43, 44

Referred to in §633.563, 633.567, 633.642, 633.675, 633B.102

633.554 Basis for appointment of conservator for a minor.

On petition and after notice, the court may appoint a conservator for a minor if the court finds by a preponderance of the evidence that the appointment is in the best interest of the minor and any of the following is true:

1. The minor has funds or other property requiring management or protection that otherwise cannot be provided.

2. The minor has or may have financial affairs that may be put at unreasonable risk or hindered because of the minor's age.

3. A conservator is needed to obtain or provide funds or other property.

2019 Acts, ch 57, §12, 43, 44

Referred to in §633.563, 633.642, 633.675, 633B.102

Former §633.554 repealed effective January 1, 2020, by 2019 Acts, ch 57, §41, 43

633.555 Procedure in lieu of conservatorship for minor.

1. If a conservator has not been appointed for a minor, money due to a minor or other property to which a minor is entitled, not exceeding in the aggregate fifty thousand dollars in value, shall be paid or delivered to one or more of the following:

a. A custodian under the uniform transfer to minor account established for the protected person pursuant to chapter 565B or the laws of any other state.

b. A custodial trustee under a uniform custodial trust account established for the protected person pursuant to chapter 633F or the laws of any other state.

c. An account owner or participant under a college savings plan account established for the protected person pursuant to section 529 of the Internal Revenue Code or chapter 12D.

d. The account owner under an ABLE account established for the protected person with disabilities pursuant to section 529A of the Internal Revenue Code or chapter 12I.

e. The structured settlement obligor, as defined in section 682.2, of a structured settlement, as defined in section 682.2, established for the benefit of the protected person, where the protected person will not begin receiving payments from the structured settlement prior to reaching age eighteen.

f. An account owner or participant under a FirstHome Iowa program trust account established for the protected person pursuant to chapter 12L.

2. If a conservator has not been appointed for a minor, and the money due to a minor or other property to which a minor is entitled exceeds fifty thousand dollars in the aggregate, the property may be paid or delivered in the manner set forth in subsection 1 only if such transfer is authorized by the court.

3. The written receipt of the custodian constitutes an acquittance of the person making the payment of money or delivery of property.

[C51, §1493, 1494; R60, §2545, 2546; C73, §2243; C97, §3194; C24, 27, 31, 35, 39, §**12575;** C46, 50, 54, 58, 62, §668.3; C66, 71, 73, 75, 77, 79, 81, §633.574; 82 Acts, ch 1052, §2]

84 Acts, ch 1067, §48; 95 Acts, ch 63, §6; 2005 Acts, ch 38, §29; 2019 Acts, ch 57, §28, 42 – 44

C2020, §633.555

2023 Acts, ch 124, §5, 9; 2026 Acts, ch 1115, §40

For transfers to minors, small distributions, and exhausted or minimal assets of a minor protected person, see also chapter 565B, §633.108, 633.681

Former §633.555 repealed effective January 1, 2020, by 2019 Acts, ch 57, §41, 43

2023 amendment applies to estates, trusts, and conservatorships in existence on or after July 1, 2023, that were opened or created before, on, or after July 1, 2023; 2023 Acts, ch 124, §9

Subsection 1, NEW paragraph f

633.556 Petition for appointment of guardian or conservator for an adult.

1. A formal judicial proceeding to determine whether to appoint a guardian or conservator for an adult shall be initiated by the filing of a verified petition by a person with an interest in the welfare of the adult, which may include the adult who is the subject of the petition.

2. The petition shall contain a concise statement of the factual basis for the petition.

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3. The petition shall contain a concise statement of why there is no less restrictive alternative to the appointment of a guardian or a conservator.

4. The petition shall list the name and address of the respondent and petitioner, and the petitioner's relationship to the respondent.

5. The petition shall list the name and address, to the extent known, of the following:

a. The name and address of the proposed guardian and the reason the proposed guardian should be selected.

b. Any spouse of the respondent.

c. Any adult children of the respondent.

d. Any parents of the respondent.

e. Any adult, who has had the primary care of the respondent or with whom the respondent has lived for at least six months prior to the filing of the petition, or any institution or facility where the respondent has resided for at least six months prior to the filing of the petition.

f. Any legal representative or representative payee of the respondent.

g. Any person designated as an attorney in fact in a durable power of attorney for health care which is valid under chapter 144B, or any person designated as an agent in a durable power of attorney which is valid under chapter 633B.

6. Any additional persons who may have an interest in the proceeding may be listed in an affidavit attached to the petition.

7. If the petition requests the appointment of a conservator, the petition shall state the estimated present value of the real estate owned or to be owned by the respondent, the estimated value of the personal property owned or to be owned by the respondent, and the estimated gross annual income of the respondent.

8. Any additional information relevant to the proceeding may be included in an affidavit attached to the petition.

9. The person listed in the petition for guardianship or conservatorship pursuant to subsections 4, 5, and 6 shall be given notice of the filing of the petition for guardianship or conservatorship pursuant to section 633.558. A person entitled to notice under this subsection does not gain standing in a guardianship or conservatorship proceeding as a result of being entitled to notice unless so ordered by the court.

2019 Acts, ch 57, §13, 43, 44; 2024 Acts, ch 1009, §13 – 15

Referred to in §229.27, 232D.311, 235B.18, 235B.19, 633.558, 633.569, 633.634, 633.717

Former §633.556 repealed effective January 1, 2020, by 2019 Acts, ch 57, §41, 43

633.557 Petition for appointment of a conservator for a minor.

1. A formal judicial proceeding to determine whether to appoint a conservator for a minor shall be initiated by the filing of a verified petition by a person with an interest in the welfare of the minor.

2. The petition shall contain a concise statement of the factual basis for the petition.

3. The petition shall state the following to the extent known:

a. The name, age, and address of the minor.

b. The name and address of the petitioner and the petitioner's relationship to the minor.

c. The name and address of the proposed conservator and the reason the proposed conservator should be selected.

d. If the petitioner, or the proposed conservator, is not the parent or parents having legal custody of the minor, the name and address, to the extent known, of the following:

(1) The parent or parents having legal custody of the minor.

(2) Any adult who has had the primary care of the minor or with whom the minor has lived for at least six months prior to the filing of the petition, or any institution or facility where the minor has resided for at least six months prior to the filing of the petition.

2019 Acts, ch 57, §14, 43, 44

Referred to in §232D.105, 633.559, 633.569, 633.634

Former §633.557 repealed effective January 1, 2020, by 2019 Acts, ch 57, §41, 43

633.558 Notice to adult respondent.

1. The filing of a petition filed pursuant to section 633.556 shall be served upon the adult

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respondent in the manner of an original notice in accordance with the Iowa rules of civil procedure governing such notice. Notice to the attorney representing the respondent, if any, is notice to the respondent.

2. Notice shall be served upon other known persons listed in the petition in the manner prescribed by the court, which may be notice by mail in accordance with the Iowa rules of civil procedure. Failure of such persons to receive actual notice does not constitute a jurisdictional defect precluding the appointment of a guardian or conservator by the court.

3. Notice of the filing of a petition given to persons under subsection 2 shall include a statement that such persons may register to receive notice of the hearing on the petition and other proceedings and the manner of such registration.

2019 Acts, ch 57, §15, 43, 44; 2020 Acts, ch 1062, §67
Referred to in §229.27, 235B.18, 633.556, 633.570
Service of original notice, R.C.P. 1.302 – 1.315
Former §633.558 repealed effective January 1, 2020, by 2019 Acts, ch 57, §41, 43

633.559 Notice to minor respondent.

1. The filing of a petition pursuant to section 633.557 shall be served upon a minor respondent in the manner of an original notice in accordance with the Iowa rules of civil procedure governing such notice. Notice to the attorney representing the minor, if any, is notice to the minor.

2. Notice shall also be served upon the known parent or parents listed in the petition in accordance with the Iowa rules of civil procedure.

3. Notice shall be served upon other known persons listed in the petition in the manner prescribed by the court, which may be notice by mail in accordance with the Iowa rules of civil procedure. Failure of such persons to receive actual notice does not constitute a jurisdictional defect precluding the appointment of a conservator by the court.

4. Notice of the filing of a petition given to persons under subsections 2 and 3 shall include a statement that the recipient of the notice may register to receive notice of the hearing on the petition and other proceedings and the manner of such registration.

2019 Acts, ch 57, §16, 43, 44
Referred to in §633.570
Service of original notice, R.C.P. 1.302 – 1.315
Former §633.559 repealed effective January 1, 2020, by 2019 Acts, ch 56, §43, 44 and 2019 Acts, ch 57, §41, 43

633.560 Hearing.

1. The court shall fix the time and place of hearing on a petition and shall prescribe a time not less than twenty days after the date the notice is served unless the court finds there is good cause shown to shorten the time period to less than twenty days pursuant to section 633.40. The court shall also prescribe the manner of service of the notice of such hearing pursuant to section 633.40.

2. The respondent shall be entitled to attend the hearing on the petition and all other proceedings. The court shall make reasonable accommodations to enable the respondent to attend the hearing and all other proceedings. The court may waive the respondent's attendance for good cause shown. The court shall make a record of the reason for a respondent's nonattendance.

3. The court shall require the proposed guardian or conservator to attend the hearing on the petition but the court may excuse the proposed guardian's or conservator's attendance for good cause shown.

4. The court shall require the court visitor as described in section 633.562, if any, to attend the hearing but the court may excuse the court visitor's attendance for good cause shown.

5. Any person with an interest in the welfare of the respondent may submit a written application to the court requesting permission to participate in the hearing on the petition and other proceedings. The court may grant the request if the court finds that the person's participation is in the best interest of the respondent. The court may impose appropriate conditions on the person's participation.

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6. The hearing may be recorded if a court reporter is not used.

2019 Acts, ch 57, §17, 43, 44; 2024 Acts, ch 1009, §16, 17
Referred to in §229.27, 235B.18, 633.569
Former §633.560 transferred to §633.568; 2019 Acts, ch 57, §42

633.560A Mediation.

1. The district court may, on its own motion or on the motion of any party, order the parties to participate in mediation in any guardianship or conservatorship action. Mediation performed under this section shall comply with the provisions of chapter 679C. The court shall, upon application of a party, grant a waiver from any court-ordered mediation under this section if the party demonstrates that a history of domestic abuse exists similarly as considered in section 598.41, subsection 3, paragraph *"j"*. The court may, upon application of a party, grant a waiver from any court-ordered mediation if the action involves elder abuse pursuant to chapter 235F.

2. Mediation shall comply with all of the following standards:

a. The parties must participate in good faith. Participation in mediation shall include attendance at a mediation session with the mediator and the parties to the action, listening to the mediator's explanation of the mediation process, presentation of one party's view of the case, and listening to the response of the other party. Participation in mediation does not require that the parties reach an agreement.

b. Unless the parties agree upon a mediator, the court shall appoint a mediator. Any mediator appointed by the court shall meet the qualifications established in this section.

c. Parties to the mediation shall have the right to representation by an attorney at all times.

d. The parties to the mediation shall present any agreement reached through the mediation to their attorneys, if any. A mediation agreement reached by the parties shall not be enforceable until approved by the court.

e. The costs of mediation shall be borne by the parties, as agreed to by the parties, or as ordered by the court, and may be taxed as court costs.

3. A mediator appointed by the court acting pursuant to this section shall have the following qualifications:

a. Completed a one-hour internet seminar or live session regarding the external resources available to a respondent with particular focus on resources for older persons.

b. A minimum of twenty-five hours of general mediation training.

c. Either of the following:

(1) Fifteen hours of probate-specific or elder-specific mediation training.

(2) Ten continuous years of practice in Iowa as a licensed attorney with the greater of four hundred hours or forty percent of the total hours of law practice per year being devoted to matters concerning wills, trusts, and estate work for each of the ten continuous years.

2019 Acts, ch 57, §19, 43, 44; 2020 Acts, ch 1063, §348

633.561 Appointment and role of attorney for respondent.

1. In a proceeding for the appointment of a guardian or conservator for an adult or a conservator for a minor:

a. If the respondent is an adult and is not the petitioner, the respondent is entitled to representation by an attorney. Upon the filing of the petition, the court shall appoint an attorney to represent the respondent, set a hearing on the petition, and provide for notice of the appointment of counsel and the date for hearing.

b. If the respondent is the petitioner or an adult under a standby petition, the court shall determine whether, under the circumstances of the case, the respondent is entitled to representation. The determination regarding representation may be made with or without notice to the respondent, as the court deems necessary. If the court determines that the respondent is entitled to representation, the court shall appoint an attorney to represent the respondent. After making the determination regarding representation, the court shall set a hearing on the petition, and provide for notice on the determination regarding representation and the date for hearing.

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c. The court may take action under paragraph *"a"* or *"b"* prior to the service of the original notice upon the respondent.

d. The court may reconsider the determination regarding representation upon application by any interested person.

e. The court may discharge the attorney appointed by the court if it appears upon the application of the respondent or any other interested person that the respondent has privately retained an attorney who has filed an appearance on behalf of the respondent.

2. The court shall ensure that all respondents entitled to representation have been provided notice of the right to representation and right to be personally present at all proceedings and shall make findings of fact in any order of disposition setting out the manner in which notification was provided.

3. If the respondent is entitled to representation and is indigent or incapable of requesting counsel, the court shall appoint an attorney to represent the respondent. The cost of court appointed counsel for indigents, including the cost of the trial transcript, shall be assessed against the county in which the proceedings are pending. For the purposes of this subsection, the court shall find a person is indigent if the person's income and resources do not exceed one hundred fifty percent of the federal poverty level or the person would be unable to pay such costs without prejudicing the person's financial ability to provide economic necessities for the person or the person's dependents.

4. An attorney appointed pursuant to this section shall:

a. Ensure that the respondent has been properly advised of the nature and purpose of the proceeding.

b. Advocate for the wishes of the respondent to the extent those wishes are reasonably ascertainable. If the respondent's wishes are not reasonably ascertainable, the attorney shall advocate for the least restrictive alternative consistent with the respondent's best interests.

c. Ensure that the respondent has been properly advised of the respondent's rights in a guardianship or conservatorship proceeding.

d. Personally interview the respondent.

e. File a written report stating whether there is a return on file showing that proper service on the respondent has been made and also stating that specific compliance with paragraphs *"a"* through *"d"* has been made or stating the inability to comply by reason of the respondent's condition.

f. Ensure that the guardianship or conservatorship procedures conform to the statutory and due process requirements of Iowa law.

5. In the event that an order of appointment is entered, the attorney appointed pursuant to this section, to the extent possible, shall:

a. Inform the respondent of the effects of the order entered for appointment of guardian or conservator.

b. Advise the respondent of the respondent's rights to petition for modification or termination of the guardianship or conservatorship.

c. Advise the respondent of the rights retained by the respondent.

6. If the court determines that it would be in the respondent's best interest to have legal representation with respect to any proceedings in a guardianship or conservatorship, the court may appoint an attorney to represent the respondent at the expense of the respondent or the respondent's estate, or if the respondent is indigent the cost of the court appointed attorney, including the cost of the trial transcript, shall be assessed against the county in which the proceedings are pending.

7. If the court determines upon application that it is appropriate or necessary, the court may order that the attorney appointed pursuant to this section be given copies of and access to the respondent's health information by describing with reasonable specificity the health information to be disclosed or accessed, for the purpose of fulfilling the attorney's responsibilities pursuant to this section.

84 Acts, ch 1299, §12; 85 Acts, ch 29, §3; 85 Acts, ch 148, §7; 89 Acts, ch 178, §10; 2000 Acts, ch 1036, §2; 2012 Acts, ch 1123, §14, 32; 2019 Acts, ch 56, §40, 44, 45; 2019 Acts, ch 57, §20, 43, 44; 2020 Acts, ch 1063, §349, 350; 2023 Acts, ch 124, §6; 2024 Acts, ch 1009, §18

Referred to in §633.563

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633.562 Appointment and role of court visitor.

1. If the court determines that the appointment of a court visitor would be in the best interest of the respondent, the court shall appoint a court visitor at the expense of the respondent or the respondent's estate, or, if the respondent is indigent, the cost of the court visitor shall be assessed against the county in which the proceedings are pending. The court may appoint any qualified person as a court visitor in a guardianship or conservatorship proceeding.

2. The same person shall not serve both as the attorney representing the respondent and as court visitor.

3. Unless otherwise enlarged or circumscribed by the court, the duties of a court visitor with respect to the respondent shall include all of the following:

a. Conducting an initial in-person interview with the respondent.

b. Explaining to the respondent the substance of the petition, the purpose and effect of the guardianship or conservatorship proceeding, the rights of the respondent at the hearing, and the general powers and duties of a guardian or conservator.

c. Determining the views of the respondent regarding the proposed guardian or conservator, the proposed guardian's or conservator's powers and duties, and the scope and duration of the proposed guardianship or conservatorship.

4. In addition, if directed by the court, the court visitor shall:

a. Interview the petitioner, and if the petitioner is not the proposed guardian or conservator, interview the proposed guardian or conservator.

b. Visit, to the extent feasible, the residence where it is reasonably believed that the respondent will live if the appointment of a guardian or conservator is made.

c. Make any other investigation the court directs including but not limited to interviewing any persons providing medical, mental health, educational, social, and other services to the respondent.

5. The court visitor shall submit a written report to the court that shall contain all of the following:

a. A recommendation regarding the appropriateness of a limited guardianship or conservatorship for the respondent, including whether less restrictive alternatives are available.

b. A statement of the qualifications of the guardian or conservator together with a statement of whether the respondent has expressed agreement with the appointment of the proposed guardian or conservator.

c. Any other matters the court visitor deems relevant to the petition for guardianship or conservatorship and the best interests of the respondent.

d. Any other matters the court directs.

6. The report of the court visitor shall be made part of the court record unless otherwise ordered by the court.

7. A court visitor shall be discharged from all further duties upon appointment of a guardian or conservator unless otherwise ordered by the court. The court may order a court visitor to continue to serve if the court determines continued service would be in the best interest of the protected person. If the court continues the service of the court visitor, the court may limit the direct duties of the court visitor as the court deems necessary. The court visitor shall thereafter continue to serve until discharged by the court.

2019 Acts, ch 57, §21, 43, 44; 2020 Acts, ch 1063, §351; 2024 Acts, ch 1009, §19

Referred to in §633.560, 633.563

Former §633.562 repealed effective January 1, 2020, by 2019 Acts, ch 57, §41, 43

633.563 Court-ordered professional evaluation.

1. At or before a hearing on a petition for the appointment of a guardian or conservator or the modification or termination of a guardianship or conservatorship, the court shall order a professional evaluation of the respondent unless one of the following criteria is met:

a. The court finds it has sufficient information to determine whether the criteria for a guardianship or conservatorship of an adult pursuant to section 633.552 or 633.553 are met.

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b. The petitioner for a guardianship or conservatorship for an adult or an adult respondent has filed a professional evaluation.

c. The court finds that it has sufficient information to determine whether the criteria for a conservatorship of a minor pursuant to section 633.554 are met.

d. The petitioner for a conservatorship for a minor or a minor respondent has filed a professional evaluation.

2. Notwithstanding subsection 1, if the respondent has filed a professional evaluation and the court determines an additional professional evaluation will assist the court in understanding the decision-making capacity and functional abilities and limitations of the respondent, the court may order a professional evaluation of the respondent.

3. If the court orders an evaluation, the evaluation shall be conducted by a licensed physician, psychologist, social worker, or other individual who is qualified to conduct an evaluation appropriate for the respondent being assessed.

4. Unless otherwise directed by the court, the report must contain all of the following:

a. A description of the nature, type, and extent of the respondent's cognitive and functional abilities and limitation.

b. An evaluation of the respondent's mental and physical condition and, if appropriate, educational potential, adaptive behavior, and social skills.

c. A prognosis for improvement and recommendation for the appropriate treatment, support, or habilitation plan.

d. The evaluator's qualifications to evaluate the respondent's cognitive and functional abilities limitations and lack of conflict of interest.

e. The date of examination on which the report is based.

5. The cost of the professional evaluation shall be paid by the respondent unless the respondent is indigent as defined in section 633.561, subsection 3, in which case the costs shall be paid by the county in which the proceedings are pending or unless the court orders otherwise.

6. At the request of the respondent, the court shall seal the record of the results of the evaluation ordered by the court subject to the exceptions in subsection 7.

7. The results of the evaluation ordered by the court shall be filed with the court and made available to the following:

a. The respondent and the respondent's attorney.

b. The petitioner and the petitioner's attorney.

c. A court visitor as described in section 633.562.

d. Other persons for good cause shown for such purposes as the court may order.

2019 Acts, ch 57, §22, 43, 44; 2020 Acts, ch 1062, §68; 2020 Acts, ch 1063, §352; 2021 Acts, ch 76, §146; 2024 Acts, ch 1009, §20

633.564 Background check of proposed guardian or conservator.

1. The court shall request criminal record checks and checks of the child abuse, dependent adult abuse, and sexual offender registries in this state for all proposed guardians and conservators, other than financial institutions with Iowa trust powers, unless a proposed guardian or conservator has undergone the background check required by this section within the twelve months prior to the filing of a petition and the background check has been provided to the court.

2. The court shall review the results of background checks in determining the suitability of a proposed guardian or conservator for appointment.

3. The judicial branch, in conjunction with the department of public safety, the department of health and human services, and the department of management, shall establish procedures for electronic access to the single contact repository established pursuant to section 135C.33 necessary to conduct background checks requested under subsection 1.

4. The person who files a petition for appointment of guardian or conservator shall be

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responsible for paying the fee for the background check conducted through the single contact repository established pursuant to section 135C.33.

2019 Acts, ch 57, §23, 43, 44; 2023 Acts, ch 19, §1281; 2024 Acts, ch 1009, §21; 2024 Acts, ch 1185, §190

Referred to in §235B.6

633.565 Qualifications and selection of guardian or conservator for an adult.

The court shall appoint as guardian or conservator for an adult any qualified and suitable person who is willing to serve as guardian or conservator.

2019 Acts, ch 57, §24, 43, 44; 2020 Acts, ch 1063, §353

633.566 Preference as to appointment of conservator.

The parents of a minor, or either of them, if qualified and suitable, shall be preferred over all others for appointment as conservator. Preference shall then be given to any person, if qualified and suitable, nominated as conservator for a minor child by a will executed by the parent having custody of a minor child, and any qualified and suitable person requested by a minor fourteen years of age or older, or by standby petition executed by a person having physical and legal custody of a minor. Subject to these preferences, the court shall appoint as conservator a qualified and suitable person who is willing to serve in that capacity.

[C51, §1491, 1492, 1495, 1498; R60, §2543, 2544, 2547, 2550; C73, §2241, 2242, 2244, 2249; C97, §3192, 3193, 3195; C24, 27, 31, 35, 39, §**12573, 12574, 12576;** C46, 50, 54, 58, 62, §668.1, 668.2, 668.4; C66, 71, 73, 75, 77, 79, 81, §633.571]

94 Acts, ch 1153, §10; 2019 Acts, ch 57, §42 – 44

C2020, §633.566

Former §633.566 repealed effective January 1, 2020, by 2019 Acts, ch 57, §41, 43

633.567 Appointment of guardian or conservator on a standby basis for minor approaching majority.

Any adult with an interest in the welfare of a minor who is at least seventeen years and six months of age may file a verified petition pursuant to section 633.552 or section 633.553 to initiate a proceeding to appoint a guardian or conservator for the minor to take effect on the minor's eighteenth birthday.

2019 Acts, ch 57, §25, 43, 44

Referred to in §633B.102

633.568 Appointment of guardian for an adult on a standby basis.

A petition for the appointment of a guardian for an adult on a standby basis may be filed by any person under the same procedure and requirements as provided in sections 633.591 through 633.597, for appointment of standby conservator, insofar as applicable. In all proceedings to appoint a guardian, the court shall consider whether a limited guardianship, as authorized in section 633.635, is appropriate.

[C66, 71, 73, 75, 77, 79, 81, §633.560]

97 Acts, ch 178, §8; 2019 Acts, ch 57, §18, 42 – 44

C2020, §633.568

2020 Acts, ch 1063, §354

Referred to in §633B.102, 633B.108

Former §633.568 repealed effective January 1, 2020, by 2019 Acts, ch 57, §41, 43

633.569 Emergency appointment of temporary guardian or conservator.

1. A person authorized to file a petition under section 633.556 or 633.557 may file an application for the emergency appointment of a temporary guardian or conservator.

2. Such application shall state all of the following:

a. The name and address of the respondent.

b. The name and address of the petitioner and the petitioner's relationship to the respondent.

c. The name and address of the proposed guardian or conservator and the reason the proposed guardian or conservator should be selected.

d. The names and addresses, to the extent known, of any other persons who must be

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named in the petition for the appointment of a guardian or conservator under section 633.556 or 633.557.

e. The reason the emergency appointment of a temporary guardian or conservator is sought.

3. The court may enter an ex parte order appointing a temporary guardian or conservator on an emergency basis under this section if the court finds that all of the following conditions are met:

a. There is not sufficient time to file a petition and hold a hearing pursuant to section 633.556, 633.557, or 633.560.

b. The appointment of a temporary guardian or conservator is necessary to avoid immediate or irreparable harm to the respondent before a hearing with notice to the respondent can be held.

c. There is reason to believe that the basis for appointment of guardian or conservator exists under section 633.556 or 633.557.

4. Notice of a petition for the appointment of a temporary guardian or conservator and the issuance of an ex parte order appointing a temporary guardian or conservator shall be provided to the respondent, the respondent's attorney, and any other person the court determines should receive notice.

5. Upon the issuance of an ex parte order, if the respondent is an adult, the respondent may file a request for a hearing. If the respondent is a minor, the respondent, a parent having legal custody of the respondent, or any other person having legal custody of the respondent may file a written request for a hearing. Such hearing shall be held no later than seven days after the filing of a written request.

6. The powers of the temporary guardian or conservator set forth in the order of the court shall be limited to those necessary to address the emergency situation requiring the appointment of a temporary guardian or conservator.

7. The temporary guardianship or conservatorship shall terminate within thirty days after the order is issued.

8. The court may order an extension of the temporary guardianship or conservatorship for up to sixty days for good cause shown, including a showing that a hearing on a petition for a guardianship or conservatorship under section 633.556 or 633.557 cannot be scheduled within sixty days after the order for a temporary guardianship or conservatorship is issued. Prior to or contemporaneously with the filing for an application for the extension of time, the guardian or conservator shall file a report with the court setting forth all of the following:

a. All actions conducted by the guardian or conservator on behalf of the protected person from the time of the initial appointment of the guardian up to the time of the report.

b. All actions that the guardian or conservator plans to conduct on behalf of the protected person during the sixty-day extension period.

9. The temporary guardian or conservator shall submit any other report the court requires.

2019 Acts, ch 57, §26, 43, 44; 2020 Acts, ch 1063, §355, 356; 2024 Acts, ch 1009, §22, 23

Referred to in §235B.19

Former §633.569 repealed effective January 1, 2020, by 2019 Acts, ch 57, §41, 43

633.570 Notification of guardianship and conservatorship powers.

1. In a proceeding for the appointment of a guardian, the respondent shall be given written notice which advises the respondent that the court may grant a guardian the powers set out in section 633.635, subsection 2, and the powers set out in section 633.635, subsection 3.

2. In a proceeding for the appointment of a conservator, the respondent shall be given written notice which advises the respondent that the court may grant a conservator the powers set out in section 633.642.

3. If the respondent is an adult, the notice shall clearly advise the respondent of the respondent's rights to representation by an attorney and the potential deprivation of the respondent's civil rights. The notice shall also state that the respondent may be represented by the respondent's own attorney rather than an attorney appointed by the court. If the respondent is an adult, notice shall be served upon the respondent with the notice of the filing of the petition as provided in section 633.558. If the respondent is a minor, notice

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shall be served upon the respondent with the notice of the filing of a petition as provided in section 633.559.

2019 Acts, ch 57, §27, 43, 44; 2022 Acts, ch 1021, §165; 2024 Acts, ch 1009, §24
Referred to in §633.591
Former §633.570 repealed effective January 1, 2020, by 2019 Acts, ch 57, §41, 43

633.571 Preference as to appointment of conservator. Transferred to §633.566; 2019 Acts, ch 57, §42 – 44.

633.572 Appointment of conservator on voluntary petition. Repealed by 2019 Acts, ch 57, §41, 43, 44.

633.573 Appointment of temporary conservator. Repealed by 2019 Acts, ch 57, §41, 43, 44. See §633.569.

633.574 Procedure in lieu of conservatorship for a minor. Transferred to §633.555; 2019 Acts, ch 57, §42 – 44.

633.575 Representation. Repealed by 2019 Acts, ch 57, §41, 43, 44. See §633.561.

633.576 Notification of conservatorship powers. Repealed by 2019 Acts, ch 57, §41, 43, 44. See §633.570.

633.577 through 633.579 Reserved.

PART 3

CONSERVATORSHIPS FOR ABSENTEES

633.580 Petition for appointment of conservator for absentee.

When a person owns property located in the state of Iowa, the person's whereabouts are unknown, and no provision for the care, control, and supervision of such property has been made, with the result that such property is likely to be lost or damaged, or that the dependents of such owner are likely to be deprived of means of support because of such absence, it shall be proper for any person to file with the clerk a petition for the appointment of a conservator of such property of the absentee. The petition shall state the following information, so far as known to the petitioner:

1. The name, age, and last known post office address of the proposed protected person.
2. The facts concerning the disappearance of the absentee.
3. The name and post office address of the proposed conservator, and that the proposed conservator is qualified to serve in that capacity.
4. A general description of the property of the proposed protected person within this state and of the proposed protected person's right to receive property; also, the estimated present value of the real estate, the estimated value of the personal property, and the estimated gross annual income of the estate. If any money is payable, or to become payable, to the proposed protected person by the United States through the United States department of veterans affairs, the petition shall so state.
5. That the property of the absentee is likely to be lost or damaged, or that the absentee's dependents are likely to be deprived of means of support, because of the absence, and that no proper provision has been made for the care, control, and supervision over such property.

[S13, §3228-a; C24, 27, 31, 35, 39, §**12632;** C46, 50, 54, 58, 62, §671.1; C66, 71, 73, 75, 77, 79, 81, §633.580]

2009 Acts, ch 26, §19; 2024 Acts, ch 1009, §59

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633.581 Original notice governed by rules of civil procedure.
Notice of the filing of such a petition and of the hearing thereon shall be served upon the absentee by publication in the manner of an original notice and the rules of civil procedure governing original notices by publication shall also govern such a notice as to content.
[S13, §3228-a; C24, 27, 31, 35, 39, §**12633;** C46, 50, 54, 58, 62, §671.2; C66, 71, 73, 75, 77, 79, 81, §633.581]

633.582 Notice on county attorney.
Such notice shall also be served on the county attorney of the county in which the petition is filed and on the spouse and children of the absentee as provided by the rules of civil procedure. If there is no spouse or children, such notice shall be served on such persons and in such manner as the court may prescribe.
[S13, §3228-a; C24, 27, 31, 35, 39, §**12634;** C46, 50, 54, 58, 62, §671.3; C66, 71, 73, 75, 77, 79, 81, §633.582]

633.583 Pleadings and trial — rules of civil procedure.
All other pleadings and the trial of the cause shall be governed by the rules of civil procedure.
[S13, §3228-a; C24, 27, 31, 35, 39, §**12635;** C46, 50, 54, 58, 62, §671.4; C66, 71, 73, 75, 77, 79, 81, §633.583]

633.584 Appointment of conservator.
In the event that the absentee does not appear at said hearing, the court shall hear the petition and the proof offered. All evidence shall be made a part of a transcript to be filed in such proceedings. If the allegations of the petition are proved, the court may appoint a conservator.
[S13, §3228-b, -c; C24, 27, 31, 35, 39, §**12636, 12637, 12639;** C46, 50, 54, 58, 62, §671.5, 671.6, 671.8; C66, 71, 73, 75, 77, 79, 81, §633.584]

633.585 Appointment of temporary conservator.
A temporary conservator may be appointed, but only after a hearing on such notice, and subject to such conditions as the court shall prescribe.
[C66, 71, 73, 75, 77, 79, 81, §633.585]

633.586 through 633.590 Reserved.

PART 4

STANDBY CONSERVATORSHIPS

633.591 Voluntary petition for appointment of conservator — standby basis.
Any person of full age and sound mind may execute a verified petition for the voluntary appointment of a conservator of the person's property upon the express condition that such petition shall be acted upon by the court only upon the occurrence of an event specified or the existence of a described condition of the mental or physical health of the petitioner, the occurrence of which event, or the existence of which condition, shall be established in the manner directed in the petition. The petition, if executed on or after January 1, 1991, shall advise the respondent of a conservator's powers as provided in section 633.570.
[C66, 71, 73, 75, 77, 79, 81, §633.591]
89 Acts, ch 178, §15; 90 Acts, ch 1036, §2; 91 Acts, ch 36, §7; 2019 Acts, ch 57, §29, 43, 44
Referred to in §633.568, 633.634, 633B.108

633.591A Voluntary petition for appointment of conservator for a minor — standby basis.
A person having physical and legal custody of a minor may execute a verified petition for the appointment of a standby conservator of the proposed protected person's property, upon the express condition that the petition shall be acted upon by the court only upon the occurrence

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of an event specified or the existence of a described condition of the mental or physical health of the petitioner, the occurrence of which event, or the existence of which condition, shall be established in the manner directed in the petition.

94 Acts, ch 1153, §11; 2024 Acts, ch 1009, §60
Referred to in §633.568

633.592 Petition may nominate conservator.

Such petition may nominate a person for appointment to serve as such conservator, and may request that the appointment be made without bond, or with bond of a certain stated sum. The court in appointing the conservator shall give due regard to such nomination and other requests and recommendations contained in the petition.

[C66, 71, 73, 75, 77, 79, 81, §633.592]
Referred to in §633.568

633.593 Deposit of petition.

Such petition may be deposited with the clerk of the county in which the party resides, or with any person, firm, bank or trust company selected by the petitioner.

[C66, 71, 73, 75, 77, 79, 81, §633.593]
Referred to in §633.568, 633.595

633.594 Revocation of petition.

Such petition may be revoked by the petitioner at any time before appointment of a conservator by the court, provided that the petitioner is of sound mind. Revocation shall be accomplished by the destruction of the petition by the petitioner, or by the execution of an acknowledged instrument of revocation. If the petition has been deposited with the clerk, the revocation may likewise be deposited there.

[C66, 71, 73, 75, 77, 79, 81, §633.594]
Referred to in §633.568

633.595 Filing petition upon occurrence of condition.

At any time after the deposit of the petition with the clerk, and before its revocation, it may be brought on for hearing by the filing of a verified statement to the effect that the occurrence of the event or the condition provided for in the petition has come to pass. If the petition has not been deposited with the clerk under the provisions of section 633.593, then it may be brought on for hearing at any time by the filing of it and such a verified statement with the clerk of the county in which the person who executed the petition then resides.

[C66, 71, 73, 75, 77, 79, 81, §633.595]
Referred to in §633.568

633.596 Considerations — appointment of conservator.

At the time a standby petition is filed under this part, the court shall consider whether a limited conservatorship, as authorized in section 633.637, is appropriate.

[C66, 71, 73, 75, 77, 79, 81, §633.596]
97 Acts, ch 178, §12
Referred to in §633.568

633.597 Conservator shall have same powers and duties.

The powers and duties of such a conservator shall be the same as those of a conservator appointed in response to any of the other petitions authorized in this probate code.

[C66, 71, 73, 75, 77, 79, 81, §633.597]
2005 Acts, ch 38, §51
Referred to in §633.568

633.598 through 633.602 Reserved.

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PART 5

FOREIGN CONSERVATORS

633.603 Appointment of foreign conservators.

When there is no conservatorship, nor any application therefor pending, in this state, the duly qualified foreign conservator or guardian of a nonresident protected person may, upon application, be appointed conservator of the property of such person in this state; provided that a resident conservator is appointed to serve with the foreign conservator; and provided further, that for good cause shown, the court may appoint the foreign conservator to act alone without the appointment of a resident conservator.

[C51, §1512; R60, §2564; C73, §2266; C97, §3213; C24, 27, 31, 35, 39, §**12606;** C46, 50, 54, 58, 62, §669.1; C66, 71, 73, 75, 77, 79, 81, §633.603]

2024 Acts, ch 1009, §61

633.604 Application.

The application for appointment of a foreign conservator or guardian as conservator in this state shall include the name and address of the nonresident protected person, and of the nonresident conservator or guardian, and the name and address of the resident conservator to be appointed. It shall be accompanied by a certified copy of the original letters or other authority conferring the power upon the foreign conservator or guardian to act as such. The application shall also state the cause for the appointment of the foreign conservator to act as sole conservator, if such be the case.

[C51, §1513; R60, §2565; C73, §2267; C97, §3214; C24, 27, 31, 35, 39, §**12607;** C46, 50, 54, 58, 62, §669.2; C66, 71, 73, 75, 77, 79, 81, §633.604]

2024 Acts, ch 1009, §62

633.605 Personal property.

A foreign conservator or guardian of a nonresident may be authorized by the court of the county wherein such protected person has personal property to receive the same upon compliance with the provisions of sections 633.606, 633.607, and 633.608.

[C73, §2269; C97, §3216; C24, 27, 31, 35, 39, §**12609;** C46, 50, 54, 58, 62, §669.4; C66, 71, 73, 75, 77, 79, 81, §633.605]

2024 Acts, ch 1009, §63

633.606 Copy of bond.

Such foreign conservator or guardian shall file in the office of the clerk in the county where the property is situated, a certified copy of the conservator's or guardian's official bond, duly authenticated by the court granting the letters, and shall also execute a receipt for the property received by the conservator or guardian.

[C51, §1514; R60, §2566; C73, §2268, 2270; C97, §3215, 3217; C24, 27, 31, 35, 39, §**12608, 12610;** C46, 50, 54, 58, 62, §669.3, 669.5; C66, 71, 73, 75, 77, 79, 81, §633.606]

Referred to in §633.605

633.607 Order for delivery.

Upon the filing of the bond as above provided, and the court being satisfied with the amount thereof, it shall order the personal property of the protected person delivered to such conservator or guardian.

[C73, §2271; C97, §3218; C24, 27, 31, 35, 39, §**12611;** C46, 50, 54, 58, 62, §669.6; C66, 71, 73, 75, 77, 79, 81, §633.607]

2024 Acts, ch 1009, §64

Referred to in §633.605

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633.608 Recording of bond — notice to court.

The clerk shall record the bonds and the receipt, and notify by mail the court which granted the letters of conservatorship or guardianship of the amount of property delivered to the fiduciary and the date of delivery thereof.

[C73, §2271; C97, §3218; C24, 27, 31, 35, 39, §**12612;** C46, 50, 54, 58, 62, §669.7; C66, 71, 73, 75, 77, 79, 81, §633.608]

Referred to in §633.605

633.609 through 633.613 Reserved.

PART 6

CONSERVATORSHIPS INVOLVING VETERANS ADMINISTRATION

633.614 Application of other provisions to veterans' conservatorships.

Whenever moneys are paid or are payable pursuant to any law of the United States through the United States department of veterans affairs to a conservator or a guardian, the provisions of sections 633.615, 633.617, and 633.622 shall apply to the administration of said moneys. However, such provisions shall be construed to be supplementary to the other provisions for conservators, and shall not be exclusive of such provisions.

[C31, 35, §12644-c2; C39, §**12644.02;** C46, 50, 54, 58, 62, §672.2; C66, 71, 73, 75, 77, 79, 81, §633.614]

2009 Acts, ch 26, §20

633.615 Secretary of veterans affairs — party in interest.

The secretary of veterans affairs of the United States, the secretary's successor, or the designee of either, shall be a party in interest in any proceeding for the appointment or removal of a conservator, or for the termination of the conservatorship, and in any suit or other proceeding, including reports and accountings, affecting in any manner the administration of those assets that were derived in whole or in part from benefits paid by the United States department of veterans affairs. Not less than fifteen days prior to the time set for a hearing in any such matters, notice, in writing, of the time and place thereof shall be given by mail to the office of the United States department of veterans affairs having jurisdiction over the area in which such matter is pending.

[C31, 35, §12644-c4, -c11; C39, §**12644.04, 12644.11;** C46, 50, 54, 58, 62, §672.4, 672.11; C66, 71, 73, 75, 77, 79, 81, §633.615]

2009 Acts, ch 26, §21

Referred to in §633.614

633.616 Reserved.

633.617 Protected person rated incompetent by United States department of veterans affairs.

Upon the trial of an issue arising upon a prayer for the appointment of either a temporary or a permanent conservator, a certificate of the secretary of the United States department of veterans affairs, or the secretary's representative, setting forth the fact that the defendant veteran has been rated incompetent by the United States department of veterans affairs upon examination in accordance with the laws and regulations governing the United States department of veterans affairs, shall be prima facie evidence of the necessity for such appointment, and the court may appoint a conservator for the property of such person.

[C31, 35, §12644-c3, -c7; C39, §**12644.03, 12644.07;** C46, 50, 54, 58, 62, §672.3, 672.7; C66, 71, 73, 75, §633.616; C77, 79, 81, §633.617]

2009 Acts, ch 26, §22

Referred to in §633.614

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633.618 through 633.621 Reserved.

633.622 Bond requirements.

In administering moneys paid by the United States department of veterans affairs, the conservator, unless it is a bank or trust company qualified to act as a fiduciary in this state, shall execute and file with the clerk a bond by a recognized surety company equal to such moneys and the annual income therefrom, plus the expected annual United States department of veterans affairs benefit payments.

[C31, 35, §12644-c14, -c15; C39, §**12644.14, 12644.15;** C46, 50, 54, 58, 62, §672.14, 672.15; C66, 71, 73, 75, 77, 79, 81, §633.622]

2009 Acts, ch 26, §23

Referred to in §633.614

633.623 through 633.626 Reserved.

PART 7

COMBINING PETITION FOR GUARDIAN AND CONSERVATOR

633.627 Combining petitions.

The petitions for the appointment of a guardian and a conservator may be combined and the cause tried in the same manner as a petition for the appointment of a conservator.

[C66, 71, 73, 75, 77, 79, 81, §633.627]

Referred to in §633.27A

633.628 Same person as guardian and conservator.

The same person may be appointed to serve as both guardian and conservator.

[C66, 71, 73, 75, 77, 79, 81, §633.628]

633.629 through 633.632 Reserved.

SUBCHAPTER XIV

ADMINISTRATION OF GUARDIANSHIPS AND CONSERVATORSHIPS

PART 1

APPOINTMENT AND LIABILITY OF GUARDIANS AND CONSERVATORS

633.633 Provisions applicable to all fiduciaries shall govern.

The provisions of this probate code applicable to all fiduciaries shall govern the appointment, qualification, oath, and bond of guardians and conservators, except that a guardian shall not be required to give bond unless the court, for good cause, finds that the best interests of the protected person require a bond. The court shall then fix the terms and conditions of such bond.

[C51, §1496; R60, §2548; C73, §2246; C97, §3197; S13, §3228-d; C24, 27, §12577 – 12579, 12640; C31, 35, §12577 – 12579, 12640, 12644-c9; C39, §**12577 – 12579, 12640, 12644.09;** C46, 50, 54, 58, 62, §668.5 – 668.7, 671.9, 672.9; C66, 71, 73, 75, 77, 79, §633.634; C81, §633.633]

2005 Acts, ch 38, §51; 2024 Acts, ch 1009, §65

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633.633A Liability of guardians and conservators.

Guardians and conservators shall not be held personally liable for actions or omissions taken or made in the official discharge of the guardian's or conservator's duties, except for any of the following:

1. A breach of fiduciary duty imposed by this probate code.
2. Willful or wanton misconduct in the official discharge of the guardian's or conservator's duties.

89 Acts, ch 178, §16; 2005 Acts, ch 38, §51
Referred to in §602.8102(105A)

633.633B Tort liability of guardians and conservators.

The fact that a person is a guardian or conservator shall not in itself make the person personally liable for damages for the acts of the protected person.

89 Acts, ch 178, §17; 2024 Acts, ch 1009, §66
Referred to in §602.8102(105A)

633.634 Combination of petitions.

If, prior to the time of hearing on a petition for the appointment of a guardian or a conservator, a petition is filed under the provisions of section 633.556, 633.557, or 633.591, the court shall combine the hearings on the petitions and determine who shall be appointed guardian or conservator. The petitions shall be triable to the court.

[C66, 71, 73, 75, 77, 79, §633.635; C81, §633.634]
2019 Acts, ch 57, §30, 43, 44; 2020 Acts, ch 1062, §69

PART 2

DUTIES AND POWERS OF GUARDIAN

633.635 Responsibilities of guardian.

1. The order by the court appointing a guardian shall state the factual basis for the guardianship pursuant to section 633.552 and the date on which the first reporting period for the guardianship shall end.
2. An order by the court appointing a guardian for an adult shall state the powers granted to the guardian until such time as the guardian files an initial care plan and such plan is approved by the court as required by section 633.669. Except as otherwise limited by an order appointing a guardian for an adult, the court may grant a guardian the following powers :

a. Making decisions regarding the care, maintenance, health, education, welfare, and safety of the protected person except as otherwise limited by the court.

b. Establishing the protected person's permanent residence except as limited by subsection 3.

c. Taking reasonable care of the protected person's clothing, furniture, vehicle, other personal effects, and companion animals, assistive animals, assistance animals, and service animals.

d. Assisting the protected person in developing maximum self-reliance and independence.

e. Consenting to and arranging for medical, dental, and other health care treatment and services for the protected person except as otherwise limited by subsection 3.

f. Consenting to and arranging for other needed professional services for the protected person.

g. Consenting to and arranging for appropriate training, educational, and vocational services for the protected person.

h. Maintaining contact, including through regular visitation with the protected person if the protected person does not reside with the guardian.

i. Making reasonable efforts to identify and facilitate supportive relationships and interactions of the protected person with family members and significant other persons. The guardian may place reasonable time, place, or manner restrictions on communication,

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visitation, or interaction between the adult protected person and another person except as otherwise limited by subsection 3.

j. Any other powers or duties the court may specify.

3. Notwithstanding subsection 2, a guardian may be granted the following powers which may only be exercised upon court approval:

a. Changing, at the guardian's request, the protected person's permanent residence to a nursing home, other secure facility, or secure portion of a facility that restricts the protected person's ability to leave or have visitors, unless advance notice of the change was included in the guardian's initial care plan that was approved by the court. In an emergency situation, the court shall review the request for approval on an expedited basis.

b. Consenting to the following:

(1) The withholding or withdrawal of life-sustaining procedures from the protected person in accordance with chapter 144A or 144D.

(2) The performance of an abortion on the protected person.

(3) The sterilization of the protected person.

c. Denying all communication, visitation, or interaction by a protected person with a person with whom the protected person has expressed a desire to communicate, visit, or interact or with a person who seeks to communicate, visit, or interact with the protected person. A court shall approve the denial of all communication, visitation, or interaction with another person only upon a showing of good cause by the guardian.

4. The court may take into account all available information concerning the capabilities of the respondent or the protected person and any additional evaluation deemed necessary, including the availability of third-party assistance to meet the needs of the respondent or the protected person, and may direct that the guardian have only a specially limited responsibility for the protected person. In that event, the court shall state those areas of responsibility which shall be supervised by the guardian and all others shall be retained by the protected person. The court may make a finding that the protected person lacks the capacity to contract a valid marriage.

5. From time to time, upon a proper showing, the court may modify the respective responsibilities of the guardian and the protected person, after notice to the protected person and an opportunity to be heard. Any modification that would be more restrictive or burdensome for the protected person shall be based on clear and convincing evidence that the protected person continues to meet the basis for the appointment of a guardian pursuant to section 633.552, and that the facts justify a modification of the guardianship. Section 633.551 applies to the modification proceedings. Any modification that would be less restrictive for the protected person shall be based upon proof in accordance with the requirements of section 633.675.

6. Notwithstanding subsections 2 and 3, a guardian may make a decision for a protected person pursuant to sections 135J.3A, 144A.7, and 144A.7B without court approval.

[C81, §633.635]

84 Acts, ch 1299, §16; 85 Acts, ch 29, §7; 87 Acts, ch 100, §2; 91 Acts, ch 93, §4; 97 Acts, ch 178, §13, 14; 2000 Acts, ch 1063, §1 – 3; 2015 Acts, ch 59, §1, 2; 2019 Acts, ch 56, §41, 44, 45; 2019 Acts, ch 57, §31, 43, 44; 2024 Acts, ch 1009, §25 – 27; 2026 Acts, ch 1071, §17

Referred to in §144F.2, 144F.6, 633.551, 633.568, 633.570, 633.637A

NEW subsection 6

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PART 3

RIGHTS AND TITLE OF WARD

633.636 Effect of appointment of guardian or conservator.

The appointment of a guardian or conservator shall not constitute an adjudication that the protected person is of unsound mind.

[C66, 71, 73, 75, 77, 79, 81, §633.636]

2024 Acts, ch 1009, §67

633.637 Powers of protected person.

1. A protected person for whom a conservator has been appointed shall not have the power to convey, encumber, or dispose of property in any manner, other than by will if the protected person possesses the requisite testamentary capacity, unless the court determines that the protected person has a limited ability to handle the protected person's own funds. If the court makes such a finding, the court shall specify to what extent the protected person may possess and use the protected person's own funds.

2. Any modification of the powers of the protected person that would be more restrictive of the protected person's control over the protected person's financial affairs shall be based upon clear and convincing evidence and the burden of persuasion is on the conservator. Any modification that would be less restrictive of the protected person's control over the protected person's financial affairs shall be based upon proof in accordance with the requirements of section 633.675.

[C66, 71, 73, 75, 77, 79, 81, §633.637]

97 Acts, ch 178, §15; 2019 Acts, ch 24, §88; 2024 Acts, ch 1009, §68

Referred to in §633.551, 633.596, 633.638

633.637A Rights of protected person under guardianship.

An adult protected person under a guardianship has the right of communication, visitation, or interaction with other persons upon the consent of the adult protected person, subject to section 633.635, subsection 2, paragraph *"i"*, and section 633.635, subsection 3, paragraph *"c"*. If an adult protected person is unable to give express consent to such communication, visitation, or interaction with a person due to a physical or mental condition, consent of an adult protected person may be presumed by a guardian or a court based on an adult protected person's prior relationship with such person.

2015 Acts, ch 59, §3; 2024 Acts, ch 1009, §69

633.638 Presumption of fraud.

If a conservator be appointed, all contracts, transfers, and gifts made by the protected person after the filing of the petition shall be presumed to be a fraud against the rights and interest of the protected person except as otherwise directed by the court pursuant to section 633.637.

[C24, 27, 31, 35, 39, §**12622;** C46, 50, 54, 58, 62, §670.10; C66, 71, 73, 75, 77, 79, 81, §633.638]

2024 Acts, ch 1009, §70

633.639 Title to protected person's property.

The title to all property of the protected person is in the protected person and not the conservator subject, however, to the possession of the conservator and to the control of the court for the purposes of administration, sale, or other disposition, under the provisions of the law. Any real property titled at any time in the name of a conservatorship shall be deemed to be titled in the protected person's name subject to the conservator's right of possession.

[C66, 71, 73, 75, 77, 79, 81, §633.639]

2009 Acts, ch 52, §8, 14; 2024 Acts, ch 1009, §71

633.640 Conservator's right to possession.

Every conservator shall have a right to, and shall take, possession of all of the real and personal property of the protected person. The conservator shall pay the taxes and collect the income therefrom until the conservatorship is terminated. The conservator may maintain an action for the possession of the property, and to determine the title to the same.

[C73, §2245; C97, §3196; C24, 27, 31, 35, 39, §**12584, 12585;** C46, 50, 54, 58, 62, §668.11, 668.12; C66, 71, 73, 75, 77, 79, 81, §633.640]

2024 Acts, ch 1009, §72

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PART 4

DUTIES AND POWERS OF CONSERVATOR

633.641 Duties of conservator.

1. A conservator is a fiduciary and has duties of prudence and loyalty to the protected person.

2. In investing and selecting specific property for distribution, a conservator shall consider any estate plan or other donative, nominative, or appointive instrument of the protected person, known to the conservator.

3. If a protected person has executed a valid power of attorney under chapter 633B, the conservator shall act in accordance with the applicable provisions of section 633B.108.

4. The conservator shall report to the department of health and human services the protected person's assets and income, if the protected person is receiving medical assistance under chapter 249A. Such reports shall be made upon establishment of a conservatorship for an individual applying for or receiving medical assistance, upon application for benefits on behalf of the protected person, upon annual or semiannual review of continued medical assistance eligibility, when any significant change in the protected person's assets or income occurs, or as otherwise requested by the department of health and human services. Written reports shall be provided to the department of health and human services office for the county in which the protected person resides or the office in which the protected person's medical assistance is administered.

[C51, §1499; R60, §2551; C73, §2250; C97, §3200; S13, §3228-d; C24, 27, 31, 35, 39, §**12581, 12640;** C46, 50, 54, 58, 62, §668.9, 671.9; C66, 71, 73, 75, 77, 79, 81, §633.641]

94 Acts, ch 1112, §2; 2019 Acts, ch 57, §32, 43, 44; 2019 Acts, ch 59, §220; 2023 Acts, ch 19, §1282; 2024 Acts, ch 1009, §28

633.642 Powers of conservator.

1. An order by the court appointing a conservator shall state the basis for the conservatorship pursuant to section 633.553 or section 633.554.

2. Upon appointment by the court, and until such time as the conservator files an initial financial management plan and such plan is approved by the court as required by section 633.670, subsection 1, a conservator has the authority to exercise all powers applicable to fiduciaries pursuant to sections 633.63 through 633.162, unless expressly modified by the court or as may be specifically expanded by the court for good cause shown.

3. In the order approving an initial financial management plan or an annual report, the court shall approve and set forth the specific powers of a conservator, which may be thereafter exercised by the conservator until further court order.

4. Upon the filing of an appropriate oath by the conservator, the clerk of court shall issue letters of appointment. Upon issuance by the court of an order approving an initial financial management plan, approving an annual report, or further order of the court granting, modifying, limiting, or terminating powers of the conservator, the clerk of court shall issue new letters of appointment and shall attach to the new letters of appointment such order of the court containing the conservator's powers.

2019 Acts, ch 57, §33, 43, 44; 2024 Acts, ch 1009, §29

Referred to in §633.570, 633.648

633.643 Disposal of will by conservator.

When an instrument purporting to be the will of the protected person comes into the hands of a conservator, the conservator shall immediately deliver it to the court.

[C66, 71, 73, 75, 77, 79, 81, §633.643]

2024 Acts, ch 1009, §73

Referred to in §633.644, 633.645

633.644 Court order to preserve testamentary intent of protected person.

Upon receiving an instrument purporting to be the will of a living protected person under the provisions of section 633.643, the court may open said will and read it. The court with

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or without notice, as it may determine, may enter such orders in the conservatorship as it deems advisable for the proper administration of the conservatorship in light of the expressed testamentary intent of the protected person.

[C66, 71, 73, 75, 77, 79, 81, §633.644]
2024 Acts, ch 1009, §74

633.645 Court to deliver will to clerk.

An instrument purporting to be the will of a protected person coming into the hands of the court under the provisions of section 633.643, shall thereafter be resealed by the court and be deposited with the clerk to be held by said clerk as provided in sections 633.286 through 633.289.

[C66, 71, 73, 75, 77, 79, 81, §633.645]
2024 Acts, ch 1009, §75

633.646 Powers of the conservator without order of court. Repealed by 2019 Acts, ch 57, §41, 43, 44.

633.647 Powers of conservator subject to the approval of the court. Repealed by 2019 Acts, ch 57, §41, 43, 44. See §633.642.

633.648 Appointment of attorney in compromise of personal injury settlements.

Notwithstanding the provisions of section 633.642, prior to authorizing a compromise of a claim for damages on account of personal injuries to the protected person, the court may order an independent investigation by an attorney other than by the attorney for the conservator. The cost of such investigation, including a reasonable attorney fee, shall be taxed as part of the cost of the conservatorship.

[C66, 71, 73, 75, 77, 79, 81, §633.648]
2019 Acts, ch 57, §34, 43, 44; 2019 Acts, ch 89, §19, 23, 26

633.649 Powers of conservators — same as all fiduciaries. Repealed by 2019 Acts, ch 57, §41, 43, 44.

633.650 Breach of contracts. Repealed by 2019 Acts, ch 57, §41, 43, 44.

633.651 Reserved.

PART 5

TRANSFERRING, ENCUMBERING, AND LEASING PROPERTY BY CONSERVATOR

633.652 Procedure applicable to personal representatives shall govern. Repealed by 2019 Acts, ch 57, §41, 43, 44. See §633.642.

PART 6

CLAIMS

633.653 Claims against protected person, conservatorship, or conservator in that capacity.

Claims accruing before or after the appointment of the conservator, and whether arising in contract or tort or otherwise, after being allowed or established as provided in

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sections 633.654 through 633.656, shall be paid by the conservator from the assets of the conservatorship.

[C66, 71, 73, 75, 77, 79, 81, §633.653]

2020 Acts, ch 1063, §357

633.653A Claims for cost of medical care or services.

The provision of medical care or services to a protected person who is a recipient of medical assistance under chapter 249A creates a claim against the conservatorship for the amount owed to the provider under the medical assistance program for the care or services. The amount of the claim, after being allowed or established as provided in this part, shall be paid by the conservator from the assets of the conservatorship.

93 Acts, ch 106, §9; 2024 Acts, ch 1009, §76

633.654 Form and verification of claims — general requirements.

No claim shall be allowed against the estate of a protected person upon application of the claimant unless it shall be in writing, filed in duplicate with the clerk, stating the claimant's name and address, and describing the nature and the amount thereof, if ascertainable. It shall be accompanied by the affidavit of the claimant, or of someone for the claimant, that the amount is justly due, or if not due, when it will or may become due, that no payments have been made thereon which are not credited, and that there are no offsets to the same, to the knowledge of the affiant, except as therein stated. The duplicate of said claim shall be mailed by the clerk to the conservator or the conservator's attorney of record; however, valid contract claims arising in the ordinary course of the conduct of the business or affairs of the protected person by the conservator may be paid by the conservator without requiring affidavit or filing.

[C66, 71, 73, 75, 77, 79, 81, §633.654]

2024 Acts, ch 1009, §77

Referred to in §633.653, 633.664

633.655 Requirements when claim founded on written instrument.

If a claim is founded upon a written instrument, the original of such instrument, or a copy thereof, with all endorsements, must be attached to the claim. The original instrument must be exhibited to the conservator or to the court, upon demand, unless it has been lost or destroyed, in which case, its loss or destruction must be stated in the claim.

[C51, §1359; R60, §2391; C73, §2408; C97, §3338; C24, 27, 31, 35, 39, §**11957, 11958;** C46, 50, 54, 58, 62, §635.53, 635.54; C66, 71, 73, 75, 77, 79, 81, §633.655]

Referred to in §633.653

633.656 How claim entitled.

All claims filed against the estate of the protected person shall be entitled in the name of the claimant against the conservator as such, naming the conservator, and in all further proceedings thereon, this title shall be preserved.

[C73, §2409; C97, §3339; C24, 27, 31, 35, 39, §**11960;** C46, 50, 54, 58, 62, §635.56; C66, 71, 73, 75, 77, 79, 81, §633.656]

2024 Acts, ch 1009, §78

Referred to in §633.653

633.657 Filing of claim required.

The filing of a claim in the conservatorship tolls the statute of limitations applicable to such claim.

[C66, 71, 73, 75, 77, 79, 81, §633.657]

633.658 Compelling payment of claims.

No claimant shall be entitled to compel payment until the claimant's claim has been duly filed and allowed.

[C66, 71, 73, 75, 77, 79, 81, §633.658]

Referred to in §633.664

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633.659 Allowance by conservator.

When a claim has been filed and has been admitted in writing by the conservator, it shall stand allowed, in the absence of fraud or collusion.

[C66, 71, 73, 75, 77, 79, 81, §633.659]

633.660 Execution and levy prohibited.

No execution shall issue upon, nor shall any levy be made against, any property of the estate of a protected person under any judgment against the protected person or a conservator, but the provisions of this section shall not be so construed as to prevent the enforcement of a mortgage, pledge, or other lien upon property in an appropriate proceeding.

[C66, 71, 73, 75, 77, 79, 81, §633.660]

2024 Acts, ch 1009, §79

633.661 Claims of conservators.

If the conservator is a creditor of the protected person, the conservator shall file the claim as other creditors, and the court shall appoint some competent person as temporary conservator to represent the protected person at the hearing on the conservator's claim. The same procedure shall be followed in the case of coconservators where all such conservators are creditors of the protected person; but if one of the coconservators is not a creditor of the protected person, such disinterested conservator shall represent the protected person at the hearing on any claim against the protected person by a coconservator.

[C51, §1369; R60, §2401; C73, §2417; C97, §3346; C24, 27, 31, 35, 39, §**11968;** C46, 50, 54, 58, 62, §635.64; C66, 71, 73, 75, 77, 79, 81, §633.661]

2024 Acts, ch 1009, §80

633.662 Claims not filed.

The conservator may pay any valid claim against the estate of the protected person even though such claim has not been filed, but all such payments made by the conservator shall be at the conservator's own peril.

[C66, 71, 73, 75, 77, 79, 81, §633.662]

2024 Acts, ch 1009, §81

633.663 Waiver of statute of limitations by conservator.

It shall be within the discretion of the conservator to determine whether or not the applicable statute of limitation shall be invoked to bar a claim which the conservator believes to be just, and the conservator's decision as to the invoking of such statute shall be final.

[C66, 71, 73, 75, 77, 79, 81, §633.663]

633.664 Liens not affected by failure to file claim.

Nothing in sections 633.654 and 633.658 shall affect or prevent an action or proceeding to enforce any mortgage, pledge, or other lien upon the property of the protected person.

[C66, 71, 73, 75, 77, 79, 81, §633.664]

2024 Acts, ch 1009, §82

633.665 Separate actions and claims.

1. Any action pending against the protected person at the time the conservator is appointed shall also be considered a claim filed in the conservatorship if notice of substitution is served on the conservator as defendant and a duplicate of the proof of service of notice of such proceeding is filed in the conservatorship proceeding.

2. A separate action based on a debt or other liability of the protected person may be commenced against the conservator in lieu of filing a claim in the conservatorship. Such an action shall be commenced by serving an original notice on the conservator and filing a duplicate of the proof of service of notice of such proceeding in the conservatorship proceeding. Such an action shall also be considered a claim filed in the conservatorship. Such an action may be commenced only in a county where the venue would have been

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proper if there were no conservatorship and the action had been commenced against the protected person.

[C66, 71, 73, 75, 77, 79, 81, §633.665]

2019 Acts, ch 24, §89; 2024 Acts, ch 1009, §83

Referred to in §633.666

633.666 Denial and contest of claims.

The provisions of sections 633.438 through 633.448 shall be applicable to the denial and contest of claims against conservatorships, but shall not be applicable to actions continued or commenced under section 633.665.

[C66, 71, 73, 75, 77, 79, 81, §633.666]

2019 Acts, ch 59, §221

633.667 Payment of claims in insolvent conservatorships.

When it appears that the assets in a conservatorship are insufficient to pay in full all the claims against such conservatorship, the conservator shall report such matter to the court, and the court shall, upon hearing, with notice to all persons who have filed claims in the conservatorship, make an order for the pro rata payment of claims giving claimants the same priority, if any, as they would have if the protected person were not under conservatorship.

[R60, §1455; C73, §2278; C97, §3227; C24, 27, 31, 35, 39, §**12630;** C46, 50, 54, 58, 62, §670.18; C66, 71, 73, 75, 77, 79, 81, §633.667]

2024 Acts, ch 1009, §84

PART 7

GIFTS

633.668 Conservator may make gifts.

For good cause shown and under order of court, a conservator may make gifts on behalf of the protected person out of the assets under a conservatorship to persons or religious, educational, scientific, charitable, or other nonprofit organizations to whom or to which such gifts were regularly made prior to the commencement of the conservatorship, or on a showing to the court that such gifts would benefit the protected person or the protected person's estate from the standpoint of income, gift, estate, or inheritance taxes. The making of gifts out of the assets must not foreseeably impair the ability to provide adequately for the best interests of the protected person.

[C66, 71, 73, 75, 77, 79, 81, §633.668]

85 Acts, ch 29, §8; 2024 Acts, ch 1009, §85

PART 8

GUARDIAN'S REPORTS

633.669 Reporting requirements — assistance by clerk.

1. A guardian appointed by the court under this chapter shall file with the court the following verified reports which shall not be waived by the court:

a. The reports must be based on the needs of the protected person and take into account the best interest of the protected person as well as the protected person's preference, values, and prior directions to the extent known to, or reasonably ascertainable by, the guardian.

b. An initial care plan filed within sixty days of appointment. The information in the initial care plan shall include but not be limited to the following information:

(1) The current residence of the protected person and the guardian's plan for the protected person's living arrangements.

(2) The guardian's plan for payment of the protected person's living expenses and other expenses.

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(3) If applicable, the protected person's health status and health care needs, and the guardian's plan for meeting the protected person's needs for medical, dental, and other health care needs.

(4) Whether the protected person has a living will or health care power of attorney.

(5) If applicable, the guardian's plan for other professional services needed by the protected person.

(6) If applicable, the guardian's plan for meeting the educational, training, and vocational needs of the protected person.

(7) If applicable, the guardian's plan for facilitating the participation of the protected person in social activities.

(8) The guardian's plan for facilitating contacts between the protected person and the protected person's family members and other persons significant in the life of the protected person.

(9) The guardian's plan for contact with, and activities on behalf of, the protected person.

(10) The powers that the guardian requests to carry out the initial care plan.

(11) The protected person's wishes related to withholding or withdrawal of life-sustaining procedures pursuant to chapter 144A or 144D.

(12) The protected person's wishes related to placement in a hospice program in the event of a terminal condition.

c. An annual report, filed within sixty days of the close of the reporting period, unless the court otherwise orders on good cause shown. The information in the annual report shall include but not be limited to the following information:

(1) The current living arrangements of the protected person.

(2) The sources of payment for the protected person's living expenses and other expenses.

(3) A description, if applicable, of the following:

(a) The protected person's physical and mental health status and the health services including medical, dental, and other professional services provided to the protected person.

(b) The protected person's employment status and the educational, training, and vocational services provided to the protected person.

(c) The guardian's facilitation of the participation of the protected person in social activities.

(d) The contact of the protected person with family members and other persons significant in the life of the protected person.

(e) The nature and extent of the guardian's visits with, and activities on behalf of, the protected person.

(4) The guardian's changes to the care plan for the protected person for the next annual reporting period.

(5) The powers that the guardian requests to carry out the care plan for the protected person for the next annual reporting period.

(6) The guardian's recommendation as to the need for continuation of the guardianship.

(7) The ability of the guardian to continue as guardian.

(8) The need of the guardian for assistance in providing or arranging for the provision of the care and protection of the protected person.

(9) The protected person's wishes related to withholding or withdrawal of life-sustaining procedures pursuant to chapter 144A or 144D.

(10) The protected person's wishes related to placement in a hospice program in the event of a terminal condition.

d. A final report within thirty days of the termination of the guardianship under section 633.675 unless that time is extended by the court.

2. The court shall develop a simplified uniform reporting form for use in filing the required reports.

3. The clerk of the court shall notify the guardian in writing of the reporting requirements and shall provide information and assistance to the guardian in filing the reports.

4. Reports of guardians shall be reviewed and approved by a district court judge or referee.

5. If the court finds that there are reasonable grounds to believe that the guardian has committed the offense of older individual assault under section 708.2D, theft against an older

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individual under section 714.2A, consumer fraud against an older individual under section 714.16A, elder abuse under section 726.24, financial exploitation of an older individual under section 726.25, or dependent adult abuse under section 726.26, the court shall refer the matter to the appropriate county attorney for consideration of the initiation of criminal charges.

[C66, 71, 73, 75, 77, 79, 81, §633.669]

84 Acts, ch 1299, §17; 85 Acts, ch 29, §9; 2007 Acts, ch 134, §16, 28; 2016 Acts, ch 1108, §72; 2019 Acts, ch 57, §35, 43, 44; 2024 Acts, ch 1009, §30, 31; 2026 Acts, ch 1071, §18, 19

Referred to in §633.635
Subsection 1, paragraph b, NEW subparagraphs (11) and (12)
Subsection 1, paragraph c, NEW subparagraphs (9) and (10)

PART 9

CONSERVATOR'S REPORTS

633.670 Reports by conservators.

1. Except as otherwise ordered by the court under subsection 7, a conservator shall file a verified initial financial management plan for protecting, managing, investing, expending, and distributing the assets of the conservatorship estate within ninety days after appointment, which shall not be waived by the court.

a. The plan must be based on the needs of the protected person and take into account the best interest of the protected person as well as the protected person's preference, values, and prior directions to the extent known to, or reasonably ascertainable by, the conservator.

b. The plan must provide the protected person's age, residence, living arrangements, and sources of payment for living expenses.

c. When the conservator files the plan, the conservator shall file, if applicable, the protected person's will with the court clerk and the protected person's prepaid burial trust and powers of attorney shall be described.

d. The plan must include a proposed budget for the protected person and budget-related information for the next annual reporting period including the following:

(1) The protected person's receipts and income and the projected sources of income including, if applicable, wages, social security income, pension and retirement plan distribution, veterans' benefits, rental income, interest earnings, and dividends, and the total estimated receipts and income.

(2) The protected person's liabilities and debts including, if applicable, mortgage, car loans, credit card debt, federal, state, and property taxes owed, and the total estimated liabilities and debts; a list and concise explanation of any liability or debt owed by the protected person to the conservator; and a list and concise explanation of the liability of any other person for a liability of the protected person.

(3) The protected person's estimated expenses on a monthly and annual basis including, if applicable, nursing home or facility charge, expenses for residence, food and household expenses, utilities, household help and caregiver expenses, health services and health insurance expenses, educational and vocational expenses, personal auto and other transportation expenses, clothing expenses, personal allowance and other personal expenses, liabilities and debts, attorney fees and other professional expenses, conservator fees, and other administrative expenses.

e. The plan must include a list of the protected person's assets and the conservator's plan for management of these assets including, if applicable, financial accounts including checking and certificates of deposit and cash, investments including stocks, bonds, mutual funds, exchange-traded funds, individual retirement accounts and other investment accounts, pension, profit-sharing, annuities, and retirement funds, personal property including household goods and vehicles, receivables including mortgages and liens payable to the protected person's estate or trust, life insurance, and other property.

f. The plan must include the authority that the conservator requests to carry out the plan in accordance with the proposed budget for the protected person and the plan for the management of the property of the protected person for the next annual reporting period.

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g. The conservator shall provide notice of the filing of the plan and a copy of the plan to the protected person, the protected person's attorney, if any, and court visitor, if any, and others as directed by the court. The notice must state that any person entitled to a copy of the plan must file any objections to the plan not later than twenty days from the date of mailing notice of filing the initial plan.

h. At least twenty days after the plan has been filed, the court shall review and determine whether the plan should be approved or revised, after considering objections filed and whether the plan is consistent with the conservator's powers and duties.

i. After approval by the court, the conservator shall provide a copy of the approved plan and order approving the plan to the protected person, the protected person's attorney, if any, and court visitor, if any, and others as directed by the court.

2. A conservator shall attach to the initial financial management plan an inventory of the protected person's assets within ninety days after appointment which includes an oath or affirmation that the inventory is believed to be complete and accurate as far as information permits. The conservator shall provide copies of the inventory to the protected person, the protected person's attorney, if any, and court visitor, if any, and others as directed by the court. Any objections to the inventory shall be filed in the same manner and according to the same schedule as objections to the initial financial management plan. The court shall review the inventory and determine whether the inventory should be approved at the same time as the court reviews the initial financial management plan. When the conservator receives an additional property of the protected person, or becomes aware of its existence, a description of the property shall be included in the conservator's next annual report.

3. A conservator shall file a verified report on an annual basis for the period since the end of the preceding report period, which shall not be waived by the court.

a. The annual report must provide the age, the residence, the living arrangements of the protected person, and sources of payment for the protected person's living expenses during the reporting period.

b. The annual report must include the following income and expenditure information:

(1) If applicable, all income or funds received by the conservator on behalf of the protected person including the items specified in subsection 1, paragraph "*d*", subparagraph (1).

(2) If applicable, all expenditures made by the conservator on behalf of the protected person including the items, if applicable, specified in subsection 1, paragraph "*d*", subparagraph (3). If any of the expenditures were made to provide support for or pay the debts of another person, the annual report shall include an explanation of these expenditures. If any of the expenditures were made to pay any liability or debt owed by the protected person to the conservator, the annual report shall include an explanation of these expenditures. If any of the expenditures were made to pay any liability or debt that is also owed by another person or entity, the annual report shall include an explanation of these expenditures. If any of the expenditures were paid with the use of cash or withdrawal of cash from an account of the protected person, the annual report shall include an explanation of the use of cash or withdrawal of cash.

c. The annual report shall include a proposed budget and budget-related information for the next reporting period containing the information specified in subsection 1, paragraph "*d*", and a request for approval of the proposed budget and authority to make expenditures in accordance with the proposed budget.

d. The annual report must include a proposed plan for management of the assets of the protected person for the next reporting period and a request for approval of the proposed plan for management of the assets of the protected person and the authority to carry out the plan.

e. The conservator may request court approval of fees provided by an attorney on behalf of the conservatorship or the protected person during the preceding reporting period.

f. The conservator may request court approval of fees provided to the conservator on behalf of the conservatorship or the protected person during the preceding reporting period.

4. The conservator shall file a verified final report with the court as follows:

a. Within thirty days following removal of the conservator.

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b. Upon the conservator's filing of a resignation and before the resignation is accepted by the court.

c. Within sixty days following the termination of the conservatorship.

d. Any other time as ordered by the court.

5. Reports required by this section shall be provided to the veterans administration if the protected person is receiving veterans' benefits.

6. If the court finds that there are reasonable grounds to believe that the conservator has committed the offense of theft against an older individual under section 714.2A, consumer fraud against an older individual under section 714.16A, elder abuse under section 726.24, financial exploitation of an older individual under section 726.25, or dependent adult abuse under section 726.26, the court shall refer the matter to the appropriate county attorney for consideration of the initiation of criminal charges.

7. The court may terminate a conservatorship upon written request by the conservator if all the following are true:

a. The sole or nearly sole source of income of the respondent is social security benefits with a representative payee assigned.

b. The court finds there are no other assets that require oversight or protection.

[R60, §2568, 2569; C73, §2254, 2255; C97, §3203, 3204, 3222; C24, 27, §12597, 12598, 12627; C31, 35, §12597, 12598, 12627, 12644-c11; C39, §**12597, 12598, 12627, 12644.11;** C46, 50, 54, 58, 62, §668.24, 668.25, 670.15, 672.11; C66, 71, 73, 75, 77, 79, 81, §633.670]

84 Acts, ch 1299, §18; 85 Acts, ch 29, §10; 2007 Acts, ch 134, §17, 28; 2019 Acts, ch 57, §36, 43, 44; 2020 Acts, ch 1063, §358 – 360; 2024 Acts, ch 1009, §32; 2026 Acts, ch 1040, §111

Referred to in §633.642, 633.671

Subsection 6 amended

633.671 Requirements of report and accounting.

The report and accounting required by section 633.670 shall account for all of the period since the close of the accounting contained in the next previous report, and shall include the following information as far as applicable:

1. The balance of funds on hand at the close of the last previous accounting, and all amounts received from whatever source during the period covered by the accounting.

2. All disbursements made during the period covered by the accounting.

3. Any changes in investments since the last previous report, including a list of all assets, and recommendations of the conservator for the retention or disposition of any property held by the conservator.

4. The amount of the bond and the name of the surety on it.

5. The residence or physical location of the protected person.

6. The general physical and mental condition of the protected person.

7. Such other information as shall be necessary to show the condition of the affairs of the conservatorship.

[R60, §2568, 2569; C73, §2254, 2255; C97, §3203, 3204; C24, 27, §12597, 12598; C31, 35, §12597, 12598, 12644-c11; C39, §**12597, 12598, 12644.11;** C46, 50, 54, 58, 62, §668.24, 668.25, 672.11; C66, 71, 73, 75, 77, 79, 81, §633.671]

2024 Acts, ch 1009, §86

PART 10

COSTS AND ACCOUNTS

633.672 Payment of court costs in conservatorships.

No order shall be entered approving an annual report of a conservator until the court costs which have been docketed have been paid or provided for. The court may, upon application, enter an order waiving payment of the court costs in indigent cases. However, if

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the conservatorship subsequently becomes financially capable of paying any waived costs, the conservator shall immediately pay the costs.

[C66, 71, 73, 75, 77, 79, 81, §633.672]

89 Acts, ch 178, §18

Referred to in §633.551

633.673 Court costs in guardianships.

The protected person or the protected person's estate shall be charged with the court costs of a protected person's guardianship, including the guardian's fees and the fees of the attorney for the guardian. The court may, upon application, enter an order waiving payment of the court costs in indigent cases. However, if the protected person or protected person's estate becomes financially capable of paying any waived costs, the costs shall be paid immediately.

[C97, §3222; S13, §3228-f; C24, 27, 31, 35, 39, §**12626, 12642;** C46, 50, 54, 58, 62, §670.14, 671.11; C66, 71, 73, 75, 77, 79, 81, §633.673]

89 Acts, ch 178, §19; 2024 Acts, ch 1009, §87

Referred to in §633.551

633.674 Settlement of accounts.

The court shall settle each account filed by a conservator by allowing or disallowing it, either in whole or in part, or by surcharging the account against the conservator.

[C66, 71, 73, 75, 77, 79, 81, §633.674]

PART 11

TERMINATION OF GUARDIANSHIPS AND CONSERVATORSHIPS

633.675 Cause for termination.

1. A guardianship or a conservatorship shall terminate upon the occurrence of any of the following circumstances:

a. If the protected person is a minor, when the protected person reaches full age.

b. The death of the protected person.

c. Upon determination by the court that the conservatorship or guardianship is no longer necessary for any other reason.

2. The court shall terminate a guardianship if it finds that the basis for appointing a guardian pursuant to section 633.552 has not been established.

3. The court shall terminate a conservatorship if the court finds that the basis for appointing a conservator pursuant to section 633.553 or 633.554 is not satisfied.

4. The court shall terminate a conservatorship if it finds by clear and convincing evidence all of the following:

a. The value of the protected person's property is insufficient to justify the cost of administration.

b. That continued administration of the conservatorship is not in the best interest of the protected person.

c. That a reasonable alternative exists under section 633.678 for managing the protected person's assets.

5. The standard of proof and the burden of proof to be applied in a termination proceeding shall be the same as set forth in section 633.551, subsection 2.

[S13, §3228-e; C24, 27, 31, 35, 39, §**12641;** C46, 50, 54, 58, 62, §671.10, 672.21; C66, 71, 73, 75, 77, 79, 81, §633.675]

97 Acts, ch 178, §16; 2010 Acts, ch 1143, §3; 2011 Acts, ch 25, §74; 2014 Acts, ch 1048, §2; 2019 Acts, ch 57, §37, 43, 44; 2020 Acts, ch 1063, §361, 362; 2021 Acts, ch 8, §25; 2024 Acts, ch 1009, §33

Referred to in §633.635, 633.637, 633.669

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633.676 Assets exhausted.

At any time that the assets of the protected person's estate do not exceed the amount of the charges and claims against it, the court may direct the conservator to proceed to terminate the conservatorship.

[C46, 50, 54, 58, 62, §668.33; C66, 71, 73, 75, 77, 79, 81, §633.676]

2024 Acts, ch 1009, §88

633.677 Accounting to protected person — notice.

Upon the termination of a conservatorship, the conservator shall pay the costs of administration and shall render a full and complete accounting to the protected person or the protected person's personal representative and to the court. Notice of the final report of a conservator shall be served on the protected person or the protected person's personal representative, in accordance with section 633.40, unless notice is waived. An order prescribing notice may be made before or after the filing of the final report.

[C46, 50, 54, 58, 62, §672.21; C66, 71, 73, 75, 77, 79, 81, §633.677; 81 Acts, ch 193, §6]

2024 Acts, ch 1009, §89

633.678 Delivery of assets.

1. Upon the termination of a conservatorship, all assets of the conservatorship shall be delivered as ordered by the court to any of the following:

a. To the person or persons entitled to them.

b. To a custodian under a uniform transfers to minor account established for the protected person pursuant to chapter 565B or the laws of any other state.

c. To a custodial trustee under a uniform custodial trust account established for the protected person pursuant to chapter 633F or the laws of any other state.

d. To an account owner or participant under a college savings plan account established for the protected person pursuant to Internal Revenue Code section 529 or chapter 12D or the laws of any other state.

e. To the account owner under an ABLE account established for the protected person with disabilities pursuant to Internal Revenue Code section 529A or chapter 12I or the laws of any other state.

f. An account owner or participant under a FirstHome Iowa program trust account established for the protected person pursuant to chapter 12L.

2. Delivery of the assets of an adult protected person under subsection 1, paragraphs *"b"* through *"e"*, shall have the same force and effect as if delivery had been made directly to the person or persons entitled to them. Delivery of the assets of a minor protected person under subsection 1, paragraphs *"b"* through *"e"*, shall have the same force and effect as if delivery had been made to the protected person after attaining majority.

[C46, 50, 54, 58, 62, §668.33; C66, 71, 73, 75, 77, 79, 81, §633.678]

2021 Acts, ch 8, §26; 2026 Acts, ch 1115, §41

Referred to in §633.675

Subsection 1, NEW paragraph f

633.679 Petition to terminate — request for voting rights reinstatement.

1. At any time after the appointment of a guardian or conservator, the person under guardianship or conservatorship may apply to the court by petition, alleging that the person is no longer a proper subject thereof, and asking that the guardianship or conservatorship be terminated.

2. A person under an order appointing a guardian which order found the person incompetent to vote may include a request for reinstatement of the person's voting rights in a petition to terminate the guardianship or by filing a separate petition for modification of this determination.

[C97, §3222; C24, 27, 31, 35, 39, §**12623;** C46, 50, 54, 58, 62, §670.11; C66, 71, 73, 75, 77, 79, 81, §633.679]

89 Acts, ch 178, §20; 98 Acts, ch 1185, §11; 2010 Acts, ch 1143, §4; 2014 Acts, ch 1048, §3; 2019 Acts, ch 56, §42, 44, 45; 2020 Acts, ch 1063, §363

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633.680 Limit on application to terminate.

If any petition for terminating such guardianship or conservatorship shall be denied, no other petition shall be filed therefor until at least six months shall have elapsed since the denial of the former one.

[C97, §3222; C24, 27, 31, 35, 39, §**12627;** C46, 50, 54, 58, 62, §670.15; C66, 71, 73, 75, 77, 79, 81, §633.680]

633.681 Exhausted or minimal assets of minor protected person.

1. When the assets of a minor protected person's conservatorship are exhausted or consist of personal property only of an aggregate value not in excess of fifty thousand dollars, the court, upon application or upon its own motion, may terminate the conservatorship. The order for termination shall direct the conservator to deliver any property remaining after the payment of allowed claims and expenses of administration to a fiduciary acting under one or more of the following accounts:

a. A uniform transfer to minor account established for the minor pursuant to chapter 565B or the laws of any other state.

b. A uniform custodial trust account established for the minor pursuant to chapter 633F or the laws of any other state.

c. A college savings plan account established for the minor pursuant to Internal Revenue Code section 529 or chapter 12D or the laws of any other state.

d. An ABLE account established for the minor with disabilities pursuant to Internal Revenue Code section 529A or chapter 12I or the laws of any other state.

e. An account owner or participant under a FirstHome Iowa program trust account established for the protected person pursuant to chapter 12L.

2. Such delivery shall have the same force and effect as if delivery had been made to the protected person after attaining majority.

[C46, 50, 54, 58, 62, §668.33; C66, 71, 73, 75, 77, 79, 81, §633.681; 82 Acts, ch 1052, §3]

98 Acts, ch 1118, §2; 2005 Acts, ch 38, §30; 2021 Acts, ch 8, §27; 2026 Acts, ch 1115, §42

Subsection 1, NEW paragraph e

633.682 Discharge of conservator and release of bond.

Upon settlement of the final accounting of a conservator, and upon determining that the property of the protected person has been delivered to the person or persons lawfully entitled thereto, the court shall discharge the conservator and exonerate the surety on the conservator's bond.

[S13, §3228-h; C24, 27, 31, 35, 39, §**12644;** C46, 50, 54, 58, 62, §671.13, 672.21; C66, 71, 73, 75, 77, 79, 81, §633.682]

2024 Acts, ch 1009, §90

633.683 through 633.698 Reserved.

SUBCHAPTER XV

UNIFORM ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION ACT

PART 1

GENERAL PROVISIONS

633.699 Reserved.

633.699A Modification or termination of uneconomical testamentary trust. Repealed by 2005 Acts, ch 38, §50. See §633.751, 633A.2205, 633A.5103.

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633.700 Short title.

This subchapter shall be known and may be cited as the *"Iowa Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act"*.

2010 Acts, ch 1086, §1, 24, 25; 2018 Acts, ch 1041, §127

633.701 Definitions.

As used in this subchapter, unless the context otherwise requires:

1. *"Adult"* means an individual who is eighteen years of age or older.
2. *"Conservator"* means a person appointed by the court to have the custody and control of the property of an adult under the provisions of this chapter.
3. *"Court"* means, when referring to a court of this state, the district court sitting in probate with jurisdiction of conservatorships and guardianships.
4. *"Foreign judgment"* means a judgment, decree, or order of a court of the United States or of any other court that meets any of the following requirements:
   a. Is entitled to full faith and credit in this state.
   b. Appoints a guardian or conservator in the issuing jurisdiction.
5. *"Guardian"* means a person appointed by the court to make decisions regarding the adult under the provisions of this chapter.
6. *"Guardianship order"* means an order appointing a guardian as defined in section 633.3.
7. *"Guardianship proceeding"* means a judicial proceeding in which an order for the appointment of a guardian is sought or has been issued.
8. *"Incapacitated person"* means an adult who has been adjudged by a court to meet one of the following conditions:
   a. Has a decision-making capacity which is so impaired that the person is unable to care for the person's personal safety or to attend to or provide for necessities for the person such as food, shelter, clothing, or medical care, without which physical injury or illness may occur.
   b. Has a decision-making capacity which is so impaired that the person is unable to make, communicate, or carry out important decisions concerning the person's financial affairs.
9. *"Party"* means the respondent, petitioner, guardian, conservator, or any other person allowed by the court to participate in a guardianship or protective proceeding.
10. *"Person"* means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, or government; governmental subdivision, agency, or instrumentality; or any other legal or commercial entity.
11. *"Protected person"* means an adult for whom a conservatorship has been issued.
12. *"Protective order"* means an order appointing a conservator as defined in section 633.3. *"Protective order"* does not include protective orders issued pursuant to chapter 664A or protective orders issued pursuant to sections 235B.18 and 235B.19.
13. *"Protective proceeding"* means a judicial proceeding in which a conservatorship is sought or has been granted.
14. *"Record"* means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
15. *"Respondent"* means an adult for whom a conservatorship or guardianship is sought.
16. *"State"* means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.

2010 Acts, ch 1086, §2, 24, 25; 2018 Acts, ch 1041, §127
Referred to in §9E.2

633.702 International application.

A court of this state shall treat a foreign country as if it were a state of the United States for the purpose of applying this part and parts 2, 3, and 5.

2010 Acts, ch 1086, §3, 24, 25

633.703 Communication between courts.

1. A court of this state may communicate with a court in another state concerning a

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proceeding arising under this subchapter. The court may allow the parties to participate in the communication. Except as otherwise provided in subsection 2, the court shall make a record of the communication. The record may be limited to the fact that the communication occurred.

2. Communication between courts concerning schedules, calendars, court records, and other administrative matters may occur without making a record.

2010 Acts, ch 1086, §4, 24, 25; 2018 Acts, ch 1041, §127

633.704 Cooperation between courts.

1. In a guardianship or protective proceeding in this state, a court of this state may request the appropriate court of another state to do any of the following:

a. Hold an evidentiary hearing.

b. Order a person in the other state to produce evidence or give testimony pursuant to procedures of that state.

c. Order that an evaluation or assessment be made of the respondent.

d. Order any appropriate investigation of a person involved in a proceeding.

e. Forward to the court of this state a certified copy of the transcript or other record of the hearing pursuant to paragraph *"a"* or any other proceeding, the evidence otherwise produced pursuant to paragraph *"b"*, and any evaluation or assessment prepared in compliance with an order pursuant to paragraph *"c"* or *"d"*.

f. Issue any order necessary to assure the appearance in the proceeding of a person whose presence is necessary for the court to make a determination, including the respondent.

g. Issue an order authorizing the release of medical, financial, criminal, or other relevant information in that state, including protected health information as defined in 45 C.F.R. §164.504, as amended.

2. If a court of another state in which a guardianship or protective proceeding is pending requests the assistance described in subsection 1, a court of this state has jurisdiction for the limited purpose of granting the request or making reasonable efforts to comply with the request.

2010 Acts, ch 1086, §5, 24, 25; 2013 Acts, ch 90, §178

PART 2

JURISDICTION

Referred to in §633.702

633.705 Taking testimony in another state.

1. In addition to other procedures that may be available in a guardianship or protective proceeding, the testimony of a witness who is located in another state may be offered by deposition or other means allowable in this state for testimony taken in another state. The court on its own motion may order that the testimony of a witness be taken in another state and may prescribe the manner in which and the terms upon which the testimony is to be taken.

2. In a guardianship or protective proceeding, a court in this state may permit a witness located in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means. A court of this state shall cooperate with courts of other states in designating an appropriate location for the deposition or testimony.

3. Documentary evidence transmitted from another state to a court of this state by technological means that do not produce an original writing shall not be excluded from evidence on an objection based on the best evidence rule.

2010 Acts, ch 1086, §6, 24, 25

633.706 Definitions.

As used in this part, unless the context otherwise requires:

1. *"Emergency"* means a circumstance that likely will result in substantial harm to a

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respondent's health, safety, or welfare, and for which the appointment of a guardian is necessary because no other person has authority and is willing to act on the respondent's behalf.

2. *"Home state"* means either of the following:

a. The state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months immediately before the filing of a petition for a protective order or the appointment of a guardian.

b. The state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months ending within the six months prior to the filing of a petition for a protective order or the appointment of a guardian.

3. *"Significant-connection state"* means a state, other than the home state, with which a respondent has a significant connection other than mere physical presence and in which substantial evidence concerning the respondent is available.

2010 Acts, ch 1086, §7, 24, 25

633.707 Significant connection factors.

In determining whether a respondent has a significant connection with a particular state, the court shall consider all of the following:

1. The location of the respondent's family and other persons required to be notified of the guardianship or protective proceeding.

2. The length of time the respondent at any time was physically present in the state and the duration of any absence.

3. The location of the respondent's property.

4. The extent to which the respondent has ties to the state such as voter registration, state or local tax return filing, vehicle registration, driver's license, social relationships, and receipt of services.

2010 Acts, ch 1086, §8, 24, 25; 2011 Acts, ch 25, §75

Referred to in §633.716

633.708 Exclusive basis.

This part provides the exclusive jurisdictional basis for a court of this state to appoint a guardian or issue a protective order for an adult.

2010 Acts, ch 1086, §9, 24, 25

633.709 Jurisdiction.

A court of this state has jurisdiction to appoint a guardian or issue a protective order for a respondent if any of the following apply:

1. This state is the respondent's home state.

2. This state is a significant-connection state and, on the date the petition is filed, any of the following apply:

a. The respondent does not have a home state or a court of the respondent's home state has declined to exercise jurisdiction because this state is a more appropriate forum.

b. The respondent has a home state, a petition for an appointment or order is not pending in a court of that state or another significant-connection state, and, before the court makes the appointment or issues the order, all of the following apply:

(1) A petition for an appointment or order is not filed in the respondent's home state.

(2) An objection to the court's jurisdiction is not filed by a person required to be notified of the proceeding.

(3) The court in this state concludes that it is an appropriate forum under the factors set forth in section 633.712.

3. Either of the following apply:

a. This state does not have jurisdiction under either subsection 1 or 2, the respondent's home state and all significant-connection states have declined to exercise jurisdiction because this state is the more appropriate forum, and jurisdiction in this state is consistent with the Constitution of the State of Iowa and the Constitution of the United States.

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b. The requirements for special jurisdiction under section 633.710 are met.

2010 Acts, ch 1086, §10, 24, 25
Referred to in §633.710, 633.712, 633.713, 633.715

633.710 Special jurisdiction.

1. A court of this state lacking jurisdiction under section 633.709 has special jurisdiction to do any of the following:

a. Appoint a guardian in an emergency for a period not to exceed ninety days for a respondent who is physically present in this state.

b. Issue a protective order with respect to real or tangible personal property located in this state.

c. Appoint a guardian or conservator for an incapacitated or protected person for whom a provisional order to transfer the proceeding from another state has been issued under procedures similar to section 633.716.

2. If a petition for the appointment of a guardian in an emergency is brought in this state and this state was not the respondent's home state on the date the petition was filed, the court shall dismiss the proceeding at the request of the court of the home state, if any, whether dismissal is requested before or after the emergency appointment.

2010 Acts, ch 1086, §11, 24, 25
Referred to in §633.709, 633.711, 633.715

633.711 Exclusive and continuing jurisdiction.

Except as otherwise provided in section 633.710, a court that has appointed a guardian or issued a protective order consistent with this chapter has exclusive and continuing jurisdiction over the proceeding until terminated by the court or the appointment or order expires by its own terms.

2010 Acts, ch 1086, §12, 24, 25

633.712 Appropriate forum.

1. A court of this state with jurisdiction under section 633.709 to appoint a guardian or issue a protective order may decline to exercise its jurisdiction if it determines at any time that a court of another state is a more appropriate forum.

2. If a court of this state declines to exercise its jurisdiction under subsection 1, the court shall either dismiss or stay the proceeding. The court may impose any condition the court considers just and proper, including the condition that a petition for the appointment of a guardian or issuance of a protective order be filed promptly in another state.

3. In determining whether it is an appropriate forum, the court shall consider all of the following:

a. Any expressed preference of the respondent.

b. Whether abuse, neglect, or exploitation of the respondent has occurred or is likely to occur and which state could best protect the respondent from the abuse, neglect, or exploitation.

c. The length of time the respondent was physically present in or was a legal resident of this state or another state.

d. The distance of the respondent from the court in each state.

e. The financial circumstances of the respondent's estate.

f. The nature and location of the evidence.

g. The ability of the court in each state to decide the issue expeditiously and the procedures necessary to present evidence.

h. The familiarity of the court of each state with the facts and issues in the proceeding.

i. If an appointment were to be made, the court's ability to monitor the conduct of the guardian or conservator.

2010 Acts, ch 1086, §13, 24, 25
Referred to in §633.709, 633.713

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633.713 Jurisdiction declined by reason of conduct.

If at any time a court of this state determines that the court acquired jurisdiction to appoint a guardian or issue a protective order because of unjustifiable conduct, the court may do any of the following:

1. Decline to exercise jurisdiction.

2. Exercise jurisdiction for the limited purpose of fashioning an appropriate remedy to ensure the health, safety, and welfare of the respondent or the protection of the respondent's property or prevent a repetition of the unjustifiable conduct, including staying the proceeding until a petition for the appointment of a guardian or issuance of a protective order is filed in a court of another state having jurisdiction.

3. Continue to exercise jurisdiction after considering all of the following:

a. The extent to which the respondent and all persons required to be notified of the proceedings have acquiesced in the exercise of the court's jurisdiction.

b. Whether it is a more appropriate forum than the court of any other state under the factors set forth in section 633.712.

c. Whether the court of any other state would have jurisdiction under factual circumstances in substantial conformity with the jurisdictional standards of section 633.709.

4. If a court of this state determines that the court acquired jurisdiction to appoint a guardian or issue a protective order because a party seeking to invoke its jurisdiction engaged in unjustifiable conduct, the court may assess necessary and reasonable expenses against that party, including attorney fees, investigative fees, court costs, communication expenses, witness fees and expenses, and travel expenses. The court shall not assess fees, costs, or expenses of any kind against this state or a governmental subdivision, agency, or instrumentality of this state unless authorized by law other than this subchapter.

2010 Acts, ch 1086, §14, 24, 25; 2018 Acts, ch 1041, §127

633.714 Notice of proceeding.

If a petition for the appointment of a guardian or issuance of a protective order is brought in this state and this state was not the respondent's home state on the date the petition was filed, in addition to complying with the notice requirements of this state, notice of the petition must be given to those persons who would be entitled to notice of the petition if a proceeding were brought in the respondent's home state. The notice must be given in the same manner as notice is required to be given in this state.

2010 Acts, ch 1086, §15, 24, 25

PART 3

TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP

Referred to in §633.702

633.715 Proceedings in more than one state.

Except for a petition for the appointment of a guardian in an emergency or issuance of a protective order limited to property located in this state under section 633.710, if a petition for the appointment of a guardian or issuance of a protective order is filed in this state and in another state and neither petition has been dismissed or withdrawn, the following rules apply:

1. If the court in this state has jurisdiction under section 633.709, it may proceed with the case unless a court in another state acquires jurisdiction under provisions similar to section 633.709 before the appointment or issuance of the order.

2. If the court in this state does not have jurisdiction under section 633.709, whether at the time the petition is filed or at any time before the appointment or issuance of the order, the court shall stay the proceeding and communicate with the court in the other state. If the court in the other state has jurisdiction, the court in this state shall dismiss the petition unless the court in the other state determines that the court in this state is a more appropriate forum.

2010 Acts, ch 1086, §16, 24, 25

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633.716 Transfer of guardianship or conservatorship to another state.

1. A guardian or conservator appointed in this state may petition the court to transfer the guardianship or conservatorship to another state.

2. Notice of a petition under subsection 1 shall be given to the persons that would be entitled to notice of a petition in this state for the appointment of a guardian or conservator.

3. On the court's own motion or on request of the guardian or conservator, the incapacitated or protected person, or other person required to be notified of the petition, the court shall hold a hearing on a petition filed pursuant to subsection 1.

4. The court shall issue an order provisionally granting a petition to transfer a guardianship and shall direct the guardian to petition for guardianship in the other state if the court is satisfied that the guardianship will be accepted by the court in the other state and the court finds all of the following:

a. The incapacitated person is physically present in or is reasonably expected to move permanently to the other state.

b. An objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the incapacitated person.

c. Plans for care and services for the incapacitated person in the other state are reasonable and sufficient.

5. The court shall issue a provisional order granting a petition to transfer a conservatorship and shall direct the conservator to petition for conservatorship in the other state if the court is satisfied that the conservatorship will be accepted by the court of the other state and the court finds all of the following:

a. The protected person is physically present in or is reasonably expected to move permanently to the other state, or the protected person has a significant connection to the other state considering the factors in section 633.707.

b. An objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the protected person.

c. Adequate arrangements will be made for management of the protected person's property.

6. The court shall issue a final order confirming the transfer and terminating the guardianship or conservatorship upon its receipt of all of the following:

a. A provisional order accepting the proceeding from the court to which the proceeding is to be transferred which is issued under provisions similar to section 633.717.

b. The documents required to terminate a guardianship or conservatorship in this state.

2010 Acts, ch 1086, §17, 24, 25
Referred to in §633.710, 633.717

PART 4

REGISTRATION AND RECOGNITION OF ORDERS FROM OTHER STATES

633.717 Accepting guardianship or conservatorship transferred from another state.

1. To confirm transfer of a guardianship or conservatorship transferred to this state under provisions similar to section 633.716, the guardian or conservator must petition the court in this state to accept the guardianship or conservatorship. The petition must include a certified copy of the other state's provisional order of transfer.

2. Notice of a petition under subsection 1 must be given to those persons that would be entitled to notice if the petition were to petition for the appointment of a guardian or issuance of a protective order in both the transferring state and this state. The notice must be given in the same manner as notice is required to be given in this state.

3. On the court's own motion or on request of the guardian or conservator, the incapacitated or protected person, or other person required to be notified of the proceeding, the court shall hold a hearing on a petition filed pursuant to subsection 1.

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4. The court shall issue an order provisionally granting a petition filed under subsection 1 unless any of the following applies:

a. An objection is made and the objector establishes that transfer of the proceeding would be contrary to the interests of the incapacitated or protected person.

b. The guardian or conservator is ineligible for appointment in this state.

5. The court shall issue a final order accepting the proceeding and appointing the guardian or conservator as guardian or conservator in this state upon its receipt from the court from which the proceeding is being transferred of a final order issued under provisions similar to section 633.716 transferring the proceeding to this state.

6. Not later than ninety days after issuance of a final order accepting transfer of a guardianship or conservatorship, the court shall determine whether the guardianship or conservatorship needs to be modified to conform to the laws of this state.

7. Subject to subsections 4 and 6, in granting a petition under this section, the court shall recognize a guardianship or conservatorship order from the other state, including the determination of the incapacitated or protected person's incapacity and the appointment of the guardian or conservator.

8. The denial by a court of this state of a petition to accept a guardianship or conservatorship transferred from another state does not affect the ability of the guardian or conservator to seek appointment as guardian or conservator in this state under section 633.551 or 633.556, if the court has jurisdiction to make an appointment other than by reason of the provisional order of transfer.

2010 Acts, ch 1086, §18, 24, 25; 2011 Acts, ch 34, §140; 2019 Acts, ch 57, §38, 43, 44

Referred to in §633.716

633.718 Registration of guardianship orders.

If a guardian has been appointed in another state and a petition for the appointment of a guardian is not pending in this state, the guardian appointed in the other state, after giving notice to the appointing court of an intent to register, may register the guardianship order in this state by filing as a foreign judgment in a court, in any appropriate county of this state, certified copies of the order and letters of office.

2010 Acts, ch 1086, §19, 24, 25

633.719 Registration of protective orders.

If a conservator has been appointed in another state and a petition for a protective order is not pending in this state, the conservator appointed in the other state, after giving notice to the appointing court of an intent to register, may register the protective order in this state by filing as a foreign judgment in a court of this state, in any county in which property belonging to the protected person is located, certified copies of the order and letters of office and of any bond.

2010 Acts, ch 1086, §20, 24, 25

PART 5

MISCELLANEOUS PROVISIONS

Referred to in §633.702

633.720 Effect of registration.

1. Upon registration of a guardianship or protective order from another state, the guardian or conservator may exercise in this state all powers authorized in the order of appointment except as prohibited under the laws of this state, including maintaining actions and proceedings in this state and, if the guardian or conservator is not a resident of this state, subject to any conditions imposed upon nonresident parties.

2. A court of this state may grant any relief available under this subchapter and other law of this state to enforce a registered order.

2010 Acts, ch 1086, §21, 24, 25; 2018 Acts, ch 1041, §127

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633.721 Uniformity of application and construction.

In applying and construing this uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

2010 Acts, ch 1086, §22, 24, 25

633.722 Relation to Electronic Signatures in Global and National Commerce Act.

This subchapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §7001 et seq., but does not modify, limit, or supersede section 101(c) of that Act, 15 U.S.C. §7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that Act, 15 U.S.C. §7003(b).

2010 Acts, ch 1086, §23 – 25; 2018 Acts, ch 1041, §127

633.723 through 633.749 Reserved.

SUBCHAPTER XVI

TRUSTS

633.750 Powers of trustees.

Unless it is otherwise provided by the will creating a testamentary trust, the instrument creating an express trust, or by an order or decree duly entered by a court of competent jurisdiction, a trustee shall have all the powers granted a trustee under sections 633A.4401 and 633A.4402. Documents incorporating by reference powers granted a trustee under the probate code or under this section shall be interpreted accordingly, even if the execution or adoption of the instrument creating the trust occurred prior to July 1, 2005.

[C66, 71, 73, 75, 77, 79, 81, §633.699]

97 Acts, ch 158, §45; 2005 Acts, ch 38, §31, 55; 2010 Acts, ch 1086, §25

C2011, §633.750

633.751 Applicability of law.

The terms of this subchapter, and all other terms of this probate code relating to trusts and trustees, shall apply only to trusts that remain under continuous court supervision pursuant to section 633.10 and to trusts that have not been released from such continuous supervision pursuant to section 633.10. Regarding all such trusts, the terms of this chapter shall supersede any inconsistent terms in the trust code, chapter 633A, and such trusts shall be governed by terms of the trust code, chapter 633A, that are not inconsistent with this probate code.

2005 Acts, ch 38, §32

CS2005, §633.699B

2006 Acts, ch 1010, §156; 2010 Acts, ch 1086, §25

C2011, §633.751

2018 Acts, ch 1041, §127

633.752 Intermediate report of trustees.

Unless specifically relieved from so doing by the instrument creating the trust or by order of the court, the trustee shall make a written report under oath to the court once each year within ninety days of the close of the reporting period, and more often if required by the court. Such report shall state:

1. The period covered by the report.
2. All changes in beneficiaries since the last previous report.
3. Any changes in investments since the last previous report, including a list of all assets, and recommendations of the trustee for the retention or disposition of any property held by the trustee.
4. A detailed accounting for all cash receipts and disbursements, and for all property of the trust, unless such accounting shall be waived in writing by all beneficiaries.

[C66, 71, 73, 75, 77, 79, 81, §633.700]

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2005 Acts, ch 3, §105; 2007 Acts, ch 134, §18, 28; 2008 Acts, ch 1032, §87; 2010 Acts, ch 1086, §25
C2011, §633.752
Referred to in §633.753

633.753 Final report of trustee.

Upon the partial or total termination of a trust, or upon the transfer of the trusteeship due to resignation, removal, dissolution, or other disqualification of the trustee of any trust pending in court, the trustee shall make a final report to the court, showing for the period since the filing of the last report the facts required for an intermediate report; provided, however, that unless specifically required by the court to do so, the trustee shall not in any event, be required to report such facts for any period of time as to which the trustee has, under any of the provisions of section 633.752, been expressly relieved from reporting. In any event, the final report of the trustee shall include the following:

1. The name and last known address of each beneficiary.
2. A statement as to those beneficiaries who are known to be minors or under any other legal disability.
3. Distributions made or to be made to each beneficiary at the time of such termination.

[C66, 71, 73, 75, 77, 79, 81, §633.701]
2010 Acts, ch 1086, §25
C2011, §633.753
Referred to in §633.755

633.754 Notice of application for discharge.

No final report of a trustee of a trust pending in court shall be approved, and no such trustee shall be discharged from further duty or responsibility upon final settlement, until notice of the trustee's application for discharge shall have been served upon all persons interested, in accordance with section 633.40, unless notice is waived. An order prescribing notice may be made before or after the filing of the final report.

[C66, 71, 73, 75, 77, 79, 81, §633.702]
2010 Acts, ch 1086, §25
C2011, §633.754

633.755 Discharge.

Upon final settlement of a trust, an order shall be entered discharging the trustee from further duties and responsibilities. The order approving the final report shall constitute a waiver of the omission from the final report of any of the recitals required in section 633.753.

[C66, 71, 73, 75, 77, 79, 81, §633.703]
2010 Acts, ch 1086, §25
C2011, §633.755

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CHAPTER 633A

IOWA TRUST CODE

Referred to in §9H.1, 10.1, 455B.172, 486A.901, 523I.806, 524.1003, 524.1004, 524.1007, 524.1009, 558A.1, 602.6306, 602.6803, 633.10, 633.751, 633C.4, 815.11

For applicability of chapter 633 and this chapter to trusts subject to continuous court supervision, see §633.10, 633.751, and 633A.1107

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SUBCHAPTER I

DEFINITIONS AND GENERAL PROVISIONS

633A.1101 Short title.

This chapter may be cited as the *"Iowa Trust Code"* or *"Trust Code"*.

99 Acts, ch 125, §1, 109
C2001, §633.1101
2005 Acts, ch 38, §52, 54
CS2005, §633A.1101

633A.1102 Definitions.

For purposes of this chapter:

1. *"Adjusted gross estate"*, as it relates to a trust, means the same as defined in section 633.266.

2. *"Beneficiary"*, as it relates to a trust beneficiary, includes a person who has any present or future interest in the trust, vested or contingent, and also includes the owner of an interest by assignment or other transfer.

3. *"Charitable trust"* means a trust created for a charitable purpose as specified in section 633A.5101.

4. *"Competency"* means any one of the following:

a. In the case of a revocable transfer, *"competency"* means the degree of understanding required to execute a will.

b. In the case of an irrevocable transfer, *"competency"* means the ability to understand the effect the gift may have on the future financial security of the donor and anyone who may be dependent on the donor.

5. *"Conservator"* means a person appointed by a court to manage the estate of a minor or adult individual.

6. *"Court"* means any Iowa district court.

7. *"Distribution trust director"* means any person given authority by an instrument to exercise all or any portion of the powers set forth in section 633A.4810. Except as provided in the trust instrument, the distribution trust director shall have the same fiduciary duty and liability in the exercise or nonexercise of such powers as the trustee would in the absence of such directory powers.

8. *"Excluded fiduciary"* means any fiduciary excluded from exercising certain powers under an instrument which powers may be exercised by the settlor, trust director, trust protector, or other persons designated in the instrument.

9. *"Fiduciary"* includes a personal representative, executor, administrator, guardian, conservator, trustee, trust director, and any other person designated as a fiduciary by the applicable instrument or this trust code.

10. *"Guardian"* means a person appointed by a court to make decisions with respect to the support, care, education, health, and welfare of a minor or adult individual, but excludes one who is merely a guardian ad litem. A minor's custodial parent shall be deemed to be the child's guardian in the absence of a court-appointed guardian.

11. *"Instrument"* means a signed writing.

12. *"Interested person"* includes a trustee, an acting successor trustee, a beneficiary who

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may receive income or principal currently from the trust, or would receive principal of the trust if the trust were terminated at the time relevant to the determination, and a fiduciary representing an interested person. The meaning as it relates to particular persons may vary from time to time according to the particular purpose of, and matters involved in, any proceeding.

13. *"Investment trust director"* means any person given authority by an instrument to exercise all or any portion of the powers set forth in section 633A.4809. Except as provided in the trust instrument, the investment trust director shall have the same fiduciary duty and liability in the exercise or nonexercise of such powers as the trustee would in the absence of such directory powers.

14. *"Person"* means an individual or any legal or commercial entity.

15. *"Petition"* includes a complaint or statement of claim.

16. *"Property"* means anything that may be the subject of ownership, whether real or personal, legal or equitable, tangible or intangible, and includes any interest in such item, including a chose in action, claim, or beneficiary designation under a policy of insurance, employees' trust, or other arrangement, whether revocable or irrevocable.

17. *"Qualified beneficiary"* means a beneficiary who, on the date the beneficiary's qualification is determined, is any of the following:

a. Eligible to receive distributions of income or principal from the trust.

b. Would receive property from the trust upon immediate termination of the trust.

18. *"Settlor"* means a person, including a testator, who creates a trust.

19. *"State"* means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States.

20. *"Term"* or *"terms"*, when used in relation to a trust, means the manifestation of the settlor's intent regarding a trust's provisions at the time of the trust's creation or amendment. *"Term"* includes those concepts expressed directly in writing, as well as those inferred from constructional preferences or rules, or by other proof admissible under the rules of evidence.

21. *"Trust"* means an express trust, charitable or noncharitable, with additions thereto, wherever and however created, including a trust created or determined by a judgment or decree under which the trust is to be administered in the manner of an express trust. *"Trust"* does not include any of the following:

a. A Totten trust account.

b. A custodial arrangement pursuant to the uniform transfers to minors Act of any state.

c. A business trust that is taxed as a partnership or corporation.

d. An investment trust subject to regulation under the laws of this state or any other jurisdiction.

e. A common trust fund.

f. A voting trust.

g. A security arrangement.

h. A transfer in trust for purpose of suit or enforcement of a claim or right.

i. A liquidation trust.

j. A trust for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind.

k. An arrangement under which a person is a nominee or escrow agent for another.

l. Constructive or resulting trusts.

m. Burial, funeral, and perpetual care trusts.

22. *"Trust company"* means a person who has qualified to engage in and conduct a trust business in this state.

23. *"Trust director"* means either an investment trust director or a distribution trust director.

24. *"Trust protector"* means any person whose appointment as protector is provided for in the instrument. A trust protector shall not be considered to be acting in a fiduciary capacity except to the extent the governing instrument provides otherwise. However, a trust protector shall be considered to be acting in a fiduciary capacity to the extent that the trust protector exercises the authority or powers of a trust director.

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25. *"Trustee"* includes an original, additional, or successor trustee, whether or not appointed or confirmed by a court.

99 Acts, ch 125, §2, 109; 2000 Acts, ch 1150, §7
C2001, §633.1102
2002 Acts, ch 1107, §1; 2003 Acts, ch 95, §6; 2004 Acts, ch 1015, §25; 2005 Acts, ch 38, §35, 52, 54, 55
CS2005, §633A.1102
2020 Acts, ch 1076, §1, 2
Referred to in §633A.1107, 638.2

633A.1103 Per stirpes rule of descent.

Unless the trust instrument provides otherwise, all gifts to multigeneration classes shall be per stirpes.

99 Acts, ch 125, §3, 109
C2001, §633.1103
2005 Acts, ch 38, §54
CS2005, §633A.1103

633A.1104 Common law of trusts.

Except to the extent that this chapter modifies the common law governing trusts, the common law of trusts shall supplement this trust code.

99 Acts, ch 125, §4, 109
C2001, §633.1104
2005 Acts, ch 38, §52, 54
CS2005, §633A.1104

633A.1105 Trust terms control.

The terms of a trust shall always control and take precedence over any section of this trust code to the contrary. If a term of the trust modifies or makes any section of this trust code inapplicable to the trust, the common law shall apply to any issues raised by such term.

99 Acts, ch 125, §5, 109
C2001, §633.1105
2003 Acts, ch 95, §7; 2004 Acts, ch 1015, §26; 2005 Acts, ch 38, §54
CS2005, §633A.1105

633A.1106 General rule concerning application of the Iowa trust code.

1. This trust code applies to all trusts within the scope of this trust code, regardless of whether the trust was created before, on, or after July 1, 2000, except as otherwise stated in this trust code.
2. This trust code applies to all proceedings concerning trusts within the scope of this trust code commenced on or after July 1, 2000.
3. This trust code applies to all trust proceedings commenced before July 1, 2000, unless the court finds that application of a particular provision of this trust code would substantially interfere with the effective conduct of the proceedings or the rights of the parties or other interested persons. In that case, the particular provision of this trust code at issue shall not apply, and the court shall apply prior law.

99 Acts, ch 125, §6, 109
C2001, §633.1106
2005 Acts, ch 38, §54
CS2005, §633A.1106

633A.1107 Scope of trust code.

1. Except as otherwise provided in subsection 2, this trust code shall apply to trusts, as defined in section 633A.1102, that are intentionally created, or deemed to be intentionally created, by individuals and other entities.
2. With regard to trusts described in section 633.10 that have not been judicially released

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from continuous court supervision, this trust code shall apply only to the extent not inconsistent with the relevant provisions of chapter 633. With regard to all other trusts defined in section 633A.1102, the terms of chapter 633 shall be inapplicable, and the terms of this trust code shall prevail over any inconsistent provisions of Iowa law.

99 Acts, ch 125, §7, 109
C2001, §633.1107
2005 Acts, ch 38, §36, 54, 55
CS2005, §633A.1107
Applicability of probate to trusts and trustees, see §633.751

633A.1108 Governing law.

1. A trust not created by will is validly created if its creation complies with the law of the jurisdiction in which the trust instrument was executed, or the law of the jurisdiction in which at the time the trust was created the settlor was domiciled, had a place of abode, or was a national.

2. The meaning and effect of the terms of the trust not created by will shall be determined by any of the following:

a. Except as provided in paragraph *"c"*, the law of the jurisdiction designated in the terms of the trust, on the condition that at the time the trust was created the designated jurisdiction had a substantial relationship to the trust. A jurisdiction has a substantial relationship to the trust if it is the residence or domicile of the settlor or of any qualified beneficiary, the location of a substantial portion of the assets of the trust, or a place where the trustee was domiciled or had a place of business.

b. Except as provided in paragraph *"c"*, in the absence of a controlling designation in the terms of the trust, the law of the jurisdiction that has the most significant relationship to the matter at issue.

c. As to real property, the law of the jurisdiction where the real property is located.

2003 Acts, ch 95, §8
CS2003, §633.1108
2005 Acts, ch 38, §54
CS2005, §633A.1108

633A.1109 Methods of notice and document delivery — waiver.

Except as otherwise provided by this chapter:

1. Giving notice to a person, including notice of a judicial proceeding, or the sending of a document to a person under this chapter shall be accomplished in a manner reasonably suitable under the circumstances and likely to result in receipt of the notice or document. Permissible methods of giving notice or sending a document include first-class mail, personal delivery to a person's last known place of residence or place of business, or by properly directed electronic mail. When notice in a trust proceeding is served on an interested party via the United States postal service, the service is made and completed when the notice being served is enclosed in a sealed envelope with proper postage paid, is addressed to the interested party at the party's last known post office address, and is deposited in a mail receptacle provided by the United States postal service.

2. In the case of a proceeding against an unknown person whose address or whereabouts are unknown, the court shall prescribe that notice may be served by publication within the time and in the manner provided by the rules of civil procedure.

3. Notice under this chapter or the right to receive a document under this chapter may be waived by the person to be notified or entitled to receive the document.

4. For purposes of this section, *"properly directed"* means directed to an electronic mail address that the sender reasonably believes is a current electronic mail address of the recipient.

2016 Acts, ch 1088, §2, 3
Referred to in §633A.6203

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SUBCHAPTER II

CREATION, VALIDITY,
MODIFICATION, AND
TERMINATION OF TRUSTS

PART 1

CREATION AND VALIDITY
OF TRUSTS

633A.2101 Methods of creating trusts.

A trust may be created by any of the following methods:

1. Transfer of property to another person as trustee during the settlor's lifetime, or by will taking effect upon the settlor's death.
2. Declaration by the owner of property that the owner holds property as trustee.
3. Exercise of a power of appointment in favor of another person as trustee.
4. A promise enforceable by the trustee to transfer property to the trustee.

99 Acts, ch 125, §8, 109
C2001, §633.2101
2005 Acts, ch 38, §54
CS2005, §633A.2101

633A.2102 Requirements for validity.

1. A trust is created only if all of the following elements are satisfied:

a. The settlor was competent and indicated an intention to create a trust.

b. The same person is not the sole trustee and sole beneficiary.

c. The trust has a definite beneficiary or a beneficiary who will be definitely ascertained within the period of the applicable rule against perpetuities, unless the trust is a charitable trust, an honorary trust, or a trust for pets.

d. The trustee has duties to perform.

2. A power in a trustee to select a beneficiary from an indefinite class is valid. If the power is not exercised within a reasonable time, the power fails and the property passes to the person or persons who would have taken the property had the power not been conferred.

3. A trust is not merged or invalid because a person, including but not limited to the settlor of the trust, is or may become the sole trustee and the sole holder of the present beneficial interest in the trust, provided that one or more other persons hold a beneficial interest in the trust, whether such interest be vested or contingent, present or future, and whether created by express provision of the instrument or as a result of reversion to the settlor's estate.

99 Acts, ch 125, §9, 109
C2001, §633.2102
2002 Acts, ch 1107, §2; 2003 Acts, ch 95, §9; 2005 Acts, ch 38, §54
CS2005, §633A.2102
Referred to in §726.25

633A.2103 Statute of frauds.

1. A trust is enforceable when evidenced by either of the following:

a. A written instrument signed by the trustee, or by the trustee's agent if authorized in writing.

b. A written instrument conveying the trust property signed by the settlor, or by the settlor's agent if authorized in writing.

2. If an owner of property declares that property is held upon a trust, the written instrument evidencing the trust must be signed by the settlor according to one of the following:

a. Before or at the time of the declaration.

b. After the time of the declaration but before the settlor has transferred the property.

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3. If an owner of property while living transfers property to another person to hold upon a trust, the written instrument evidencing the trust must be signed according to one of the following:

a. By the settlor, concurrently with or before the transfer.

b. By the trustee, concurrently with or before the transfer, or after the transfer but before the trustee has transferred the property to a third person.

4. Oral trusts that have not been reduced to writing as specified in this section are not enforceable. This section does not affect the power of a court to declare a resulting or constructive trust in the appropriate case or to order other relief where appropriate.

99 Acts, ch 125, §10, 109
C2001, §633.2103
2003 Acts, ch 95, §10, 11; 2005 Acts, ch 38, §54
CS2005, §633A.2103

633A.2104 Trust purposes.

1. A trust is created only if it has a private or charitable purpose that is not unlawful or against public policy.

2. A trust created for a private purpose must be administered for the benefit of its beneficiaries.

99 Acts, ch 125, §11, 109
C2001, §633.2104
2005 Acts, ch 38, §54
CS2005, §633A.2104

633A.2105 Honorary trusts — trusts for pets.

1. A trust for a lawful noncharitable purpose for which there is no definite or definitely ascertainable beneficiary is valid but may be performed by the trustee for only twenty-one years, whether or not the terms of the trust contemplate a longer duration.

2. A trust for the care of an animal living at the settlor's death is valid. The trust terminates when no living animal is covered by its terms.

3. A portion of the property of a trust authorized by this section shall not be converted to any use other than its intended use unless the terms of the trust so provide or the court determines that the value of the trust property substantially exceeds the amount required.

4. The intended use of a trust authorized by this section may be enforced by a person designated for that purpose in the terms of the trust or, if none, by a person appointed by the court.

99 Acts, ch 125, §12, 109
C2001, §633.2105
2005 Acts, ch 38, §54
CS2005, §633A.2105

633A.2106 Resulting trusts.

1. Where the owner of property gratuitously transfers the property and manifests in the trust instrument an intention that the transferee should hold the property in trust but the trust fails, the transferee holds the trust estate as a resulting trust for the transferor or the transferor's estate, unless either of the following is true:

a. The transferor manifested in the trust instrument an intention that no resulting trust should arise.

b. The intended trust fails for illegality and the policy against unjust enrichment of the transferee is outweighed by the policy against giving relief to a person who has entered into an illegal transaction.

2. Where the owner of property gratuitously transfers the property subject to a trust which is properly declared and which has been fully performed without exhausting the trust estate, the trustee holds the surplus as a resulting trust for the transferor or the transferor's estate, unless the transferor manifested in the trust instrument an intention that no resulting trust of the surplus should arise.

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3. If the transferor's estate is the recipient of property under this section and the administration of that estate has been closed and there is no question as to the proper recipients of the property, it is not necessary to reopen the estate administration for the purpose of distribution.

99 Acts, ch 125, §13, 109; 2000 Acts, ch 1150, §8
C2001, §633.2106
2005 Acts, ch 38, §54
CS2005, §633A.2106
Referred to in §633A.4701

633A.2107 Constructive trusts.

A constructive trust arises when a person holding title to property is subject to an equitable duty to convey the property to another, on the ground that the person holding title would be unjustly enriched if the person were permitted to retain the property.

99 Acts, ch 125, §14, 109
C2001, §633.2107
2005 Acts, ch 38, §54
CS2005, §633A.2107

PART 2

MODIFICATION AND
TERMINATION OF TRUSTS

Referred to in §633A.4215

633A.2201 Termination of trust.

1. In addition to the methods specified in sections 633A.2202 through 633A.2206, a trust terminates when any of the following occurs:

a. The term of the trust expires.

b. The trust purpose is fulfilled.

c. The trust purpose becomes unlawful or impossible to fulfill.

d. The trust is revoked.

2. On termination of a trust, the trustee may exercise the powers necessary to wind up the affairs of the trust and distribute the trust property to those entitled to the trust property.

99 Acts, ch 125, §15, 109; 2000 Acts, ch 1150, §9
C2001, §633.2201
2002 Acts, ch 1107, §3; 2005 Acts, ch 38, §54, 55
CS2005, §633A.2201
Referred to in §633A.4805

633A.2202 Modification or termination by settlor and all beneficiaries.

1. An irrevocable trust may be modified or terminated upon the consent of the settlor and all of the beneficiaries.

2. Upon termination of the trust, the trustee shall distribute the trust property as agreed by the settlor and all beneficiaries, or in the absence of unanimous agreement, as ordered by the court.

3. For purposes of this section, the consent of a person who may bind a beneficiary or otherwise act on a beneficiary's behalf is considered the consent of the beneficiary.

99 Acts, ch 125, §16, 109
C2001, §633.2202
2005 Acts, ch 38, §54
CS2005, §633A.2202
Referred to in §633A.2201, 633A.4805, 633A.6301

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633A.2203 Termination of irrevocable trust or modification of dispositive provisions of irrevocable trust by court.

1. An irrevocable trust may be terminated or its dispositive provisions modified by the court with the consent of all of the beneficiaries if continuance of the trust on the same or different terms is not necessary to carry out a material purpose.

2. Upon termination of the trust, the court shall order the distribution of trust property in accordance with the probable intention of the settlor.

3. For purposes of this section, the consent of a person who may bind a beneficiary is considered the consent of the beneficiary.

4. For the purposes of this section, removal of the trustee or the addition of a provision to the trust instrument allowing a beneficiary or a group of beneficiaries to remove the trustee or to appoint a new trustee shall not be allowed as a modification under this section. This subsection shall not operate to limit the scope of dispositive provisions for the purposes of this section.

5. A spendthrift provision, or a provision giving the trustee discretion to distribute income or principal to a beneficiary or among beneficiaries, may help implement a material purpose of the settlor. A spendthrift provision, or a provision giving the trustee discretion to distribute income or principal to a beneficiary or among beneficiaries, is enforceable against beneficiaries and third parties that attempt to force the trustee to act or to reach trust assets. A spendthrift provision, or a provision giving the trustee discretion to distribute income or principal to a beneficiary or among beneficiaries, does not create a presumption that the settlor would not want the trust to be modified or terminated when all of the beneficiaries consent and if circumstances not anticipated by the settlor indicate that the best interests of the beneficiaries as a class will be better served if the trust is modified or terminated.

99 Acts, ch 125, §17, 109; 2000 Acts, ch 1150, §10
C2001, §633.2203
2005 Acts, ch 38, §54
CS2005, §633A.2203
2009 Acts, ch 52, §9, 14; 2012 Acts, ch 1123, §15, 32; 2024 Acts, ch 1081, §1
Referred to in §633A.2201, 633A.4805, 633A.6301, 633A.6308

633A.2204 Modification of administrative provisions by court for change of circumstances.

On petition by a trustee or beneficiary, the court may modify the administrative provisions of the trust, if, owing to circumstances not known to the settlor and not anticipated by the settlor, the continuation of the trust under its terms would defeat or substantially impair the accomplishment of the purposes of the trust. If necessary to carry out the purposes of the trust, the court may order the trustee to do acts that are not authorized or are forbidden by the trust instrument.

2000 Acts, ch 1150, §11
C2001, §633.2204
2005 Acts, ch 38, §54
CS2005, §633A.2204
Referred to in §633A.2201, 633A.4805

633A.2205 Noncharitable trust with uneconomically low value.

1. On petition by a trustee or beneficiary, the court may terminate or modify a noncharitable trust or appoint a new trustee if the court determines that the value of the trust property is insufficient to justify the cost of administration involved and that continuation of the trust under its existing terms would defeat or significantly impair the accomplishment of the trust purposes.

2. Upon termination of a trust under this section, the trustee shall distribute the trust property in accordance with the probable intention of the settlor under the circumstances. Extrinsic evidence is admissible for the purpose of ascertaining the probable intention of the settlor.

99 Acts, ch 125, §18, 109

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C2001, §633.2205
2002 Acts, ch 1107, §4; 2005 Acts, ch 38, §54
CS2005, §633A.2205
Referred to in §633A.2201, 633A.4805

633A.2206 Reformation — tax objectives.

1. The court may reform the terms of the trust, even if unambiguous, to conform to the settlor's intent if it is proved by clear and convincing evidence that the settlor's intent and the terms of the trust were affected by a mistake of fact or law whether expressed or induced.

2. The terms of the trust may be construed or modified, in a manner that does not violate the settlor's probable intent, to achieve the settlor's tax objectives.

99 Acts, ch 125, §19, 109
C2001, §633.2206
2002 Acts, ch 1107, §5; 2005 Acts, ch 38, §54
CS2005, §633A.2206
Referred to in §633A.2201, 633A.4805

633A.2207 Combination of trusts.

1. A trustee, without approval of court, may combine two or more trusts with substantially similar beneficial interests unless the trust is a court reporting trust.

2. On petition by a trustee or beneficiary, the court may combine two or more trusts, whether or not the beneficial interests are substantially similar, if the court determines that administration as a single trust will not defeat or significantly impair the accomplishment of the trust purposes or the rights of the beneficiaries.

3. Where the court orders the combination of two trusts that are not essentially identical, the court shall include in its order a finding as to which trust provisions control.

99 Acts, ch 125, §20, 109; 2000 Acts, ch 1150, §12
C2001, §633.2207
2005 Acts, ch 38, §54
CS2005, §633A.2207
Referred to in §633A.4805

633A.2208 Division of trusts.

1. Without approval of a court, a trustee may divide a trust into two or more separate trusts with substantially similar terms if the division will not defeat or substantially impair the accomplishment of the trust purposes or the rights of the beneficiaries unless the trust is a court reporting trust.

2. On petition by a trustee or beneficiary, the court may divide a trust into two or more separate trusts, whether or not their terms are similar, if the court determines that dividing the trust is in the best interest of the beneficiaries and will not defeat or substantially impair the accomplishment of the trust purposes or the rights of the beneficiaries. To facilitate the division, the trustee may divide the trust assets in kind, by pro rata or non-pro rata division, or by any combination of the methods.

3. By way of illustration and without limitation, a trust may be divided pursuant to this section to allow a trust to qualify as a marital deduction trust for tax purposes, as a qualified subchapter S trust for federal income tax purposes, as a separate trust for federal generation skipping tax purposes, or for any other federal or state income, estate, excise, or inheritance tax benefit, or to facilitate the administration of a trust.

99 Acts, ch 125, §21, 109; 2000 Acts, ch 1150, §13
C2001, §633.2208
2005 Acts, ch 38, §37, 54
CS2005, §633A.2208
Referred to in §633A.4805

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PART 3

CREDITORS' RIGHTS,
SPENDTHRIFT TRUSTS,
AND DISCRETIONARY TRUSTS

633A.2301 Rights of beneficiary, creditor, and assignee.

To the extent a beneficiary's interest is not subject to a spendthrift provision, and subject to sections 633A.2305 and 633A.2306, the court may authorize a creditor or assignee of the beneficiary to reach the beneficiary's interest by levy, attachment, or execution of present or future distributions to or for the benefit of the beneficiary or other means.

99 Acts, ch 125, §22, 109
C2001, §633.2301
2004 Acts, ch 1015, §27; 2005 Acts, ch 38, §38, 54, 55
CS2005, §633A.2301
2008 Acts, ch 1119, §21; 2008 Acts, ch 1191, §131

633A.2302 Spendthrift protection recognized.

Except as otherwise provided in section 633A.2303:

1. A term of a trust providing that the interest of a beneficiary is held subject to a "spendthrift trust", or words of similar import, is sufficient to restrain both voluntary and involuntary transfer, assignment, and encumbrance of the beneficiary's interest.

2. A beneficiary shall not transfer, assign, or encumber an interest in a trust in violation of a valid spendthrift provision, and a creditor or assignee of the beneficiary of a spendthrift trust shall not reach the interest of the beneficiary or a distribution by the trustee before its receipt by the beneficiary.

3. Notwithstanding subsections 1 and 2, the interest of a beneficiary of a valid spendthrift trust may be reached to satisfy an enforceable claim against the beneficiary or the beneficiary's estate for either of the following:

a. Services or supplies for necessaries provided to or for the beneficiary.

b. Tax claims by the United States to the extent authorized by federal law or an applicable provision of the Code.

99 Acts, ch 125, §23, 109
C2001, §633.2302
2004 Acts, ch 1015, §28; 2005 Acts, ch 38, §54
CS2005, §633A.2302
2008 Acts, ch 1119, §22

633A.2303 Spendthrift trusts for the benefit of settlor.

A term of a trust prohibiting an involuntary transfer of a beneficiary's interest shall be invalid as against claims by any creditors of the beneficiary if the beneficiary is the settlor.

99 Acts, ch 125, §24, 109
C2001, §633.2303
2005 Acts, ch 38, §39, 54
CS2005, §633A.2303
2008 Acts, ch 1119, §23
Referred to in §633A.2302

633A.2304 Amount reachable by creditors or transferees of settlor.

1. If a settlor is a beneficiary of a trust created by the settlor, a transferee or creditor of the settlor may reach the maximum amount that the trustee could pay to or for the settlor's benefit.

2. In the case of a trust with multiple settlors, the amount the creditors or transferees of a particular settlor may reach shall not exceed the portion of the trust attributable to that settlor's contribution.

3. The assets of an irrevocable trust shall not become subject to the claims of creditors of

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the settlor of a trust solely due to a provision in the trust that allows a trustee of the trust to reimburse the settlor for income taxes payable on the income of the trust. This subsection shall not limit the rights of the creditor of the settlor to assert a claim against the assets of the trust due to the retention or grant of any rights to the settlor under the trust instrument or any other beneficial interest of the settlor other than as specifically set forth in this subsection.

2008 Acts, ch 1119, §24

633A.2305 Discretionary trusts — effect of standard.

1. Whether or not a trust contains a spendthrift provision, a creditor or assignee of a beneficiary shall not compel a distribution that is subject to the trustee's discretion, even if any of the following occur:

a. The discretion is expressed in the form of a standard of distribution.

b. The trustee has abused its discretion.

2. This section shall not apply to a creditor of a beneficiary or to a creditor of a deceased beneficiary enforcing an interest in a trust, if any, given to a beneficiary by the trust instrument.

2008 Acts, ch 1119, §25

Referred to in §633A.2301

633A.2306 Court action — trustee's discretion.

1. If a trustee has discretion as to payments to a beneficiary, and refuses to make payments or exercise its discretion, the court shall neither order the trustee to exercise its discretion nor order payment from any such trust, if any such payment would inure, directly or indirectly, to the benefit of a creditor of the beneficiary.

2. Notwithstanding subsection 1, the court may order payment to a creditor of a beneficiary or to a creditor of a deceased beneficiary if the beneficiary has or had an interest in the trust.

2008 Acts, ch 1119, §26

Referred to in §633A.2301

633A.2307 Overdue mandatory distribution.

1. A creditor or assignee of a beneficiary may reach a mandatory distribution of income or principal, including a distribution upon termination of the trust, if the trustee has not made the distribution to the beneficiary within a reasonable time after the required distribution date.

2. For the purposes of this section, "*mandatory distribution*" means a distribution required by the express terms of the trust of any of the following:

a. All of the income, net income, or principal of the trust.

b. A fraction or percentage of the income or principal of the trust.

c. A specific dollar amount from the trust.

3. A distribution that is subject to a condition shall not be considered a mandatory distribution.

4. If a creditor or assignee of a beneficiary is permitted to reach a mandatory distribution under this section, the sole remedy of the creditor or assignee shall be to apply to the court having jurisdiction of the trust after a reasonable period of time has expired, for a judgment ordering the trustee to pay to the creditor or the assignee a sum of money equal to the lesser of the amount of the debt or assignment, or the amount of the mandatory distribution described in subsection 2. Any other remedy, including but not limited to attachment or garnishment of any interest in the trust, recovery of court costs or attorney fees, or placing a lien of any type on any trust property or on the interest of any beneficiary in the trust, shall not be permitted or ordered by any court. Any writing signed by the beneficiary, allowing any remedy other than payment of the mandatory distribution not made to the beneficiary within a reasonable time after required distribution date, shall be void and shall not be enforced by any court.

2008 Acts, ch 1119, §27

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SUBCHAPTER III

PROVISIONS RELATING TO
REVOCABLE TRUSTS

633A.3101 Competency to create, revoke, or modify a revocable trust.

1. To create, revoke, or modify a revocable trust, the settlor must be competent. An aggrieved person shall have all causes of action and remedies available to the aggrieved person in attacking the creation, revocation, or modification of a revocable trust as one would if attacking the propriety of the execution of a will.

2. The level of competency required of a settlor to direct the actions of the trustee, or to contribute property to, or to withdraw property from, a trust is the same as that required to create a revocable trust.

99 Acts, ch 125, §25, 109; 2000 Acts, ch 1150, §14
C2001, §633.3101
2005 Acts, ch 38, §54
CS2005, §633A.3101

633A.3102 Revocation or modification.

1. Unless the terms of the trust expressly provide that the trust is irrevocable, the settlor may revoke or modify the trust. This subsection does not apply to trusts created under instruments executed before July 1, 2000.

2. Except as otherwise provided by the terms of the trust, if a trust is created or funded by more than one settlor, each settlor may revoke or modify the trust as to the portion of the trust contributed by that settlor.

3. A trust that is revocable by the settlor may be revoked or modified by any of the following methods:

a. By compliance with any method specified by the terms of the trust.

b. Unless the terms of the trust expressly make the method specified exclusive, then either of the following:

(1) By a writing, other than a will, signed by the settlor and delivered to the trustee during the settlor's lifetime.

(2) By a later will or codicil expressly referring to the trust and which makes a devise of the property that would otherwise have passed by the terms of the trust.

4. Upon termination of a revocable trust, the trustee must distribute the trust property as the settlor directs.

5. The settlor's powers with respect to revocation or modification may be exercised by an agent under a power of attorney only if all of the following apply:

a. The trust instrument expressly authorizes an agent under a power of attorney to exercise such powers.

b. The power of attorney expressly authorizes an agent acting under the power of attorney to exercise such powers.

99 Acts, ch 125, §26, 109
C2001, §633.3102
2005 Acts, ch 38, §54
CS2005, §633A.3102
2006 Acts, ch 1104, §4; 2012 Acts, ch 1123, §16, 32

633A.3103 Other rights of settlor.

Except to the extent the terms of the trust otherwise provide, while a trust is revocable, all of the following apply unless the trustee actually knows that the individual holding the power to revoke the trust is not competent:

1. The holder of the power, and not the beneficiary, has the rights afforded beneficiaries.

2. The duties of the trustee are owed to the holder of the power.

3. The trustee shall follow a written direction given by the holder of the power, or a person to whom the power has been delegated in writing, without liability for so doing, so long as

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the action by the delegate is authorized by the trust unless the trustee actually knows that the direction violates the terms of the trust.

99 Acts, ch 125, §27, 109
C2001, §633.3103
2005 Acts, ch 38, §54
CS2005, §633A.3103
2006 Acts, ch 1104, §5
Referred to in §633A.3105, 633A.6202

633A.3104 Claims against revocable trust.

1. During the lifetime of the settlor, the trust property of a revocable trust is subject to the debts of the settlor to the extent of the settlor's power of revocation.

2. Following the death of a settlor, if the settlor's estate is inadequate to satisfy the debts of the settlor and the charges of the settlor's estate, the property of a revocable trust, to the extent of the value of the property over which the settlor had a power of revocation, is subject to all of the following:

a. The charges of the settlor's estate.

b. The debts of the settlor unless barred as provided in section 633A.3109.

3. The personal representative of the settlor's estate shall submit a statement to the trustee within the period for filing claims against the trust of the amount by which the assets of the estate are insufficient to pay the debts and charges. Subject to the provisions of section 633A.3111, the trustee shall remit to the personal representative the amount needed to pay the charges and shall pay the debts directly to the creditors unless the trustee and personal representative agree to a different manner of payment.

4. If a revocable trust becomes subject to the debts of a settlor and the charges of the settlor's estate pursuant to this section, following the payment of the proper costs of administration of the trust and any claims against the trust, the debts and charges of the settlor's estate payable by the trust shall be classified pursuant to sections 633.425 and 633.426 as such sections exist on the date of the settlor's death and paid in the order listed therein to the extent the settlor's estate is inadequate to satisfy the listed debts and charges.

99 Acts, ch 125, §28, 109; 2000 Acts, ch 1150, §15
C2001, §633.3104
2005 Acts, ch 38, §54
CS2005, §633A.3104
2006 Acts, ch 1104, §6; 2012 Acts, ch 1123, §17, 18, 32

633A.3105 Rights of and claims against holder of general power of appointment.

1. The holder of a presently exercisable general power of appointment over trust property has the rights of a holder of the power to revoke a trust under section 633A.3103 to the extent of the property subject to the power.

2. Property in trust subject to a presently exercisable general power of appointment is chargeable with the debts of the holder and charges of the holder's estate to the same extent as if the holder was a settlor and the power of appointment was a power of revocation.

99 Acts, ch 125, §29, 109
C2001, §633.3105
2005 Acts, ch 38, §54, 55
CS2005, §633A.3105
2006 Acts, ch 1104, §7

633A.3106 Children born or adopted after execution of a revocable trust.

1. When a settlor fails to provide in a revocable trust for any of the settlor's children born to or adopted by the settlor after the execution of the trust or the last amendment to the trust, such child, whether born before or after the settlor's death, shall receive a share of the trust equal in value to that which the child would have received under section 633.219, after taking into account the spouse's intestate share under section 633.211 or section 633.212, whichever

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is applicable, as if the settlor had died intestate, unless it appears from the terms of the trust or decedent's will that such omission was intentional.

2. For the purposes of this section, a child born after the death of the settlor who would have been entitled to a share of the settlor's probate estate pursuant to section 633.267 shall be treated as a child of the settlor.

99 Acts, ch 125, §30, 109
C2001, §633.3106
2005 Acts, ch 38, §54
CS2005, §633A.3106
2008 Acts, ch 1119, §28, 39; 2011 Acts, ch 18, §5; 2012 Acts, ch 1021, §109

633A.3107 Effect of divorce or dissolution.

1. If, after executing a revocable trust, the settlor is divorced or the settlor's marriage is dissolved, all provisions in the trust in favor of the settlor's spouse or of a relative of the settlor's spouse, including but not limited to dispositions, appointments of property, and nominations to serve in any fiduciary or representative capacity, are revoked by divorce or dissolution of marriage unless the trust instrument provides otherwise.

2. Unless the trust instrument provides otherwise, in the event the settlor and spouse remarry each other, the provisions of the revocable trust revoked by the divorce or dissolution of marriage shall be reinstated unless otherwise modified by the settlor, except for provisions in favor of a person who died prior to the remarriage which shall not be reinstated.

3. For the purposes of this section, *"relative of the settlor's spouse"* means a person who is related to the divorced settlor's former spouse by blood, adoption, or affinity, and who, subsequent to the divorce or dissolution of marriage, ceased to be related to the settlor by blood, adoption, or affinity.

99 Acts, ch 125, §31, 109; 2000 Acts, ch 1150, §16
C2001, §633.3107
2005 Acts, ch 38, §40, 54
CS2005, §633A.3107
2013 Acts, ch 30, §193

633A.3108 Limitation on contest of revocable trust.

Unless previously barred by adjudication, consent, or other limitation, if notice is published or given as provided in section 633A.3110 within one year of the settlor's death, a proceeding to contest the validity of a revocable trust must be brought within the period specified in that notice. If notice is not published or given within that period, a proceeding to contest the validity of a trust must be brought no later than one year following the death of the settlor.

99 Acts, ch 125, §32, 109; 2000 Acts, ch 1150, §17
C2001, §633.3108
2005 Acts, ch 38, §54, 55
CS2005, §633A.3108
2008 Acts, ch 1119, §29, 39; 2012 Acts, ch 1123, §19, 32
Referred to in §633A.3110

633A.3109 Limitation on creditor rights against revocable trust assets after settlor's death.

1. If notice is published or given as provided in section 633A.3110 within one year of the settlor's death, any claim against the trust assets will be forever barred unless the creditor files a claim as provided for and within the period specified in the notice.

2. If notice is not published or given, a creditor of a deceased settlor of a revocable trust must bring suit to enforce its claim against the assets of the decedent's trust within one year of the decedent's death or be forever barred from collecting against the trust assets. The one-year limitation period shall not be extended by the commencement of probate administration for the settlor.

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3. The notice under sections 633.230 and 633.304 in probate of the settlor's estate does not affect a creditor's claim under this section.

99 Acts, ch 125, §33, 109; 2000 Acts, ch 1150, §18
C2001, §633.3109
2002 Acts, ch 1119, §101; 2005 Acts, ch 38, §54, 55
CS2005, §633A.3109
2006 Acts, ch 1104, §8, 16; 2012 Acts, ch 1123, §20, 32
Referred to in §633A.3104, 633A.3110

633A.3110 Notice to creditors, heirs, and surviving spouse.

1. As used in this section, *"heir"* means only such person who would, in an intestate estate, be entitled to a share under section 633.219.

2. The trustee may give notice as described in this section to creditors, heirs, and the surviving spouse of the settlor for the purpose of establishing their rights to contest the trust and to file claims against the trust assets.

a. No later than the end of the one-year period beginning with the settlor's date of death, the trustee may publish a notice once each week for two consecutive weeks in a daily or weekly newspaper of general circulation published in the county in which the settlor was a resident at the time of death. If the settlor was not a resident of Iowa, but the principal place of administration is in Iowa, the trustee shall publish notice in the county that is the principal place of administration pursuant to section 633A.6102.

b. If notice is published pursuant to paragraph *"a"*, the trustee shall also give notice by ordinary mail within one year of the settlor's death to the surviving spouse and the heirs of the decedent whose identities are reasonably ascertainable, at such person's last known address.

c. If notice is published pursuant to paragraph *"a"*, the trustee shall also give notice to creditors of the settlor who are known or reasonably ascertainable within the period for filing claims specified in the published notice and who the trustee believes own or possess a claim, which will not or may not be paid or otherwise satisfied during the administration of the trust, by ordinary mail to each person at the person's last known address.

d. The notices described in this subsection shall, if given, include notification of the settlor's death, and the fact that any action to contest the validity of the trust must be brought within the later to occur of four months from the date of the second publication of the notice made pursuant to paragraph *"a"* or thirty days from the date of mailing of the notice pursuant to paragraph *"b"*, and that any claim against the trust assets will be forever barred unless proof of a creditor's claim is mailed to the trustee by certified mail, return receipt requested, within the later to occur of four months from the date of second publication of notice made pursuant to paragraph *"a"* or thirty days from the date of mailing of the notice pursuant to paragraph *"b"*, if required. A person who is not entitled to receive a mailed notice or who does not make a claim within the appropriate period is forever barred from asserting any claim against the trust or the trust assets.

3. If notice is published pursuant to subsection 2, paragraph *"a"*, claims of creditors that are discovered or which become reasonably ascertainable after the end of the notice period are barred.

4. If notice is not published and given as provided in this section, the right to challenge the trust and file claims against the trust assets are limited as provided in sections 633A.3108 and 633A.3109.

5. The notice described in subsection 2 shall be substantially in the following form:

> To all persons regarding....., deceased, who died on or about.....(date). You are hereby notified that..... is the trustee of the..... Trust.
>
> Any action to contest the validity of the trust must be brought in the District Court of.... County, Iowa, within the later to occur of four months from the date of second publication of this notice, or thirty days from the date of mailing this notice to all heirs of the decedent settlor and the spouse of the decedent settlor whose identities are

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reasonably ascertainable. Any suit not filed within this period shall be forever barred.

Notice is further given that any person or entity possessing a claim against the trust must mail proof of the claim to the trustee at the address listed below via certified mail, return receipt requested, by the later to occur of four months from the date of the second publication of this notice or thirty days from the date of mailing this notice if required, or the claim shall be forever barred, unless paid or otherwise satisfied.

Dated this..... day of.....(month),.....(year)

..... Trust

.....

Trustee

Address:.....

.....

Date of second publication

..... day of.....(month),.....(year)

6. The proof of claim must be in writing stating the party's name and address and describing the nature and amount of the claim, if ascertainable, and accompanied by an affidavit of the party or a representative of the party verifying the amount that is due, or when the amount will become due, that no payments have been made on the claim that are not credited, and that no offsets to the claim exist.

7. At any time after receipt by the trustee of a proof of claim, the trustee may give the party submitting the claim a written notice of disallowance of the claim. The notice shall be given by certified mail, return receipt requested, addressed to the party at the address stated in the claim, and to the attorney of record of the party submitting the claim. Such notice of disallowance shall advise the party submitting the claim that the claim has been disallowed and will be forever barred unless suit is filed against the trustee to enforce the claim within thirty days of the date of the mailing of the notice of disallowance. If suit is filed, the provisions in chapter 633 relating to actions to enforce a claim shall apply with the trust and trustee substituted for the estate and personal representative.

8. The trustee and creditor may agree to extend the limitations period for filing an action to enforce the claim. If the creditor fails to properly file its claim within the established time period or bring an action to enforce its claim within the established time period, the creditor's claim shall be forever barred.

9. The trustee shall give notice to the beneficiaries of the trust as required by section 633A.4213.

10. The trustee shall give notice to the surviving spouse of the right to elect to take an elective share of the trust as required by section 633.237 and the right to an allowance for the surviving spouse and any dependents of the settlor residing with the surviving spouse as required by section 633A.3114.

11. The trustee shall give notice to eligible children not residing with the surviving spouse of their right to an allowance as required by section 633A.3115.

12. The form of notice set forth in subsection 5 may also contain the following optional language in substantially the following form which, if included, shall serve to bar any claim against the assets of the decedent's estate in the same manner and subject to the same limitations as provided in section 633A.3109 with respect to the assets of the trust:

Notice is further given that the will of the decedent has been admitted to probate without present administration in the [above-named] court, that such will designates the trust as the residual beneficiary of the estate, that all persons indebted to the estate of the decedent are requested to make immediate payment to the undersigned trustee, and that any person or entity possessing a claim against the estate must mail proof of the claim to the trustee at the address listed below by certified mail, return receipt

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requested, by the later to occur of four months from the date of the second publication of this notice or thirty days from the date of mailing this notice if required, or the claim shall be forever barred, unless paid or otherwise satisfied.

99 Acts, ch 125, §34, 109
C2001, §633.3110
2005 Acts, ch 38, §54
CS2005, §633A.3110
2012 Acts, ch 1123, §21, 32; 2013 Acts, ch 90, §179; 2015 Acts, ch 30, §182; 2020 Acts, ch 1063, §364; 2022 Acts, ch 1084, §1
Referred to in §633A.3108, 633A.3109

633A.3111 Rights of trustee regarding claims in a probate administration.

1. If administration of an estate is commenced in which a revocable trust or a trust in which a holder had at the date of the holder's death a presently exercisable general power of appointment could be held responsible for the payment of debts of the settlor or holder and the charges of the settlor's or holder's estate, the trustee of the trust shall be an interested party in the administration of the estate.

2. The trustee shall receive notice of all potential claims against the trust assets from the personal representative of the estate and must either authorize the payments for which the trust may be found liable or be given the opportunity to dispute or defend any such payment.

3. If debts of the settlor are paid from trust property, the trustee or trust beneficiaries shall have a right to be reimbursed from the settlor's estate for such payment until the final report of the settlor's estate has been approved, unless the debts have been barred from being collected from the estate by notice pursuant to section 633.230 or 633.304.

99 Acts, ch 125, §35, 109; 2000 Acts, ch 1150, §19
C2001, §633.3111
2005 Acts, ch 38, §54
CS2005, §633A.3111
2006 Acts, ch 1104, §9; 2012 Acts, ch 1123, §22
Referred to in §633A.3104

633A.3112 Trustee's liability for distributions.

1. A trustee who distributes trust assets without making adequate provisions for the payment of debts and charges that are known or reasonably ascertainable at the time of the distribution shall be jointly and severally liable with the beneficiaries to the extent of the distributions made.

2. A trustee shall be entitled to indemnification from the beneficiaries for all amounts paid for debts and charges under this section, to the extent of distributions made.

2005 Acts, ch 38, §41, 55; 2006 Acts, ch 1104, §10; 2008 Acts, ch 1119, §30; 2011 Acts, ch 34, §141; 2012 Acts, ch 1123, §23, 32

633A.3113 Definitions — revocable trusts.

As used in this subchapter:

1. *"Charges"* means the same as defined in section 633.3.
2. *"Costs of administration"* means the same as defined in section 633.3.
3. *"Debts"* means the same as defined in section 633.3.

2012 Acts, ch 1123, §24, 32

633A.3114 Allowance to surviving spouse.

1. Unless a personal representative has been appointed for the settlor's estate, following the death of a settlor of a revocable trust, the trustee of such revocable trust shall mail a written notice to the surviving spouse pursuant to section 633.40, subsection 5, notifying the surviving spouse of the surviving spouse's right to submit an application to the trustee, within four months of service of the notice, for a support allowance for a period of twelve months

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following the death of the settlor, and for a support allowance for the settlor's dependents who reside with the spouse for the same period of time.

2. Upon receipt of an application for a support allowance, the trustee may set off and pay to the surviving spouse a sufficient amount of trust assets the trustee deems reasonable for the proper support of the surviving spouse for the period of twelve months following the death of the settlor. The trustee shall take into consideration the station of life of the settlor's surviving spouse, the assets and condition of the trust, the probate and nonprobate assets received by the surviving spouse by reason of the settlor's death, and the income and other resources of the surviving spouse. The allowance may also include such additional amount as the trustee deems reasonable for the proper support, during such period, of the dependents of the settlor who reside with the surviving spouse. If an application for a support allowance has not been filed within four months following service of the notice by or on behalf of the surviving spouse and the dependents of the settlor who reside with the surviving spouse, the surviving spouse and dependents of the settlor shall be deemed to have waived the right to apply for a support allowance during the administration of the trust.

3. A surviving spouse who qualifies for a support allowance under this section may waive the right to such allowance for the surviving spouse and for the dependents of the settlor who reside with the surviving spouse by submitting an affidavit with the trustee acknowledging receipt of notice and irrevocably waiving the right to an allowance under this section.

4. The opening of an estate for the settlor shall terminate the right of the surviving spouse to apply for a spousal allowance from the trustee of the settlor's revocable trust or to receive additional support payments from the trust unless the personal representative consents to a continuation of the support payments. If a spousal allowance has been paid from trust assets, the trustee or trust beneficiaries shall have a right subject to court approval to be reimbursed from the settlor's estate for such payment until the final report of the settlor's estate has been approved.

2012 Acts, ch 1123, §25, 32
Referred to in §633.374, 633A.3110, 633A.3115

633A.3115 Allowance to children who do not reside with surviving spouse.

1. If the trustee is required to give notice under section 633A.3114, the trustee shall also mail, pursuant to section 633.40, subsection 5, to the legal guardian of each child qualified under subsection 2 and to each such child or the guardian ad litem for such child if necessary, who has no legal guardian, a written notice regarding the right to request an allowance. The notice shall inform the child and the child's guardian or guardian ad litem, if applicable, of the right to submit an application to the trustee within four months after service of the notice, for a support allowance for a period of twelve months following the decedent's death.

2. Upon receipt of an application for a support allowance, the trustee may make an allowance of an amount the trustee deems reasonable in light of the assets and condition of the trust, to provide for proper support during the period of twelve months following the decedent's death to a child of the decedent who does not reside with the settlor's surviving spouse and is any of the following:

a. Less than eighteen years of age.

b. Between the ages of eighteen and twenty-two years who is any of the following:

(1) Regularly attending an accredited school in pursuance of a course of study leading to a high school diploma or its equivalent.

(2) Regularly attending a course of career and technical training either as a part of a regular school program or under special arrangements adapted to the individual person's needs.

(3) Is, in good faith, a full-time student in a college, university, or community college.

(4) Has been accepted for admission to a college, university, or community college and the next regular term has not yet begun.

c. Is a child of any age and dependent because of physical or mental disability.

3. If an application for a support allowance has not been filed within four months after service of the notice by or on behalf of the child qualifying for an allowance under subsection 2, the child shall be deemed to have waived the right to an allowance under this section. A

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child who qualifies for an allowance under this section or the guardian or guardian ad litem for the child, if any, may waive the child's right to such an allowance by submitting an affidavit to the trustee acknowledging receipt of notice and irrevocably waiving the child's right to an allowance under this section.

4. The opening of an estate for the settlor shall terminate the right of a child to apply for an allowance from the trustee of the settlor's revocable trust or to receive additional support payments from the trust unless the personal representative consents to a continuation of support payments. If an allowance has been paid from trust assets, the trustee or trust beneficiaries shall have a right to be reimbursed subject to court approval from the settlor's estate for such payment until the final report of the settlor's estate has been approved.

2012 Acts, ch 1123, §26, 32; 2013 Acts, ch 90, §180; 2016 Acts, ch 1108, §73
Referred to in §633A.3110

SUBCHAPTER IV

TRUST ADMINISTRATION

PART 1

OFFICE OF TRUSTEE

633A.4101 Acceptance or declination to serve as trustee.

1. A person named as trustee accepts the office of trustee by doing one of the following:

a. Signing the trust instrument, or signing a separate written acceptance.

b. Except as provided in subsection 3, knowingly accepting delivery of the trust property or exercising powers or performing duties as trustee.

2. A person named as trustee who has not yet accepted the office of trustee may in writing decline to serve as trustee.

3. If there is an immediate risk of damage to the trust property, the person named as trustee may act to preserve the trust property without accepting the office of trustee, if within a reasonable time after acting, the person delivers a written declination to serve to the settlor, or if the settlor is dead or lacks capacity, to the beneficiaries eligible to receive income or principal distributions from the trust.

99 Acts, ch 125, §36, 109; 2000 Acts, ch 1150, §20
C2001, §633.4101
2005 Acts, ch 38, §54
CS2005, §633A.4101

633A.4102 Trustee's bond.

1. A trustee is not required to give a bond to secure performance of the trustee's duties unless one of the following applies:

a. A bond is expressly required by the terms of the trust.

b. A bond is found by the court to be necessary to protect the interests of beneficiaries, regardless of the terms of the trust.

2. If a bond is required, it must be filed, and be in an amount and with sureties and liabilities as the court may order. The court may excuse a requirement of a bond, reduce or increase the amount of a bond, release a surety, or permit the substitution of another bond with the same or different sureties.

3. The amount of a bond otherwise required may be reduced by the value of trust property deposited with a financial institution in a manner that prevents its unauthorized disposition, and by the value of real property which the trustee, by express limitation of power, lacks power to convey without court authorization.

4. Except as otherwise provided by the terms of the trust or ordered by the court, the cost of a bond is charged to the trust.

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5. A bank or trust company shall not be required to give a bond, whether or not the terms of the trust require a bond.

99 Acts, ch 125, §37, 109
C2001, §633.4102
2005 Acts, ch 38, §54
CS2005, §633A.4102
Referred to in §633A.6105

633A.4103 Actions by cotrustees.

Unless the terms of the trust provide otherwise, the following apply to actions of cotrustees:

1. A power held by cotrustees may be exercised by majority action.

2. If impasse occurs due to the failure to reach a majority decision, any trustee may petition the court to decide the issue, or a majority of the trustees may consent to an alternative form of dispute resolution.

3. If a vacancy occurs in the office of a cotrustee, the remaining cotrustees may act for the trust as if they are the only trustees.

4. If a cotrustee is unavailable to perform duties because of absence, illness, or other temporary incapacity, the remaining cotrustees may act for the trust, as if they were the only trustees, if necessary to accomplish the purposes of the trust or to avoid irreparable injury to the trust property.

99 Acts, ch 125, §38, 109
C2001, §633.4103
2005 Acts, ch 38, §54
CS2005, §633A.4103

633A.4104 Vacancy in office of trustee.

A vacancy in the office of trustee exists if any of the following occurs:

1. The person named as trustee declines to serve as trustee.
2. The person named as trustee cannot be identified or does not exist.
3. The trustee resigns or is removed.
4. The trustee dies.
5. A guardian or conservator of the trustee's person or estate is appointed.

99 Acts, ch 125, §39, 109; 2000 Acts, ch 1150, §21
C2001, §633.4104
2005 Acts, ch 38, §54
CS2005, §633A.4104

633A.4105 Filling vacancy.

1. A trustee must be appointed to fill a vacancy in the office of the trustee only if the trust has no trustee or the terms of the trust require a vacancy in the office of cotrustee to be filled.

2. A vacancy in the office of trustee shall be filled according to the following:

a. By the person named in or nominated pursuant to the method specified by the terms of the trust.

b. If the terms of the trust do not name a person or specify a method for filling the vacancy, or if the person named or nominated pursuant to the method specified fails to accept, one of the following methods shall be used:

(1) By majority vote of all qualified beneficiaries, who are adults, and the representative of any minor or incompetent qualified beneficiary as provided in section 633A.6303.

(2) By a person appointed by the court on petition of an interested person or of a person named as trustee by the terms of the trust. The court, in selecting a trustee, shall consider any nomination made by the adult beneficiaries and representatives of any minor and incompetent beneficiaries as designated in section 633A.6303.

99 Acts, ch 125, §40, 109; 2000 Acts, ch 1150, §22
C2001, §633.4105

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2002 Acts, ch 1107, §6, 7; 2003 Acts, ch 44, §103; 2003 Acts, ch 95, §12; 2005 Acts, ch 38, §54, 55
CS2005, §633A.4105

633A.4106 Resignation of trustee.

1. A trustee who has accepted a trust may resign by any of the following methods:

a. As provided by the terms of the trust.

b. With the consent of the person holding the power to revoke the trust if the holder is competent or is represented by a guardian, conservator, or agent.

c. With the consent of the qualified beneficiaries who are adults if the trust is irrevocable or the holder of the power to revoke lacks competency or is not represented by a guardian, conservator, or agent.

d. Upon written notice to the holder of the power to revoke if the holder substantially changes the trustee's duties and the trustee does not concur.

e. By filing a petition to resign under section 633A.6202. The resignation takes effect ninety days after the filing, or upon approval of the petition by the court, whichever first occurs. The court must accept the trustee's resignation but may impose such orders and conditions as are reasonably necessary for the protection of the trust property, including the appointment of a receiver or temporary trustee.

2. The liability for acts or omissions of a resigning trustee or of any sureties on the trustee's bond is not released or affected by the trustee's resignation.

99 Acts, ch 125, §41, 109
C2001, §633.4106
2002 Acts, ch 1107, §8; 2005 Acts, ch 38, §54, 55
CS2005, §633A.4106

633A.4107 Removal of trustee.

1. A trustee may be removed in accordance with the terms of the trust, or on petition of a settlor, cotrustee, or beneficiary under section 633A.6202.

2. The court may remove a trustee, or order other appropriate relief if any of the following occurs:

a. If the trustee has committed a material breach of the trust.

b. If the trustee is unfit to administer the trust.

c. If hostility or lack of cooperation among cotrustees impairs the administration of the trust.

d. If the trustee's investment performance is consistently and substantially substandard.

e. If the trustee's compensation is excessive under the circumstances.

f. If the trustee merges with another institution or the location or place of administration of the trust changes.

g. For other good cause shown.

3. If it appears to the court that trust property or the interests of a beneficiary may suffer loss or injury pending a final decision on a petition for removal of a trustee, the court may suspend the powers of the trustee, compel the trustee to surrender trust property to a cotrustee, receiver, or temporary trustee, or order other appropriate relief.

99 Acts, ch 125, §42, 109; 2000 Acts, ch 1150, §23
C2001, §633.4107
2003 Acts, ch 95, §13; 2005 Acts, ch 38, §54, 55
CS2005, §633A.4107

633A.4108 Delivery of property by former trustee.

Unless a cotrustee remains in office, a former trustee, or if the trustee's appointment terminated because of death or disability, the former trustee's personal representative or guardian or conservator, is responsible for and has the powers necessary to protect the trust property and other powers essential to the trust's administration until the property is delivered to a successor trustee or a person appointed by the court to receive the property.

99 Acts, ch 125, §43, 109

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C2001, §633.4108
2005 Acts, ch 38, §54
CS2005, §633A.4108

633A.4109 Compensation of trustee.

1. If the terms of the trust do not specify the trustee's compensation, a trustee or cotrustee is entitled to compensation that is reasonable under the circumstances.

2. If the terms of the trust specify the trustee's compensation, the trustee is entitled to be compensated as so provided, except that upon proper showing, the court may allow more or less compensation in the following instances:

a. If the duties of the trustee are substantially different from those contemplated when the trust was created.

b. If the compensation specified by the terms of the trust would be inequitable, or unreasonably low or high.

c. In extraordinary circumstances calling for equitable relief.

99 Acts, ch 125, §44, 109
C2001, §633.4109
2005 Acts, ch 38, §54
CS2005, §633A.4109

633A.4110 Repayment for expenditures.

A trustee is entitled to be repaid out of the trust property, with interest as appropriate, for all of the following expenditures:

1. Expenditures that were properly incurred in the administration of the trust.

2. To the extent that they benefited the trust, expenditures that were not properly incurred in the administration of the trust.

99 Acts, ch 125, §45, 109
C2001, §633.4110
2005 Acts, ch 38, §54
CS2005, §633A.4110

633A.4111 Notice of increased trustee's fee.

1. As used in this section, "*trustee's fee*" includes a trustee's periodic base fee, rate of percentage compensation, minimum fee, hourly rate, and transaction charge, but does not include fees for extraordinary services.

2. A trustee shall not charge an increased trustee's fee for administration of a trust unless the trustee first gives at least thirty days' written notice of the increased fee to all of the following beneficiaries:

a. Each qualified beneficiary.

b. Each beneficiary who was given the last preceding accounting.

c. Each beneficiary who has made a written request to the trustee for notice of an increased trustee's fee, and has given an address for receiving notice by mail.

3. If a beneficiary files a petition for review of an increased trustee's fee or for removal of a trustee and serves a copy of the petition on the trustee within the thirty-day period, the increased fee does not take effect until otherwise ordered by the court or the petition is dismissed.

99 Acts, ch 125, §46, 109; 2000 Acts, ch 1150, §24
C2001, §633.4111
2002 Acts, ch 1107, §9; 2005 Acts, ch 38, §54
CS2005, §633A.4111

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PART 2

FIDUCIARY DUTIES OF TRUSTEE

633A.4201 Duty to administer trust — alteration by terms of trust.

1. On acceptance of a trust, the trustee shall administer the trust according to the terms of the trust and according to this trust code, except to the extent the terms of the trust provide otherwise.

2. The terms of the trust may expand, restrict, eliminate, or otherwise alter the duties prescribed by this trust code, and the trustee may reasonably rely on those terms, but nothing in this trust code authorizes a trustee to act in bad faith or in disregard of the purposes of the trust or the interest of the beneficiaries.

99 Acts, ch 125, §47, 109
C2001, §633.4201
2005 Acts, ch 38, §54
CS2005, §633A.4201

633A.4202 Duty of loyalty — impartiality — confidential relationship.

1. A trustee shall administer the trust solely in the interest of the beneficiaries, and shall act with due regard to their respective interests.

2. Any transaction involving the trust which is affected by a material conflict between the trustee's fiduciary and personal interests is voidable by a beneficiary affected by the transaction unless one of the following applies:

a. The transaction was expressly authorized by the terms of the trust.

b. The beneficiary consented to or affirmed the transaction or released the trustee from liability as provided in section 633A.4506.

c. The transaction is approved by the court after notice to interested persons.

3. A transaction affected by a material conflict between personal and fiduciary interests includes any sale, encumbrance, or other transaction involving the trust property entered into by the trustee, the spouse, descendant, agent, or attorney of a trustee, or corporation or other enterprise in which the trustee has a substantial beneficial interest.

4. A transaction not involving trust property between a trustee and a beneficiary which occurs during the existence of the trust or while the trustee retains significant influence over the beneficiary and from which the trustee obtains an advantage is an abuse of a confidential relationship unless the trustee establishes that the transaction was fair.

5. This section does not apply to any of the following:

a. An agreement between a trustee and a beneficiary relating to the appointment of the trustee.

b. The payment of compensation to the trustee, whether by agreement, the terms of the trust, or this trust code.

c. A transaction between a trust and another trust, decedent's or conservatorship estate of which the trustee is a fiduciary if the transaction is fair to the beneficiaries of the trust.

d. An investment by a trustee in securities of an investment company or investment trust to which the trustee, or its affiliate, provides services in a capacity other than as trustee if the investment complies with the prudent investor rule. The trustee may be compensated by the investment company or investment trust for providing services from fees charged to the trust if the trustee provides annual notice and a copy of the trustee's annual report, including the rate and method by which the trustee's compensation was determined, to the persons specified in section 633A.4213.

e. A deposit of trust money in a regulated financial service institution operated by the trustee.

99 Acts, ch 125, §48, 109
C2001, §633.4202
2002 Acts, ch 1107, §10; 2005 Acts, ch 38, §54, 55
CS2005, §633A.4202

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633A.4203 Standard of prudence.

A trustee shall administer the trust with the reasonable care, skill, and caution as a prudent person would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust.

99 Acts, ch 125, §49, 109
C2001, §633.4203
2005 Acts, ch 38, §54
CS2005, §633A.4203

633A.4204 Costs of administration.

A trustee may only incur costs that are reasonable in relation to the trust property, purposes, and other circumstances of the trust.

99 Acts, ch 125, §50, 109
C2001, §633.4204
2005 Acts, ch 38, §54
CS2005, §633A.4204

633A.4205 Special skills.

A trustee who has special skills or expertise, or is named trustee in reliance upon the trustee's representation that the trustee has special skills or expertise, has a duty to use those special skills or expertise.

99 Acts, ch 125, §51, 109
C2001, §633.4205
2005 Acts, ch 38, §54
CS2005, §633A.4205

633A.4206 Delegation.

1. A trustee shall not delegate to an agent or cotrustee the entire administration of the trust or the responsibility to make or participate in the making of decisions with respect to discretionary distributions, but a trustee may otherwise delegate the performance of functions that a prudent trustee of comparable skills might delegate under similar circumstances.

2. The trustee shall exercise reasonable care, skill, and caution in the following activities:

a. Selecting an agent.

b. Establishing the scope and terms of a delegation, consistent with the purposes and terms of the trust.

c. Periodically reviewing an agent's overall performance and compliance with the terms of the delegation.

d. Redressing an action or decision of an agent which would constitute a breach of trust if performed by the trustee.

3. A trustee who complies with the requirements of subsections 1 and 2 is not liable to the beneficiaries or to the trust for the decisions or actions of the agent to whom a function was delegated.

4. In performing a delegated function, an agent shall exercise reasonable care to comply with the terms of the delegation.

5. By accepting the delegation of a trust function from the trustee of a trust that is subject to the law of this state, an agent submits to the jurisdiction of the courts of this state.

99 Acts, ch 125, §52, 109
C2001, §633.4206
2005 Acts, ch 38, §54
CS2005, §633A.4206

633A.4207 Directory powers.

1. While a trust is revocable, the trustee may follow a written direction of the settlor that is contrary to the terms of the trust.

2. In addition to any powers granted to a trustee, the terms of the trust may confer

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powers upon trust directors and trust protectors as set forth in sections 633A.4801 through 633A.4810. A person's status as a trust director or trust protector under Iowa law shall be determined on the basis of the powers granted and not on the title given to such person in the trust instrument.

99 Acts, ch 125, §53, 109
C2001, §633.4207
2003 Acts, ch 95, §14; 2005 Acts, ch 38, §54
CS2005, §633A.4207
2006 Acts, ch 1104, §11; 2020 Acts, ch 1076, §3, 4

633A.4208 Cotrustees.

1. If a trust has more than one trustee, each trustee shall perform all of the following duties:

a. Participate in the administration of the trust.

b. Take reasonable steps to prevent a cotrustee from committing a breach of trust, and to compel a cotrustee to redress a breach of trust.

2. A trustee who complies with subsection 1 is not liable to the beneficiaries or to the trust for the decisions or actions of a cotrustee.

99 Acts, ch 125, §54, 109
C2001, §633.4208
2005 Acts, ch 38, §54
CS2005, §633A.4208

633A.4209 Control and safeguarding of trust property.

A trustee shall take reasonable steps under the circumstances to take control of and to safeguard the trust property unless it is in the best interests of the trust to abandon or refuse acceptance of the property.

99 Acts, ch 125, §55, 109
C2001, §633.4209
2005 Acts, ch 38, §54
CS2005, §633A.4209

633A.4210 Separation and identification of trust property.

A trustee shall do all of the following:

1. Keep the trust property separate from other property of the trustee unless the trust provides otherwise.

2. Cause the trust property to be designated in such a manner that the interest of the trust clearly appears.

99 Acts, ch 125, §56, 109
C2001, §633.4210
2005 Acts, ch 38, §54
CS2005, §633A.4210

633A.4211 Enforcement and defense of claims and actions.

A trustee shall take reasonable steps to enforce claims of the trust, to defend claims against the trust, and to defend against actions that may result in a loss to the trust.

99 Acts, ch 125, §57, 109
C2001, §633.4211
2002 Acts, ch 1107, §11; 2005 Acts, ch 38, §54
CS2005, §633A.4211

633A.4212 Prior fiduciaries.

A trustee shall take reasonable steps to do all of the following:

1. Compel a former trustee or other fiduciary to deliver trust property to the trustee.

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2. Redress a breach of trust known to the trustee to have been committed by a prior trustee or other fiduciary.

99 Acts, ch 125, §58, 109
C2001, §633.4212
2005 Acts, ch 38, §54
CS2005, §633A.4212

633A.4213 Duty to inform and account.

A trustee of an irrevocable trust shall keep the qualified beneficiaries of the trust reasonably informed about the administration of the trust and the material facts necessary to protect the beneficiaries' interests.

1. The trustee shall inform each qualified beneficiary of the beneficiary's right to receive an annual accounting and a copy of the trust instrument. The trustee shall also inform each qualified beneficiary about the process necessary to obtain an annual accounting or a copy of the trust instrument, if not provided. The trustee shall further inform each qualified beneficiary whether the beneficiary will, or will not, receive an annual accounting if the beneficiary fails to take any action. If a qualified beneficiary has previously been provided the notice required by this section, additional notice shall not be required due to a change of trustees or a change in the composition of the qualified beneficiaries.

2. The trustee shall provide the notice required in subsection 1 to each qualified beneficiary within a reasonable time following any of the following events:

a. The commencement of the trust administration.

b. The trustee becoming aware that there is a new qualified beneficiary or a representative of any minor or incompetent beneficiary.

c. The trust becoming irrevocable.

d. The time that no person, except the trustee, has the right to change the beneficiaries of the trust.

3. Except as provided in subsection 4, a trustee shall provide annually to each adult beneficiary and the representative of any minor or incompetent beneficiary who may receive a distribution of income or principal during the accounting time period, an accounting, unless an accounting has been waived specifically for that accounting time period. Upon request, the accounting shall include the beginning balance and the ending balance.

4. If a settlor has retained the right to change the beneficiaries of the trust or if a party is the holder of a presently exercisable general power of appointment, the trustee shall only be required to report to the settlor or the party.

5. *a.* If the trustee has refused, after written request, to provide an accounting or other required notice under this section to a qualified beneficiary, the court may do any of the following:

(1) Order the trustee to comply with the trustee's duties under this section.

(2) Assess costs, including attorney fees, against the trustee personally.

b. Except as provided in paragraph *"a"*, the only consequence to a trustee's failure to provide the required accounting or notice is that the trustee shall not be able to rely upon the statute of limitations under section 633A.4504.

6. The format and content of an accounting required by this section shall be within the discretion of the trustee, as long as sufficient to reasonably inform the beneficiary of the condition and activities of the trust during the accounting period.

7. This section does not apply to any trust created prior to July 1, 2002. This section applies to any trust created on or after July 1, 2002, unless the settlor has specifically waived the requirements of this section in the trust instrument. Waiver of this section shall not bar any beneficiary's common-law right to an accounting, and shall not provide any immunity to a trustee, acting under the terms of the trust, for liability to any beneficiary who discovers facts giving rise to a cause of action against the trustee.

8. Notwithstanding anything in this chapter to the contrary, if a trust instrument, or a trust protector authorized by the trust instrument, designates that a notice, accounting, or report may be delivered to the settlor or to a designated representative on behalf of a beneficiary prior to such beneficiary's twenty-fifth birthday, then, to the extent there is no conflict of

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interest between the representative and the beneficiary, all notices, accountings, and reports served on such representative with respect to such period will have the same effect as if such beneficiary had been served directly.

99 Acts, ch 125, §59, 109

C2001, §633.4213

2001 Acts, ch 176, §78; 2002 Acts, ch 1107, §12; 2002 Acts, ch 1175, §93; 2003 Acts, ch 95, §15; 2005 Acts, ch 38, §54, 55

CS2005, §633A.4213

2006 Acts, ch 1104, §12, 13, 16; 2012 Acts, ch 1123, §27; 2020 Acts, ch 1076, §5; 2022 Acts, ch 1084, §2

Referred to in §633A.3110, 633A.4202, 633A.4215, 633A.4502, 633A.4504, 633A.4805, 633A.4810, 633A.5107

633A.4214 Duties with regard to discretionary powers.

1. A trustee shall exercise a discretionary power within the bounds of reasonable judgment and in accordance with applicable fiduciary principles and the terms of the trust.

2. Notwithstanding the use of such terms as "absolute", "sole", or "uncontrolled" in the grant of discretion, a trustee shall act in accordance with fiduciary principles and shall not act in bad faith or in disregard of the purposes of the trust or the power. Absent an abuse of discretion, a trustee's exercise of discretion is not subject to control by a court.

3. Subject to paragraph *"c"* and unless the terms of the trust expressly indicate that a rule in this subsection does not apply, all of the following shall apply:

a. A person other than a settlor who is a beneficiary and trustee of a trust that confers on the trustee the power to make discretionary distributions to or for the trustee's personal benefit may exercise the power only in accordance with an ascertainable standard relating to the trustee's individual health, education, support, or maintenance within the meaning of section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code of 1986.

b. A trustee shall not exercise a power to make discretionary distributions to satisfy a legal obligation of support that the trustee personally owes to another person.

c. This subsection does not apply to the following:

(1) A power held by the settlor's spouse who is the trustee of a trust for which a marital deduction, as defined in section 2056(b)(5) or 2523(e) of the Internal Revenue Code of 1986, was previously allowed.

(2) A trust that may be revoked or amended by the settlor.

(3) A trust, if contributions to the trust qualify for an annual exclusion under section 2503(c) of the Internal Revenue Code of 1986.

4. A power whose exercise is limited or prohibited by subsection 3 may be exercised by a majority of the remaining trustees whose exercise of the power is not so limited or prohibited. If the power of all trustees is so limited or prohibited, the court may appoint a special fiduciary with authority to exercise the power.

99 Acts, ch 125, §60, 109

C2001, §633.4214

2002 Acts, ch 1107, §13; 2003 Acts, ch 95, §16; 2003 Acts, ch 108, §109; 2005 Acts, ch 38, §54

CS2005, §633A.4214

633A.4215 Distributions in further trust.

1. As used in this section:

a. "First trust" means a trust from which income or principal is transferred into the second trust.

b. "Restricted trustee" means a trustee of the first trust if such trustee is a beneficiary of the first trust or if such trustee has the power to change the trustees of the first trust within the meaning of subsection 5.

c. "Second trust" means a trust into which the income or principal of the first trust has been transferred.

2. Unless the terms of the governing instrument expressly provide otherwise, if a trustee of the first trust has discretion under the terms of a governing instrument to make a

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distribution of income or principal to or for the benefit of one or more beneficiaries of the first trust, whether or not restricted by any standard, then the trustee, independently or with court approval, may appoint part or all of the income or principal subject to the trustee's discretion in favor of a trustee of a second trust under a governing instrument separate from the governing instrument of the first trust. Before exercising the trustee's discretion to appoint and distribute assets to a second trust, the trustee of the first trust shall determine whether the appointment is necessary or desirable after taking into account the purposes of the first trust, the terms and conditions of the second trust, and the consequences of the distribution. In addition, the following apply to all appointments made under this section:

a. The second trust may only have as beneficiaries one or more of the beneficiaries of the first trust to or for whom a discretionary distribution of income or principal may be made from the first trust, or to or for whom a distribution of income or principal may be made in the future from the first trust at a time or upon the happening of an event specified under the first trust.

b. No restricted trustee of the first trust may exercise such authority over the first trust to the extent that doing so could have any of the following effects:

(1) Benefiting the restricted trustee as a beneficiary of the first trust, unless the exercise of such authority is limited by an ascertainable standard based on or related to health, education, maintenance, or support.

(2) Removing restrictions on discretionary distributions to a beneficiary imposed by the governing instrument under which the first trust was created, except that a provision in the second trust which limits distributions by an ascertainable standard based on or related to the health, education, maintenance, or support of any such beneficiary is permitted, as is a distribution to a trust established pursuant to 42 U.S.C. §1396p(d)(4).

c. No restricted trustee of the first trust may exercise such authority over the first trust to the extent that doing so would have the effect of increasing the distributions that can be made from the second trust to the restricted trustees of the first trust or to a beneficiary who may change the trustees of the first trust within the meaning of subsection 5 compared to the distributions that can be made to such trustee or beneficiary, as the case may be, under the first trust, unless the exercise of such authority is limited by an ascertainable standard based on or related to health, education, support, or maintenance within the meaning of section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code.

d. The provisions of paragraphs "*b*" and "*c*" only apply to restrict the authority of a trustee if either a trustee, or a beneficiary who may change the trustee, is a United States citizen or domiciliary under the Internal Revenue Code, or the trust owns property that would be subject to United States estate or gift taxes if owned directly by such a person.

e. In the case of any trust contributions which have been treated as gifts qualifying for the exclusion from gift tax described in section 2503(b) of the Internal Revenue Code, by reason of the application of section 2503(c) of the Internal Revenue Code, the governing instrument for the second trust shall provide that the beneficiary's remainder interest shall vest no later than the date upon which such interest would have vested under the terms of the governing instrument for the first trust.

f. The exercise of such authority may not reduce any income interest of any income beneficiary of any of the following trusts:

(1) A trust for which a marital deduction has been taken for federal tax purposes under section 2056 or 2523 of the Internal Revenue Code, or for state tax purposes under any comparable provision of applicable state law.

(2) A charitable remainder trust under section 664 of the Internal Revenue Code.

(3) A grantor retained annuity or unitrust trust under section 2702 of the Internal Revenue Code.

g. The exercise of such authority does not apply to trust property subject to a presently exercisable power of withdrawal held by a trust beneficiary to whom, or for the benefit of whom, the trustee has authority to make distributions, unless after the exercise of such authority, the beneficiary's power of withdrawal is unchanged with respect to the trust property.

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h. The exercise of such authority is not prohibited by a provision in the governing instrument that prohibits amendment or revocation of the trust.

i. Any appointment made by a trustee shall be considered a distribution by the trustee pursuant to the trustee's distribution powers and authority.

j. Notwithstanding the foregoing provisions of this subsection, the governing instrument of the second trust may grant a power of appointment to one or more of the beneficiaries of the second trust who are beneficiaries of the first trust. The power of appointment may include the power to appoint trust property to the holder of the power of appointment, the holder's creditors, the holder's estate, the creditors of the holder's estate, or any other person, whether or not that person is a trust beneficiary.

k. A permitted exercise of the trustee's discretion over the entire income and principal of the first trust may be made by modifying the first trust without an actual distribution of property, in which case the second trust is the modified first trust. A modification in further trust pursuant to this paragraph shall require the trustee to notify all beneficiaries of the trust, in writing, at least twenty days prior to the effective date of such exercise, but shall not be subject to the limitations of part 2 of subchapter II of this chapter.

l. This section applies to any trust administered under the laws of this state, including a trust whose governing jurisdiction is transferred to this state.

3. Any action that may not be taken by a trustee of the first trust by reason of the restrictions in subsection 2, paragraph *"b"*, may instead be taken by any other trustee of the first trust who is not so restricted, or, if none, by the next available party who can be a successor trustee and who is not so restricted.

4. The second trust may be a trust created or administered under the laws of any jurisdiction, within or without the United States.

5. For the purposes of subsections 1 and 2, a beneficiary shall be considered to have the power to change the trustees if the beneficiary can, alone or with others, name such beneficiary as a trustee or can remove a trustee and replace that trustee with a new trustee who is the beneficiary or who is related or subordinate, as defined in section 672 of the Internal Revenue Code, to the beneficiary.

6. The exercise of the power to distribute the income or principal of the trust under this section shall be by an instrument in writing, signed and acknowledged by the trustee, and filed with the records of the trust. The trustee of the first trust may notify the beneficiaries of the first trust, in writing, prior to the effective date of the trustee's exercise of the power under this section. A copy of the exercise of this authority and the second trust agreement shall satisfy this notice provision. For the purposes of this section, the term *"beneficiaries"* means those persons who would be entitled to notice and a copy of the first trust instrument under section 633A.4213.

7. The exercise of the power to distribute the income or principal of the trust under this section shall be considered the exercise of a power of appointment that shall not be exercised in favor of the trustee, the trustee's creditors, the trustee's estate, or the creditors of the trustee's estate.

8. The power under this section may not be exercised to suspend the power to alienate trust property or extend the first trust beyond the permissible period of any rule against perpetuities applicable to the first trust.

2020 Acts, ch 1076, §6
Referred to in §633A.4810
Legislative intent and construction; 2020 Acts, ch 1076, §17

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PART 3

UNIFORM PRUDENT INVESTOR ACT

Referred to in §262.14, 633.123A, 633.348

633A.4301 Short title.

This part may be cited as the *"Uniform Prudent Investor Act"*.

99 Acts, ch 125, §61, 109

C2001, §633.4301
2005 Acts, ch 38, §54, 55
CS2005, §633A.4301

633A.4302 Standard of care — portfolio strategy — risk and return objectives.

1. A trustee shall invest and manage trust property as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution.

2. A trustee's investment and management decisions respecting individual assets must be evaluated not in isolation but in the context of the trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the trust.

3. A trustee shall consider all of the following circumstances, to the extent relevant to the trust or its beneficiaries in investing and managing trust property:

a. General economic conditions.

b. The possible effect of inflation or deflation.

c. The expected tax consequences of investment decisions or strategies.

d. The role that each investment or course of action plays within the overall trust portfolio, which may include financial assets, interests in closely held enterprises, tangible and intangible personal property, and real property.

e. The expected total return from income and the appreciation of capital.

f. Other resources of the beneficiaries.

g. Needs for liquidity, regularity of income, and preservation or appreciation of capital.

h. An asset's special relationship or special value, if any, to the purposes of the trust or to one or more of the beneficiaries.

4. A trustee shall make a reasonable effort to verify facts relevant to the investment and management of trust property.

5. A trustee may invest in any kind of property or type of investment consistent with the standards of this part.

99 Acts, ch 125, §62, 109
C2001, §633.4302
2005 Acts, ch 38, §54, 55
CS2005, §633A.4302
Referred to in §523A.203, 633.123

633A.4303 Diversification.

A trustee shall diversify the investments of the trust unless the trustee reasonably determines that the purposes of the trust are better served without diversifying.

99 Acts, ch 125, §63, 109
C2001, §633.4303
2005 Acts, ch 38, §54
CS2005, §633A.4303

633A.4304 Duties at inception of trusteeship.

Within a reasonable time after accepting a trusteeship or receiving trust property, a trustee shall review the trust property and make and implement decisions concerning the retention and disposition of assets, in order to bring the trust portfolio into compliance with the purposes, terms, distribution requirements, and other circumstances of the trust, and with the requirements of this part.

99 Acts, ch 125, §64, 109
C2001, §633.4304
2005 Acts, ch 38, §54, 55
CS2005, §633A.4304

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633A.4305 Loyalty.

A trustee shall invest and manage the trust property solely in the interest of the beneficiaries.

99 Acts, ch 125, §65, 109
C2001, §633.4305
2005 Acts, ch 38, §54
CS2005, §633A.4305

633A.4306 Impartiality.

If a trust has two or more beneficiaries, the trustee shall act impartially in investing and managing the trust property, taking into account any differing interests of the beneficiaries.

99 Acts, ch 125, §66, 109
C2001, §633.4306
2005 Acts, ch 38, §54
CS2005, §633A.4306

633A.4307 Investment costs.

In investing and managing trust property, a trustee may only incur costs that are appropriate and reasonable in relation to the property, the purposes of the trust, and the skills of the trustee.

99 Acts, ch 125, §67, 109
C2001, §633.4307
2005 Acts, ch 38, §54
CS2005, §633A.4307

633A.4308 Reviewing compliance.

Compliance with the prudent investor rule is determined in light of the facts and circumstances existing at the time of a trustee's decision or action and not by hindsight.

99 Acts, ch 125, §68, 109
C2001, §633.4308
2005 Acts, ch 38, §54
CS2005, §633A.4308

633A.4309 Language invoking prudent investor rule.

The following terms or comparable language in the provisions of a trust, unless otherwise limited or modified, authorizes any investment or strategy permitted under this trust code:

1. Investments permissible by law for investment of trust funds.
2. Legal investments.
3. Authorized investments.
4. Using the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.
5. Prudent man rule.
6. Prudent trustee rule.
7. Prudent person rule.
8. Prudent investor rule.

99 Acts, ch 125, §70, 109
C2001, §633.4309
2005 Acts, ch 38, §54
CS2005, §633A.4309

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PART 4

POWERS OF TRUSTEES

633A.4401 General powers — fiduciary duties.

1. A trustee, without authorization by the court, may exercise the following powers:

a. The powers conferred by the terms of the trust.

b. Except as limited by the terms of the trust, powers conferred by this trust code.

2. This part does not affect the power of the court to relieve a trustee from restrictions in the terms of the trust on the exercise of powers, to confer on a trustee additional powers whether or not authorized by the terms of the trust, or to restrict the exercise of a power otherwise given to the trustee by the terms of the trust or this trust code.

3. The grant of a power to a trustee, whether by the terms of the trust, this trust code, or the court, does not in itself govern the exercise of the power. In exercising a power, the trustee shall act in accordance with fiduciary principles.

99 Acts, ch 125, §71, 109
C2001, §633.4401
2005 Acts, ch 38, §54, 55
CS2005, §633A.4401
Referred to in §633.750, 633A.4809

633A.4402 Specific powers of trustees.

In addition to the powers conferred by the terms of the trust, a trustee may perform all actions necessary to accomplish the proper management, investment, and distribution of the trust property, including the following powers:

1. Collect, hold, and retain trust property received from a settlor or any other person. The property may be retained even though it includes property in which the trustee is personally interested.

2. Accept or refuse to accept additions to the property of the trust from a settlor or any other person.

3. With respect to an interest in a proprietorship, partnership, limited liability company, business trust, corporation, or other form of business or enterprise, continue or participate in the operation of a business or other enterprise that is part of the trust and take any action that may be taken by shareholders, members, or property owners, including merging, dissolving, or otherwise changing the form of a business organization and contributing additional capital.

4. Deposit trust funds in an account in a financial institution, including a financial institution operated by the trustee.

5. Acquire or dispose of property, for cash or on credit, at public or private sale, or by exchange.

6. Manage, control, divide, develop, improve, exchange, partition, change the character of, or abandon trust property. Consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise, and participate in voting trusts, pooling arrangements, and foreclosures, and in connection therewith, deposit securities with and transfer title and delegate discretion to any protective or other committee as the trustee considers advisable.

7. Encumber, mortgage, or pledge trust property for a term within or extending beyond the term of the trust in connection with the exercise of a power vested in the trustee.

8. Make ordinary or extraordinary repairs, alterations, or improvements in buildings or other trust property; demolish improvements; and raze existing or erect new party walls or buildings.

9. Subdivide or develop land, dedicate land to public use, make or obtain the vacation of plats and adjust boundaries, adjust differences in valuation on exchange or partition by giving or receiving consideration, and dedicate easements to public use without consideration.

10. Enter into a lease for any purpose as lessor or lessee with or without the option to purchase or renew and for a term within or extending beyond the term of the trust.

11. Enter into a lease or arrangement for exploration and removal of gas, oil, or other

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minerals or geothermal energy, and enter into a community oil lease or a pooling or unitization agreement.

12. Grant an option involving disposition of trust property or take an option for the acquisition of property, including an option that is exercisable beyond the duration of the trust.

13. With respect to shares of stock of a domestic or foreign corporation, any membership in a nonprofit corporation, or other property, the trustee may do the following:

a. Vote in person, and give proxies to exercise, any voting rights with respect to the shares, memberships, or property.

b. Waive notice of a meeting or give consent to the holding of a meeting.

c. Authorize, ratify, approve, or confirm any action that could be taken by shareholders, members, or property owners.

14. Pay calls, assessments, and any other sums chargeable or accruing against or on account of securities.

15. Sell or exercise stock subscription or conversion rights.

16. Select a mode of payment under any employee benefit or retirement plan, annuity, or life insurance payable to the trustee, and exercise rights thereunder, including the right to indemnification for expenses and against liabilities, and take appropriate action to collect proceeds.

17. Hold a security in the name of a nominee or in other form without disclosure of the trust so that title to the security may pass by delivery.

18. Deposit securities in a securities' depository.

19. Insure the property of the trust against damage or loss and insure the trustee against liability with respect to third persons.

20. Borrow money for any trust purpose to be repaid from trust property.

21. Pay or contest any claim; settle a claim by or against the trust by compromise, arbitration, or otherwise; and release, in whole or in part, a claim belonging to the trust.

22. Pay taxes, assessments, reasonable compensation of the trustee and of employees and agents of the trust, and other expenses incurred in the collection, care, administration, and protection of the trust.

23. Make loans out of trust property to a beneficiary on terms and conditions the trustee considers to be fair and reasonable under the circumstances, and guarantee loans to the beneficiary by encumbrances on trust property.

24. Pay an amount distributable to a beneficiary, whether or not the beneficiary is under a legal disability, by paying the amount to the beneficiary or by paying the amount to another person for the use or benefit of the beneficiary.

25. Upon distribution of trust property or the division or termination of a trust, make distribution in divided or undivided interests, allocate particular assets in proportionate or disproportionate shares, value the trust property for those purposes, and adjust for resulting differences in valuation.

26. Employ accountants, attorneys, investment advisors, appraisers, or other persons, even if they are associated or affiliated with the trustee, to advise or assist the trustee in the performance of administrative duties.

27. With respect to any actual or potential violation of any environmental law affecting property held directly or indirectly by the trustee, a trustee may do the following:

a. Inspect or investigate property the trustee holds or has been asked to hold or property owned or operated by an organization in which the trustee holds an interest in or has been asked to hold an interest in, and expend trust funds therefore, for the purpose of determining any potential environmental law violations with respect to the property.

b. Take action to prevent, abate, or otherwise remedy any actual or potential violation of any environmental law affecting property held directly or indirectly by the trustee, whether taken before or after the assertion of a claim or the initiation of governmental enforcement.

c. Decline to accept property into trust or disclaim any power with respect to property that is or may be burdened with liability for violation of any environmental law.

d. Negotiate claims against the trust which may be asserted for an alleged violation of environmental law.

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e. Pay the expense of any inspection, review, abatement, or remedial action to comply with environmental law.

28. Withhold funds from distribution for the purpose of maintaining a reserve for any valid business purpose, or as a depletion reserve, if, in the trustee's discretion, the failure to do so would unfairly, and materially, reduce the value of the interest of the remainder.

29. Execute and deliver instruments that are useful to accomplish or facilitate the exercise of the trustee's powers.

30. Prosecute or defend an action, claim, or proceeding in order to protect trust property.

31. Resolve a dispute concerning the interpretation of the trust or its administration by mediation, arbitration, or other procedure for alternative dispute resolution.

32. Upon termination of the trust, exercise the powers necessary to conclude the administration of the trust and distribute the trust property to the person or persons entitled to the trust property.

33. Exercise all rights and powers granted to a trustee under chapter 638.

99 Acts, ch 125, §72, 109
C2001, §633.4402
2002 Acts, ch 1107, §14, 15; 2005 Acts, ch 38, §54
CS2005, §633A.4402
2017 Acts, ch 79, §2; 2022 Acts, ch 1084, §3
Referred to in §633.750, 633A.4809

633A.4403 Trustee-written request and third-party protection.

1. A trustee under this chapter may present a written request to any person for the purpose of obtaining information needed to perform the trustee's duties or information regarding any of the following property:

a. Owned by the trust for which the trustee is acting as fiduciary.

b. To which a living or deceased settlor is entitled.

c. Owned by the deceased settlor at the time of death, including information about property of a deceased settlor that has passed or will pass by beneficiary designation or joint tenancy ownership.

2. The written request must include a certification of trust that complies with section 633A.4604. A person to whom a request is presented under this section may require that the trustee presenting the request provide proof of the trustee's identity.

3. A person who in good faith provides the property or information a trustee requests under this section, after taking reasonable steps to verify the identity of the trustee and who has no knowledge that the representations contained in the request are incorrect, shall not be liable to any person for so acting and may assume without inquiry the existence of the facts contained in the request. The period of time to verify the trustee's authority shall not exceed ten business days from the date the person received the request. Any right or title acquired from the trustee in consideration of the provision of property or information under this section is not invalid in consequence of a misapplication by the trustee. A transaction, and a lien created by a transaction, entered into by the trustee and a person acting in reliance upon a request under this section is enforceable against the assets for which the trustee has responsibility.

4. If a person refuses to provide the requested property or information within ten business days after receiving a request under this section, the trustee may bring an action to recover the property or information or compel its delivery against the person to whom the trustee presented the written request. An action brought under this section must be brought within one year after the date of the act or failure to act. If the court finds that the person acted unreasonably in failing to deliver the property or information as requested in the written request, the court may award any or all of the following to the trustee:

a. Damages sustained by the trust or by a living or deceased settlor's estate.

b. Costs of the action.

c. A penalty in an amount determined by the court, but not less than five hundred dollars or more than ten thousand dollars.

d. Reasonable attorney fees, as determined by the court, based on the value of the time

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reasonably expended by the attorney and not by the amount of the recovery on behalf of the trustee.

5. This section does not limit or change the right of beneficiaries, heirs, or creditors of a living or deceased settlor to estate or trust property to which they are otherwise entitled.

2023 Acts, ch 124, §7, 9

Section applies to estates, trusts, and conservatorships in existence on or after July 1, 2023, that were opened or created before, on, or after July 1, 2023; 2023 Acts, ch 124, §9

PART 5

LIABILITY OF TRUSTEES TO BENEFICIARIES

633A.4501 Violations of duties — breach of trust.

1. A violation by a trustee of a duty the trustee owes a beneficiary is a breach of trust.

2. The remedies of a beneficiary for breach of trust are exclusively equitable and any action shall be brought in a court of equity.

99 Acts, ch 125, §73, 109
C2001, §633.4501
2005 Acts, ch 38, §54
CS2005, §633A.4501

633A.4502 Breach of trust — actions.

1. Except as provided in section 633A.4213, to remedy a breach of trust which has occurred or may occur, a beneficiary or cotrustee of the trust may request the court to do any of the following:

a. Compel the trustee to perform the trustee's duties.

b. Enjoin the trustee from committing a breach of trust.

c. Compel the trustee to redress a breach of trust by payment of money or otherwise.

d. Appoint a receiver or temporary trustee to take possession of the trust property and administer the trust.

e. Remove the trustee.

f. Reduce or deny compensation to the trustee.

g. Subject to section 633A.4603, nullify an act of the trustee, impose an equitable lien or a constructive trust on trust property, or trace trust property wrongfully disposed of and recover the property or its proceeds.

h. Order any other appropriate relief.

2. The exception created in subsection 1 of this section does not apply to any trust created prior to July 1, 2002.

99 Acts, ch 125, §74, 109
C2001, §633.4502
2002 Acts, ch 1107, §16; 2005 Acts, ch 38, §54, 55
CS2005, §633A.4502
2009 Acts, ch 52, §10; 2010 Acts, ch 1137, §8

633A.4503 Breach of trust — liability.

A beneficiary may charge a trustee who commits a breach of trust with the amount required to restore the value of the trust property and trust distributions to what they would have been had the breach not occurred, or, if greater, the amount of profit lost by reason of the breach.

99 Acts, ch 125, §75, 109
C2001, §633.4503
2005 Acts, ch 38, §54
CS2005, §633A.4503

633A.4504 Limitation of action against trustee.

1. Unless previously barred by adjudication, consent, or other limitation, a claim against

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a trustee for breach of trust is barred as to a beneficiary who has received an accounting pursuant to section 633A.4213 or other report that adequately discloses the existence of the claim, unless a proceeding to assert the claim is commenced within one year after the receipt of the accounting or report. An accounting or report adequately discloses the existence of a claim if it provides sufficient information so that the beneficiary knows of the claim or reasonably should have inquired into its existence.

2. For the purpose of subsection 1, a beneficiary is deemed to have received an accounting or report in the following instances:

a. In the case of an adult who is reasonably capable of understanding the accounting or report, if it is received by the adult personally.

b. In the case of an adult who is not reasonably capable of understanding the accounting or report, if it is received by the adult's legal representative, including a guardian ad litem or other person appointed for this purpose.

c. In the case of a minor, if it is received by the minor's guardian or conservator or, if the minor does not have a guardian or conservator, if it is received by a parent of the minor who does not have a conflict of interest.

3. Any claim for breach of trust against a trustee who has presented an accounting or report to a beneficiary more than one year prior to July 1, 2000, shall be time barred unless some exception stated in this section applies which tolls the statute. Any claim arising under this section within one year of July 1, 2000, shall be time barred after one year unless an exception applies to toll the statute.

4. For the purposes of this section, *"report"* means a document including but not limited to a letter, delivered by or on behalf of the trustee to a beneficiary of the trust.

99 Acts, ch 125, §76, 109; 2000 Acts, ch 1150, §25
C2001, §633.4504
2005 Acts, ch 38, §54
CS2005, §633A.4504
2012 Acts, ch 1123, §28; 2013 Acts, ch 33, §7, 9
Referred to in §633A.4213, 633A.5108

633A.4505 Exculpation of trustee.

A provision in the terms of the trust relieving a trustee of liability for breach of trust is unenforceable to the extent that it does either of the following:

1. Relieves a trustee of liability for breach of trust committed intentionally, with gross negligence, in bad faith, or with reckless indifference to the interest of the beneficiary, or for any profit derived by the trustee from the breach.

2. Was inserted as the result of an abuse by the trustee of a fiduciary or confidential relationship to the settlor.

99 Acts, ch 125, §77, 109
C2001, §633.4505
2005 Acts, ch 38, §54
CS2005, §633A.4505

633A.4506 Beneficiary's consent, release, or affirmance — nonliability of trustee.

1. A beneficiary shall not hold a trustee liable for a breach of trust if the beneficiary does any of the following:

a. Consents to the conduct constituting the breach.

b. Releases the trustee from liability for the breach.

c. Affirms the transaction constituting the breach.

2. A beneficiary may hold a trustee liable for breach of trust despite a consent, release, or affirmance by the beneficiary if, at the time of the consent, release, or affirmance, all of the following applied:

a. The beneficiary did not know of the beneficiary's rights.

b. The beneficiary did not know the material facts known to the trustee or which the trustee should have known.

c. The trustee did not reasonably believe that the beneficiary knew the beneficiary's rights

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and that the beneficiary knew material facts known to the trustee or which the trustee should have known.

3. A beneficiary may hold a trustee liable for breach of a trust despite a consent, release, or affirmance by the beneficiary if the consent, release, or affirmance was induced by improper conduct of the trustee.

99 Acts, ch 125, §78, 109
C2001, §633.4506
2002 Acts, ch 1107, §17, 18; 2003 Acts, ch 95, §17; 2005 Acts, ch 38, §54
CS2005, §633A.4506
Referred to in §633A.4202

633A.4507 Attorney fees and costs.

In a judicial proceeding involving the administration of a trust, the court, as justice and equity may require, may award costs and expenses, including reasonable attorney fees, to any party, to be paid by another party or from the trust that is the subject of the controversy.

2004 Acts, ch 1015, §29
C2005, §633.4507
2005 Acts, ch 38, §54
CS2005, §633A.4507

PART 6

RIGHTS OF THIRD PARTIES

633A.4601 Personal liability — limitations.

1. Except as otherwise provided in the contract or in this part, a trustee is not personally liable on a contract properly entered into in the trustee's fiduciary capacity in the course of administration of the trust unless the trustee fails to reveal the representative capacity or identify the trust in the contract.

2. A trustee is personally liable for obligations arising from ownership or control of trust property, including liability for environmental law violations, and for torts committed in the course of administering a trust only if the trustee is personally at fault.

3. A claim based on a contract entered into by a trustee in the trustee's representative capacity, on an obligation arising from ownership or control of trust property, or on a tort committed in the course of administering a trust may be asserted against the trust by proceeding against the trustee in the trustee's representative capacity, whether or not the trustee is personally liable on the claim.

4. A question of liability as between the trust and the trustee personally may be determined in a proceeding brought under section 633A.6202.

99 Acts, ch 125, §79, 109
C2001, §633.4601
2002 Acts, ch 1107, §19; 2005 Acts, ch 38, §54, 55
CS2005, §633A.4601

633A.4602 Dissenting cotrustees.

1. A cotrustee who does not join in exercising a power is not liable to a third party for the consequences of the exercise of the power.

2. A dissenting cotrustee who joins in an action at the direction of the majority cotrustees is not liable to a third party for the action if the dissenting cotrustee expresses the dissent in writing to any other cotrustee at or before the action is taken.

3. This section does not excuse a cotrustee from liability for failure to discharge a cotrustee's duties as a trustee.

99 Acts, ch 125, §80, 109
C2001, §633.4602
2005 Acts, ch 38, §54
CS2005, §633A.4602

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633A.4603 Obligations of third parties.

1. With respect to a third party dealing with a trustee or assisting a trustee in the conduct of a transaction, if the third party acts in good faith and for a valuable consideration and without knowledge that the trustee is exceeding the trustee's powers or is improperly exercising them, the following apply:

a. A third party is not bound to inquire as to whether a trustee has power to act or is properly exercising a power and may assume without inquiry the existence of a trust power and its proper exercise.

b. A third party is fully protected in dealing with or assisting a trustee, as if the trustee has and is properly exercising the power the trustee purports to exercise.

2. A third party who acts in good faith is not bound to ensure the proper application of trust property paid or delivered to the trustee.

3. If a third party acting in good faith and for a valuable consideration enters into a transaction with a former trustee without knowledge that the person is no longer a trustee, the third party is fully protected as if the former trustee were still a trustee.

99 Acts, ch 125, §81, 109
C2001, §633.4603
2005 Acts, ch 38, §54
CS2005, §633A.4603
Referred to in §633A.4502

633A.4604 Certification of trust.

1. A trustee may present a certification of trust to any person in lieu of providing a copy of the trust instrument to establish the trust's existence or terms or the trustee's authority.

2. The certification of trust must do all of the following:

a. State the names of all the currently acting trustees.

b. If there is more than one currently acting trustee, state whether the trustees may act individually or must act by majority decision or must act by unanimous decision.

c. State that the trust has not been revoked, modified, or amended in any manner that would cause the representations in the certification of trust to be incorrect.

d. Be signed by a currently acting trustee or the attorney of an acting trustee.

e. Be dated and certified under penalty of perjury and pursuant to the laws of the state of Iowa that the certification of trust is true and correct or be subscribed and sworn to under penalty of perjury before a notary public as provided in chapter 9B.

3. A certification of trust need not contain the dispositive provisions of the trust which set forth the distribution of the trust estate.

4. A person may require that the trustee offering the certification of trust provide proof of the trustee's identity and copies of those excerpts from the original trust instrument and amendments to the original trust instrument which designate the trustee and confer upon the trustee the power to act in the pending transaction.

5. A person who acts in reliance upon a certification of trust after taking reasonable steps to verify the identity of the trustee and without knowledge that the representations contained in the certification are incorrect is not liable to any person for so acting and may assume without inquiry the existence of the facts contained in the certification. The period of time to verify the identity of the trustee shall not exceed ten business days from the date the person received the certification of trust. Knowledge shall not be inferred solely from the fact that a copy of all or part of the trust instrument is held by the person relying upon the trust certification. A transaction, and a lien created by a transaction, entered into by the trustee and a person acting in reliance upon a certification of trust is enforceable against the trust assets.

6. A person making a demand for the trust instrument in addition to a certification of trust or excerpts shall be liable for damages, including attorney fees, incurred as a result of the refusal to accept the certification of trust or excerpts in lieu of the trust instrument if the court determines that the person acted unreasonably in requesting the trust instrument.

7. *a.* If a trustee has provided a certification of trust and a person refuses to pay, deliver, or transfer any property owed to or owned by the trust within a reasonable time thereafter,

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the trustee may bring an action under this subsection and the court may award any or all of the following to the trustee:

(1) Any damages sustained by the trust.

(2) The costs of the action.

(3) A penalty in an amount of not less than five hundred dollars and not more than ten thousand dollars.

(4) Reasonable attorney fees, based on the value of the time reasonably expended by the attorney and not on the amount of the recovery on behalf of the trustee.

b. An action shall not be brought under this subsection more than one year after the date of the occurrence of the alleged violation.

8. This section does not limit the rights of beneficiaries to obtain copies of the trust instrument or rights of others to obtain copies in a proceeding concerning the trust.

99 Acts, ch 125, §82, 109
C2001, §633.4604
2005 Acts, ch 38, §54
CS2005, §633A.4604
2010 Acts, ch 1137, §9; 2012 Acts, ch 1050, §59, 60; 2019 Acts, ch 34, §1, 2; 2021 Acts, ch 5, §1, 2
Referred to in §524.810A, 633A.4403, 638.12, 638.13

633A.4605 Liability for wrongful taking, concealing, or disposing of trust property.

A person who, in bad faith, wrongfully takes, conceals, or disposes of trust property is liable for twice the value of the property, attorney fees, court costs, and where consistent with existing law, punitive damages, recoverable in an action by a trustee for the benefit of the trust.

99 Acts, ch 125, §83, 109
C2001, §633.4605
2005 Acts, ch 38, §54
CS2005, §633A.4605

633A.4606 Interest as general partner.

1. Except as otherwise provided in subsection 3 or unless personal liability is imposed in the contract, a trustee who holds an interest as a general partner in a general or limited partnership is not personally liable on a contract entered into by the partnership after the trust's acquisition of the interest if the fiduciary capacity was disclosed in the contract or in a statement previously filed pursuant to section 486A.303 or 488.201.

2. Except as otherwise provided in subsection 3, a trustee who holds an interest as a general partner is not personally liable for torts committed by the partnership or for obligations arising from ownership or control of the interest unless the trustee is personally at fault.

3. The immunity provided by this section does not apply if an interest in the partnership is held by the trustee in a capacity other than that of trustee or is held by the trustee's spouse or one or more of the trustee's descendants, siblings, or parents, or the spouse of any of the trustee's descendants, siblings, or parents.

4. If the trustee of a revocable trust holds an interest as a general partner, the settlor shall be personally liable for contracts and other obligations of the partnership as if the settlor were a general partner.

2012 Acts, ch 1123, §29, 32

PART 7

TRUST CONSTRUCTION

633A.4701 Survivorship with respect to future interests under terms of trust — substitute takers.

1. Unless otherwise specifically stated by the terms of the trust, the interest of each

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beneficiary is contingent on the beneficiary surviving until the date on which the beneficiary becomes entitled to possession or enjoyment of the beneficiary's interest in the trust.

2. If a beneficiary dies prior to becoming entitled to possession or enjoyment of the beneficiary's interest and the terms of the trust provide for an alternate beneficiary who is living on the date the interest becomes possessory, the alternate beneficiary succeeds to the interest in accordance with the terms of the trust.

3. If a beneficiary dies prior to becoming entitled to possession or enjoyment of the beneficiary's interest and no alternate beneficiary is named in the trust, and the beneficiary has issue who are living on the date the interest becomes possessory, the issue of the beneficiary who are living on such date shall receive the interest of the beneficiary.

4. If both a beneficiary of an interest and any alternate beneficiary of that interest named in the trust die prior to the interest becoming possessory, and the beneficiary has no issue who are living on the date the interest becomes possessory, the issue of the alternate beneficiary who are living on such date shall take the interest of the beneficiary.

5. If both the beneficiary of an interest and any alternate beneficiary of that interest named in the trust die prior to the interest becoming possessory, and neither the beneficiary nor the alternate beneficiary has issue who are living on the date the interest becomes possessory, the beneficiary's interest shall be distributed to the takers of the settlor's residuary estate, or, if the trust is the sole taker of the settlor's residuary estate, in accordance with section 633A.2106.

6. If both the beneficiary of an interest and any alternate beneficiary of that interest named in the trust die prior to the interest becoming possessory, and both the beneficiary and the alternate beneficiary have issue who are living on the date the interest becomes possessory, the issue of the beneficiary succeed to the interest of the beneficiary. The issue of the alternate beneficiary shall not succeed to any part of the interest of the beneficiary.

7. For the purposes of this section, persons appointed under a power of appointment shall be considered beneficiaries under this section and takers in default of appointment designated by the instrument creating the power of appointment shall be considered alternate beneficiaries under this section.

8. Subsections 2, 3, 4, 5, 6, and 7 do not apply to any interest subject to an express condition of survivorship imposed by the terms of the trust. For the purposes of this section, words of survivorship including, but not limited to, "my surviving children", "if a person survives" a named period, and terms of like import, shall be construed to create an express condition of survivorship. Words of survivorship include language requiring survival to the distribution date or to any earlier or unspecified time, whether those words are expressed in condition precedent, condition subsequent, or any other form.

9. For the purposes of this section, a term of the trust requiring that a beneficiary survive a person whose death does not make the beneficiary entitled to possession or enjoyment of the beneficiary's interest in the trust shall not be considered as "otherwise specifically stated by the terms of the trust" nor as an "express condition of survivorship imposed by the terms of the trust".

10. If an interest to which this section applies is given to a class, other than a class described as "issue", "descendants", "heirs of the body", "heirs", "next of kin", "relatives", "family", or a class described by language of similar import, the members of the class who are living on the date on which the class becomes entitled to possession or enjoyment of the interest shall be considered as alternate beneficiaries under this section. However, neither the residuary beneficiaries under the settlor's will nor the settlor's heirs shall be considered as alternate beneficiaries for the purposes of this section.

99 Acts, ch 125, §84, 109
C2001, §633.4701
2003 Acts, ch 95, §18, 19; 2005 Acts, ch 38, §42, 43, 54, 55
CS2005, §633A.4701

633A.4702 Discretionary language prevails over other standard.

In the absence of clear and convincing evidence to the contrary, language in a governing instrument granting a trustee discretion to make or withhold a distribution shall prevail over

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any language in the governing instrument indicating that the beneficiary may have a legally enforceable right to distributions or indicating a standard for payments or distributions.

2004 Acts, ch 1015, §30
C2005, §633.4702
2005 Acts, ch 38, §54
CS2005, §633A.4702

633A.4703 General order for abatement.

Except as otherwise provided by the governing instrument, where necessary to abate shares of the beneficiaries of a trust for the payment of debts and charges, federal estate taxes, bequests, the share of the surviving spouse who takes an elective share, and the shares of children born or adopted after the execution of the trust, abatement shall occur in the following order:

1. Shares allocated to the residuary beneficiaries of the trust shall be abated first, on a pro rata basis.
2. Shares defined by a dollar amount, on a pro rata basis.
3. Shares described as specific items of property whether tangible or intangible shall be abated last, and such abatement shall be done as equitably by the trustee among the various beneficiaries as circumstances reasonably allow.
4. Notwithstanding subsections 1, 2, or 3, a disposition in favor of the settlor's surviving spouse who does not take an elective share shall be abated last.

2005 Acts, ch 38, §44; 2007 Acts, ch 134, §19, 20, 28; 2008 Acts, ch 1119, §31; 2010 Acts, ch 1138, §60; 2014 Acts, ch 1076, §24; 2021 Acts, ch 5, §3

633A.4704 Simultaneous death.

If the determination of the successor of a beneficial interest in a trust is dependent upon whether a beneficiary has survived the death of a settlor, of another beneficiary, or of any other person, the uniform simultaneous death Act, sections 633.523 through 633.528, shall govern the determination of who shall be considered to have died first.

2005 Acts, ch 38, §45

633A.4705 Principal and income.

Chapter 637 shall apply to trusts subject to this chapter.

2005 Acts, ch 38, §46

633A.4706 Small distributions to minors — payment.

When a minor becomes entitled under the terms of the trust to a beneficial interest in the trust upon the distribution of the trust fund and the value of the interest does not exceed the sum of twenty-five thousand dollars, the trustee may pay the interest to a custodian under any uniform transfers to minors Act. Receipt by the custodian shall have the same force and effect as though payment had been made to a duly appointed and qualified conservator for the minor.

2005 Acts, ch 38, §47
Uniform transfers to minors, see chapter 565B

633A.4707 Person causing death.

A person who intentionally and unjustifiably causes or procures the death of another shall not receive any property, benefit, or other interest as a beneficiary of a trust by reason of such death. Any property, benefit, or other interest that such person would have received because of such death shall be distributed as if the person causing the death died before the person whose death was intentionally and unjustifiably caused or procured.

2006 Acts, ch 1104, §14, 16

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PART 8

TRUST DIRECTORS, TRUST PROTECTORS, AND EXCLUDED FIDUCIARIES

633A.4801 Governing instrument may provide trust director or trust protector with powers and immunities of trustee.

Any governing instrument providing for a trust director or trust protector may also provide such trust director or trust protector with some, none, or all of the rights, powers, privileges, benefits, immunities, or authorities available to a trustee under the law of this state or under the governing instrument. Unless the governing instrument provides otherwise, a trust director or trust protector has no greater liability to any person than would a trustee holding or benefiting from the rights, powers, privileges, benefits, immunities, or authority provided or allowed by the governing instrument to such trust director or trust protector.

2020 Acts, ch 1076, §7
Referred to in §633A.4207

633A.4802 Liability limits of excluded fiduciary.

1. An excluded fiduciary is not liable, either individually or as a fiduciary, for any of the following:

a. Any loss that results from compliance with a direction of the trust director, including any loss from the trust director breaching fiduciary responsibilities or acting beyond the trust director's scope of authority.

b. Any loss that results from a failure to take any action proposed by an excluded fiduciary that requires prior authorization of the trust director if that excluded fiduciary timely sought but failed to obtain that authorization.

c. Any loss that results from any action or inaction of the excluded fiduciary, except for gross negligence or willful misconduct, when the excluded fiduciary is required, pursuant to the trust agreement or any other reason, to assume the role of trust director or trust protector.

2. An excluded fiduciary is relieved of any obligation to review or evaluate any direction from a trust director or to perform investment or suitability reviews, inquiries, or investigations or to make recommendations or evaluations with respect to any investments to the extent the trust director had authority to direct the acquisition, disposition, or retention of the investment. If the excluded fiduciary offers recommendations or evaluations with respect to any investments to the trust director, trust protector, or any investment advisor selected by the investment trust director, such action may not be deemed to constitute an undertaking by the excluded fiduciary to monitor or otherwise participate in actions within the scope of the trust director's authority or to constitute any duty to do so.

3. An excluded fiduciary is relieved of any duty to communicate with, warn, or apprise any beneficiary or third party concerning instances in which the excluded fiduciary may have exercised the excluded fiduciary's own discretion in a manner different from the manner directed by the trust director or trust protector.

4. Absent contrary provisions in the governing instrument, the actions of the excluded fiduciary pertaining to matters within the scope of authority of the trust director or trust protector shall be deemed to be administrative actions taken by the excluded fiduciary solely to allow the excluded fiduciary to perform those duties assigned to the excluded fiduciary under the governing instrument, and such administrative actions shall not be deemed to constitute an undertaking by the excluded fiduciary to monitor, participate, or otherwise take on any fiduciary responsibility for actions within the scope of authority of the trust director or trust protector. For purposes of this subsection,"*administrative actions*" shall include communications with the trust director or others and carrying out, recording, or reporting actions taken at the trust director's direction.

5. In an action against an excluded fiduciary pursuant to the provisions of this section, the burden to prove the matter by clear and convincing evidence is on the person seeking to hold the excluded fiduciary liable.

2020 Acts, ch 1076, §8
Referred to in §633A.4207

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633A.4803 Death of settlor.

An excluded fiduciary may continue to follow the direction of the trust director upon the incapacity or death of the settlor if the instrument so allows.

2020 Acts, ch 1076, §9
Referred to in §633A.4207

633A.4804 Excluded fiduciary's liability for loss if trust protector appointed.

If an instrument appoints a trust protector, the excluded fiduciary is not liable for any loss resulting from any action taken upon the trust protector's direction.

2020 Acts, ch 1076, §10
Referred to in §633A.4207

633A.4805 Powers of trust protector.

1. The powers of a trust protector are as provided in the governing instrument and may be exercised or not exercised, in the best interests of the beneficiaries as a class, in the sole and absolute discretion of the trust protector and are binding on all other persons. The powers may include the following:

a. Modify or amend the trust instrument to achieve favorable tax status or respond to changes in the Internal Revenue Code, state law, or the rulings and regulations thereunder.

b. Increase or decrease the interests of any beneficiaries to the trust.

c. Modify the terms of any power of appointment granted by the trust. However, a modification or amendment shall not grant a beneficial interest to any individual or class of individuals not specifically provided for under the trust instrument.

d. Remove and appoint a trustee, trust director, or other person designated in the governing trust instrument.

e. Terminate the trust.

f. Veto or direct trust distributions.

g. Change situs of the trust.

h. Change the governing law of the trust.

i. Appoint a successor trust protector.

j. Interpret terms of the trust instrument at the request of the trustee.

k. Advise the trustee on matters concerning a beneficiary.

l. Amend or modify the trust instrument to take advantage of laws governing restraints on alienation, distribution of trust property, or the administration of the trust.

m. Provide direction regarding notification of qualified beneficiaries pursuant to section 633A.4213.

n. Add to the trust an individual beneficiary or beneficiaries from a class of individuals identified in the governing instrument.

o. Add to the trust a charitable beneficiary or beneficiaries from a class of charities identified in the trust instrument.

p. Provide other powers in the governing instrument.

2. The powers referenced in subsection 1, paragraphs *"e"*,*"f"*, and *"l"*, may be granted notwithstanding the provisions of sections 633A.2201 through 633A.2208.

2020 Acts, ch 1076, §11
Referred to in §633A.4207, 633A.4807

633A.4806 Submission to court jurisdiction — effect on trust director or trust protector.

By accepting an appointment to serve as a trust director or trust protector of a trust that is subject to the laws of this state, the trust director or the trust protector submits to the jurisdiction of the courts of Iowa even if investment advisory agreements or other related agreements provide otherwise. The trust director or trust protector may be made a party to any action or proceeding if a decision or action of the trust director or trust protector affects a trust that is subject to the laws of this state.

2020 Acts, ch 1076, §12
Referred to in §633A.4207

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633A.4807 Powers of trust protector incorporated by reference in will or trust instrument.

Any of the powers enumerated in section 633A.4805, as they exist at the time of the signing of a will by a testator or at the time of the signing of a trust instrument by a settlor, may be, by appropriate reference made thereto, incorporated in whole or in part in such will or trust instrument, by a clearly expressed intention of a testator of a will or settlor of a trust instrument.

2020 Acts, ch 1076, §13
Referred to in §633A.4207

633A.4808 Investment trust director or distribution trust director provided for in trust instrument.

A trust instrument governed by the laws of this state may provide for a person to act as an investment trust director or a distribution trust director with regard to investment decisions or discretionary distributions, respectively. Unless otherwise provided by the terms of the governing instrument, a person may simultaneously serve as a trust director and a trust protector.

2020 Acts, ch 1076, §14
Referred to in §633A.4207

633A.4809 Powers of investment trust director.

The powers of an investment trust director shall be provided in the trust instrument and may be exercised or not exercised, in the best interests of the beneficiaries as a class, in the sole and absolute discretion of the investment trust director and are binding on any other person and any other interested party, fiduciary, and excluded fiduciary. Unless the terms of the governing instrument provide otherwise, the investment trust director has the power to do all of the following:

1. Direct the trustee with respect to the retention, purchase, sale, exchange, tender, or other transaction affecting the ownership thereof or rights therein of trust investments. These powers include the pledge or encumbrance of trust property, lending of trust assets, either secured or unsecured, at terms defined by the investment trust director, to any party including beneficiaries of the trust, and the investment and reinvestment of principal and income of the trust.
2. Vote proxies for securities held in trust.
3. Select one or more investment directors, managers, or counselors, including the trustee, and delegate to them any of the investment trust director's powers.
4. Direct the trustee with respect to any additional powers over investment and management of trust assets provided in the governing instrument.
5. Direct the trustee as to the value of nonpublicly traded trust investments.
6. Direct the trustee as to any investment or management power referenced in sections 633A.4401 and 633A.4402.

2020 Acts, ch 1076, §15
Referred to in §633A.1102, 633A.4207

633A.4810 Powers of distribution trust director.

The powers of a distribution trust director over any discretionary distributions of income or principal, including distributions pursuant to an ascertainable standard or other criteria and appointments pursuant to section 633A.4215, shall be provided in the trust instrument and may be exercised or not exercised, in the best interests of the beneficiaries as a class, in the sole and absolute discretion of the distribution trust director and are binding on any other person and any other interested party, fiduciary, and excluded fiduciary. Unless the terms of the document provide otherwise, the distribution trust director shall direct the trustee with regard to all discretionary distributions to beneficiaries and may direct appointments pursuant to section 633A.4215. The distribution trust director may also provide direction regarding notification of qualified beneficiaries pursuant to section 633A.4213.

2020 Acts, ch 1076, §16
Referred to in §633A.1102, 633A.4207

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SUBCHAPTER V

CHARITABLE TRUSTS

633A.5101 Charitable purposes.

1. A charitable trust may be created for the relief of poverty, the advancement of education or religion, the promotion of health, or any other purpose the accomplishment of which is beneficial to the community.

2. If the terms of the trust do not indicate a particular charitable purpose or beneficiaries, the trustee may select one or more charitable purposes or beneficiaries.

99 Acts, ch 125, §85, 109
C2001, §633.5101
2005 Acts, ch 38, §54
CS2005, §633A.5101
Referred to in §633A.1102

633A.5102 Application of cy pres.

Unless the terms of the trust provide to the contrary the following apply:

1. A charitable trust does not fail, in whole or in part, if a particular purpose for which the trust was created becomes impracticable, unlawful, or impossible to fulfill.

2. If a particular charitable purpose for which a trust was created becomes impracticable, unlawful, or impossible to fulfill, the court may modify the terms of the trust or direct that the property of the trust be distributed in whole or in part in a manner best meeting the settlor's general charitable purposes. If an administrative provision of a charitable trust becomes impracticable, unlawful, impossible to fulfill, or otherwise impairs the effective administration of the trust, the court may modify the provision.

99 Acts, ch 125, §86, 109
C2001, §633.5102
2005 Acts, ch 38, §54
CS2005, §633A.5102

633A.5103 Trust with uneconomically low value.

1. On petition by a trustee or other interested person, if the court determines that the value of the trust property is insufficient to justify the cost of administration involved, the court may appoint a new trustee or may modify or terminate the charitable trust.

2. Upon termination of a trust under this section, the court shall distribute the trust property in a manner consistent with the settlor's charitable purposes.

99 Acts, ch 125, §87, 109
C2001, §633.5103
2005 Acts, ch 38, §54
CS2005, §633A.5103

633A.5104 Interested persons — proceedings.

The settlor, or if the settlor is deceased or not competent, the settlor's designee named or designated pursuant to section 633A.5106, the trustee, the attorney general, and any charitable entity or other person with a special interest in the trust shall be interested persons in a proceeding involving a charitable trust.

99 Acts, ch 125, §88, 109
C2001, §633.5104
2005 Acts, ch 38, §54
CS2005, §633A.5104
2008 Acts, ch 1119, §32, 39

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633A.5105 Charitable trusts.

In addition to the provisions of this chapter, a charitable trust that is a private foundation shall be governed by the provisions of chapter 634.

2005 Acts, ch 38, §48

633A.5106 Settlor — enforcement of charitable trust — designation.

A settlor may maintain an action to enforce a charitable trust established by the settlor and may designate, either in the agreement establishing the trust or in a written statement signed by the settlor and delivered to the trustee, a person or persons, by name or by description, whether or not born at the time of such designation, to enforce the charitable trust if the settlor is deceased or not competent.

2008 Acts, ch 1119, §33, 39

Referred to in §633A.5104

633A.5107 Filing requirements.

1. The provisions of this section apply to the following charitable trusts administered in this state with assets in excess of twenty-five thousand dollars:

a. A nonprofit entity as defined in section 501(c)(3) of the Internal Revenue Code, as defined in section 422.3.

b. A charitable remainder trust as defined in section 664(d) of the Internal Revenue Code, as defined in section 422.3.

c. A charitable lead trust as defined in sections 2055(e)(2)(b) and 2522(c)(2)(b) of the Internal Revenue Code, as defined in section 422.3.

2. *a.* Within sixty days from the creation of a charitable trust, as described in subsection 1, the trustee shall register the charitable trust with the attorney general. The trustee shall register the charitable trust on a form provided by the attorney general. The trustee shall also submit a copy of the trust instrument to the attorney general as required by the attorney general.

b. The trustee of a charitable trust, as described in subsection 1, shall annually file a copy of the charitable trust's annual report with the attorney general. The annual report may be the same report submitted to the persons specified in section 633A.4213, the charitable trust's most recent annual federal tax filings, or an annual report completed on a form provided by the attorney general.

c. The attorney general may require that documents be filed electronically, including forms, trust instruments, and reports. In addition, the attorney general may require the use of electronic signatures as defined in section 554D.103.

3. Any document provided to the office of the attorney general in connection with a charitable remainder trust or a charitable lead trust, as described in subsection 1, shall not be considered a public record pursuant to chapter 22. The attorney general shall keep the identities and interest of the noncharitable beneficiaries confidential except to the extent that disclosure is required by a court.

4. The attorney general is authorized to adopt administrative rules in accordance with the provisions of chapter 17A for the administration and enforcement of this chapter.

5. For a charitable trust described in subsection 1, created prior to July 1, 2009, and still in existence, the trustee shall register the trust with and submit a current copy of the trust instrument and financial report to the attorney general not later than one hundred thirty-five days after the close of the trust's next fiscal year following July 1, 2009. The trustee shall comply with the remainder of this section as if the charitable trust were created on or after July 1, 2009.

2009 Acts, ch 35, §1; 2009 Acts, ch 179, §45

633A.5108 Role of the attorney general.

The attorney general may investigate a charitable trust to determine whether the charitable trust is being administered in accordance with law and the terms and purposes of the trust. The attorney general may apply to a district court for such orders that are reasonable and necessary to carry out the terms and purposes of the trust and to ensure the trust is being

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administered in accordance with applicable law. Limitation of action provisions contained in section 633A.4504 apply.

2009 Acts, ch 35, §2

SUBCHAPTER VI

PROCEEDINGS CONCERNING TRUSTS

PART 1

JURISDICTION AND VENUE

633A.6101 Subject matter jurisdiction.

1. The district court sitting in probate has exclusive jurisdiction of proceedings concerning the internal affairs of a trust and of actions and proceedings to determine the existence of a trust, actions and proceedings by or against creditors or debtors of a trust, and other actions and proceedings involving a trust and third persons. Such jurisdiction may be invoked by any interested party at any time.

2. Unless a trust is under continuous court supervision pursuant to section 633.10, subsection 4, the trust shall not be subject to the jurisdiction of the probate court and the court shall not issue letters of appointment.

99 Acts, ch 125, §89, 109
C2001, §633.6101
2002 Acts, ch 1107, §20; 2005 Acts, ch 38, §49, 54
CS2005, §633A.6101
2010 Acts, ch 1137, §10
Referred to in §633.10

633A.6102 Principal place of administration of trust.

1. Unless otherwise designated in the terms of the trust, the principal place of administration of a trust is the usual place where the day-to-day activity of the trust is carried on by the trustee or the trustee's representative who is primarily responsible for the administration of the trust.

2. If the principal place of administration of the trust cannot be determined under subsection 1, it must be determined as follows:

a. If the trust has one trustee, the principal place of administration of the trust is the trustee's residence or usual place of business.

b. If the trust has more than one trustee, the principal place of administration of the trust is the residence or usual place of business of any of the cotrustees as agreed upon by them or, if not, the residence or usual place of business of any of the cotrustees.

99 Acts, ch 125, §90, 109
C2001, §633.6102
2005 Acts, ch 38, §54
CS2005, §633A.6102
Referred to in §633A.3110

633A.6103 Jurisdiction over trustees and beneficiaries.

1. By accepting the trusteeship of a trust having its principal place of administration in this state, the trustee submits personally to the jurisdiction of the court.

2. To the extent of their interests in the trust, all beneficiaries of a trust having its principal place of administration in this state are subject to the jurisdiction of the court.

99 Acts, ch 125, §91, 109
C2001, §633.6103
2005 Acts, ch 38, §54
CS2005, §633A.6103

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633A.6104 County of venue.

1. A proceeding may be commenced in the county in which the trust's principal place of administration is or is to be located and if the trust is created by will, also in the county in which the decedent's estate is administered.

2. If a trust not created by will has no trustee, a proceeding for appointing a trustee shall be commenced in the county in which a beneficiary resides or the trust property, or some portion of the trust property, is located.

3. Except as otherwise provided in subsections 1 and 2, a proceeding shall be commenced in accordance with the rules applicable to civil actions generally.

99 Acts, ch 125, §92, 109
C2001, §633.6104
2005 Acts, ch 38, §54
CS2005, §633A.6104

633A.6105 Transfer of jurisdiction.

1. The court may transfer the place of administration of a trust to or from this state or transfer some or all of the trust property to a trustee in or outside this state if it finds that the transfer of the trust property to a trustee in this or another jurisdiction, or the transfer of the place of administration of a trust to this or another jurisdiction, will promote the best interests of the trust and those interested in it, taking into account the economical and convenient administration of the trust and the views of the qualified beneficiaries.

2. A new trustee to whom the trust property is to be transferred shall be qualified, willing, and able to administer the trust or trust property under the terms of the trust.

3. If the trust or any portion of the trust property is transferred to another jurisdiction and if approval of the transfer by the other court is required under the law of the other jurisdiction, the proper court in the other jurisdiction must have approved the transfer in order for the transfer to be effective.

4. If a transfer is ordered, the court may direct the manner of transfer and impose terms and conditions as may be just, including a requirement for the substitution of a successor trustee in any pending litigation in this state. A delivery of property in accordance with the order of the court is a full discharge of the trustee with respect to all property specified in the order.

5. If the court grants a petition to transfer a trust or trust property to this state, the court shall require the trustee to give a bond, if necessary under the law of the other jurisdiction or of this state, and may require bond as provided in section 633A.4102.

6. Without precluding the right of the court to order, approve, or disapprove a transfer, the trustee, in furtherance of the trustee's duty to administer the trust at a place appropriate to its purpose or administration, and the interests of the beneficiaries, may transfer the trust's principal place of administration to another state or to a jurisdiction outside the United States.

99 Acts, ch 125, §93, 109
C2001, §633.6105
2002 Acts, ch 1107, §21; 2003 Acts, ch 95, §20; 2005 Acts, ch 38, §54, 55
CS2005, §633A.6105

PART 2

JUDICIAL PROCEEDINGS
CONCERNING TRUSTS

633A.6201 Judicial intervention intermittent.

The administration of trusts shall proceed expeditiously and free of judicial intervention, except to the extent the jurisdiction of the court is invoked by interested parties or otherwise exercised as provided by law.

99 Acts, ch 125, §94, 109
C2001, §633.6201

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2005 Acts, ch 38, §54
CS2005, §633A.6201

633A.6202 Petitions — purposes of proceedings.

1. Except as otherwise provided in section 633A.3103, a trustee, beneficiary, or other interested party of a trust may petition the court concerning the internal affairs of the trust or to determine the existence of the trust.

2. Proceedings concerning the internal affairs of a trust include proceedings to do any of the following:

a. Construe and determine the terms of a trust.

b. Determine the existence of any immunity, power, privilege, duty, or right.

c. Determine the validity of a trust provision.

d. Ascertain beneficiaries and determine to whom property shall pass or be delivered upon final or partial termination of the trust.

e. Settle accounts and pass upon the acts of any trustee, trust director, or trust protector, including the exercise of discretionary powers.

f. Instruct any trustee, trust director, or trust protector.

g. Compel the trustee to report information about the trust or account to the beneficiary.

h. Grant powers to or modify powers of any trustee, trust director, or trust protector.

i. Fix or allow payment of the compensation of the trustee or any trust director or trust protector or review the reasonableness of the compensation.

j. Appoint or remove any trustee, trust director, or trust protector.

k. Accept the resignation of any trustee, trust director, or trust protector.

l. Compel redress of a breach of trust by any available remedy.

m. Approve or direct the modification or termination of the trust.

n. Approve or direct the combination or division of trusts.

o. Authorize or direct transfer of a trust or trust property to or from another jurisdiction.

p. Determine liability of a trust for debts or the expenses of administration of the estate of a deceased settlor.

q. Determine any other issue that will aid in the administration of the trust.

99 Acts, ch 125, §95, 109
C2001, §633.6202
2002 Acts, ch 1119, §191; 2005 Acts, ch 38, §54, 55
CS2005, §633A.6202
2024 Acts, ch 1081, §2, 3
Referred to in §633A.4106, 633A.4107, 633A.4601, 633A.6203, 633A.6301

633A.6203 Nature of proceedings — orders in trust code — notice.

1. Actions to set aside or contest trusts and for the establishment of contested claims shall be triable in probate as law actions, and all other matters triable under the trust code shall be tried by the probate court as a proceeding in equity.

2. All orders and decrees of the court sitting in probate are final decrees as to the parties having notice and those who have appeared without notice.

3. All orders without notice or appearance are reviewable by the court at any time prior to the entry of an order closing or terminating court jurisdiction.

4. Other than notice required under the rules of civil procedure, notice and hearing of actions under section 633A.6202 shall be governed by section 633A.1109.

2026 Acts, ch 1074, §5, 6
NEW section

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PART 3

SETTLEMENT AGREEMENTS AND REPRESENTATION

633A.6301 Definition and applicability.

1. For purposes of this part, "*fiduciary matter*" includes any item listed in section 633A.6202, subsection 2.

2. Persons interested in a fiduciary matter may approve a judicial settlement and represent and bind other persons interested in the fiduciary matter.

3. Notice to a person who may represent and bind another person under this trust code has the same effect as if notice were given directly to the person represented.

4. Section 633A.6301, subsection 4, Code 2009, applies to written consents executed prior to July 1, 2010.

5. A settlor shall not represent and bind a beneficiary under this trust code with respect to the termination or modification of a trust pursuant to section 633A.2202 or 633A.2203.

99 Acts, ch 125, §96, 109
C2001, §633.6301
2002 Acts, ch 1107, §22; 2003 Acts, ch 95, §21; 2005 Acts, ch 38, §54, 55
CS2005, §633A.6301
2006 Acts, ch 1104, §15, 16; 2010 Acts, ch 1137, §11

633A.6302 Representation by holders of powers.

1. The holders or all coholders of a power of revocation or presently exercisable general power of appointment, including one in the form of a power of amendment, may represent and bind the persons whose interests, as objects, takers in default, or otherwise, are subject to the power.

2. To the extent there is no conflict of interest between the holders and the persons represented with respect to the fiduciary matter, persons whose interests are subject to a general testamentary power of appointment may be represented and bound by the holder or holders of the power.

3. To the extent there is no conflict of interest with respect to the fiduciary matter, the person or persons holding a limited power of appointment and the taker or takers in default of the exercise of such power may together represent and bind persons whose interests are dependent on the affirmative exercise of such power of appointment by the holder or holders of the power.

99 Acts, ch 125, §97, 109
C2001, §633.6302
2005 Acts, ch 38, §54
CS2005, §633A.6302
2022 Acts, ch 1084, §4
Referred to in §633A.6305

633A.6303 Representation by fiduciaries and parents.

To the extent there is no conflict of interest between the representer and those represented with respect to the fiduciary matter, the following are permitted:

1. A conservator may represent and bind the person whose estate the conservator controls.

2. A trustee may represent and bind the beneficiaries of the trust.

3. A personal representative may represent and bind the persons interested in the decedent's estate.

4. If no conservator has been appointed, a parent may represent and bind a minor child.

99 Acts, ch 125, §98, 109
C2001, §633.6303
2005 Acts, ch 38, §54
CS2005, §633A.6303
Referred to in §633A.4105, 633A.6305

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633A.6304 Representation by holders of similar interests.

Unless otherwise represented, a minor, an incompetent, unborn, or unascertained person, or a remote contingent beneficiary may be represented by and bound by another person having a substantially identical interest with respect to the fiduciary matter but only to the extent that the person's interest is adequately represented.

99 Acts, ch 125, §99, 109
C2001, §633.6304
2005 Acts, ch 38, §54
CS2005, §633A.6304
2022 Acts, ch 1084, §5

633A.6305 Notice of judicial settlement.

1. Notice of a judicial settlement shall be given to every interested person or to one who can bind an interested person as described in sections 633A.6302 and 633A.6303.
2. Notice may be given to a person or to another who may bind the person.
3. Notice is given to unborn or unascertained persons who are not represented under sections 633A.6302 and 633A.6303, by giving notice to all known persons whose interests in the proceedings are substantially identical to those of the unborn or unascertained persons.

99 Acts, ch 125, §100, 109
C2001, §633.6305
2005 Acts, ch 38, §54, 55
CS2005, §633A.6305

633A.6306 Appointment of guardian ad litem.

1. At any point in a judicial proceeding, the court may appoint a guardian ad litem to represent and approve a settlement on behalf of the interest of a minor, an incapacitated, unborn, or unascertained person, or a person whose identity or address is unknown, if the court determines that representation of the interest otherwise would be inadequate.
2. If not precluded by conflict of interest, a guardian ad litem may be appointed to represent several persons or interests.
3. The court shall set out its reasons for appointing a guardian ad litem as a part of the record of the proceeding.
4. In approving a judicially supervised settlement, a guardian ad litem may consider general family benefit.

99 Acts, ch 125, §101, 109
C2001, §633.6306
2005 Acts, ch 38, §54
CS2005, §633A.6306

633A.6307 Appointment of special representative.

1. In connection with a nonjudicial settlement, the court may appoint a special representative to represent the interests of and approve a settlement on behalf of designated persons.
2. If not precluded by a conflict of interest, a special representative may be appointed to represent several persons or interests.
3. In approving a settlement, a special representative may consider general family benefit. As a condition for approval, a special representative may require that those represented receive a benefit.

99 Acts, ch 125, §102, 109
C2001, §633.6307
2005 Acts, ch 38, §54
CS2005, §633A.6307

633A.6308 Nonjudicial settlement agreements.

1. For purposes of this part, *"interested persons"* means persons whose consent would be

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required in order to achieve a binding settlement were the settlement to be approved by the court.

2. Except as otherwise provided in subsection 3, or as to a modification or termination of a trust under section 633A.2203, interested persons may enter into a binding nonjudicial settlement agreement with respect to any matter involving a trust.

3. A nonjudicial settlement is valid only to the extent the settlement does not violate a material purpose of the trust and includes terms and conditions that could be properly approved by the court under this trust code or other applicable law.

4. Matters that may be resolved by a nonjudicial settlement agreement include any of the following:

a. The interpretation or construction of the terms of the trust.

b. The approval of a trustee's report or accounting.

c. Direction to a trustee to refrain from performing a particular act or the grant to a trustee of any necessary or desirable power.

d. The resignation or appointment of a trustee and the determination of a trustee's compensation.

e. The transfer of a trust's principal place of administration.

f. The liability of a trustee for an action relating to the trust.

5. Any interested person may request the court to approve a nonjudicial settlement agreement, to determine whether the representation provided was adequate, and to determine whether the agreement contains terms and conditions the court could have properly approved.

2003 Acts, ch 95, §22
CS2003, §633.6308
2005 Acts, ch 38, §54, 55
CS2005, §633A.6308

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CHAPTER 633B

POWERS OF ATTORNEY

Referred to in §235F.1, 524.1003, 524.1004, 524.1007, 524.1009, 633.556, 633.641, 638.2

See also chapter 144B concerning
durable power of attorney for health care

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SUBCHAPTER I

GENERAL PROVISIONS

PART 1

CONSTRUCTION — SCOPE — EFFECT

633B.1 and 633B.2 Repealed by 2014 Acts, ch 1078, §48.

633B.101 Title.
This chapter shall be known and may be cited as the *"Iowa Uniform Power of Attorney Act"*. 2014 Acts, ch 1078, §3

633B.102 Definitions.
1. *"Agent"* means a person granted authority to act for a principal under a power of attorney, whether denominated an agent, attorney in fact, or otherwise. The term includes an original agent, coagent, successor agent, and a person to which an agent's authority is delegated.
2. *"Conservator"* or *"conservatorship"* means a conservator appointed or conservatorship established pursuant to section 633.553, 633.554, or 633.567 or a similar provision of the laws of another state.
3. *"Durable"*, with respect to a power of attorney, means not terminated by the principal's incapacity.
4. *"Electronic"* means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
5. *"Good faith"* means honesty in fact.
6. *"Guardian"* or *"guardianship"* means a guardian appointed or a guardianship established pursuant to sections 633.552 and 633.568 or a similar provision of the laws of another state.
7. *"Incapacity"* means the inability of an individual to manage property or business affairs because the individual is any of the following:

a. An individual whose decision-making capacity is so impaired that the individual is unable to make, communicate, or carry out important decisions concerning the individual's financial affairs.

b. Detained or incarcerated in a penal system.

c. Outside the United States and unable to return.

8. *"Person"* means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

9. *"Power of attorney"* means a writing that grants authority to an agent to act in the place of the principal, whether or not the term "power of attorney" is used.

10. *"Presently exercisable general power of appointment"*, with respect to property or a property interest subject to a power of appointment, means power exercisable at the time in question to vest absolute ownership in the principal individually, the principal's estate, the principal's creditors, or the creditors of the principal's estate. The term includes a power of appointment not exercisable until the occurrence of a specified event, the satisfaction of an ascertainable standard, or the passage of a specified period of time only after the occurrence of the specified event, the satisfaction of the ascertainable standard, or the passage of the specified period of time. The term does not include a power exercisable in a fiduciary capacity or only by will.

11. *"Principal"* means an individual who grants authority to an agent in a power of attorney.

12. *"Property"* means anything that may be the subject of ownership, whether real or personal, or legal or equitable, or any interest or right therein.

13. *"Record"* means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

14. *"Sign"* means, with present intent to authenticate or adopt a record, to do any of the following:

a. Execute or adopt a tangible symbol.

b. Attach to or logically associate with the record an electronic sound, symbol, or process.

15. *"State"* means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

16. *"Stocks and bonds"* means stocks, bonds, mutual funds, and all other types of securities and financial instruments, whether held directly, indirectly, or in any other manner. The term does not include commodity futures contracts and call or put options on stocks or stock indexes.

2014 Acts, ch 1078, §4; 2019 Acts, ch 57, §39, 43, 44
Referred to in §144H.1, 638.2

633B.103 Applicability.

This chapter applies to all powers of attorney except for the following:

1. A power to the extent it is coupled with an interest of the agent in the subject of the power, including but not limited to a power given to or for the benefit of a creditor in connection with a credit transaction.

2. A power to make health care decisions.

3. A proxy or other delegation to exercise voting rights or management rights with respect to an entity.

4. A power created on a form prescribed by a government or governmental subdivision, agency, or instrumentality for a governmental purpose.

2014 Acts, ch 1078, §5
Referred to in §633B.110

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633B.104 Durability of power of attorney.

A power of attorney created under this chapter is durable unless the power of attorney expressly provides that it is terminated by the incapacity of the principal.

2014 Acts, ch 1078, §6

633B.105 Execution.

A power of attorney must be signed by the principal or in the principal's conscious presence by another individual, other than any prospective agent, directed by the principal to sign the principal's name on the power of attorney. A power of attorney must be acknowledged before a notary public or other individual authorized by law to take acknowledgments. An agent named in the power of attorney shall not notarize the principal's signature. An acknowledged signature on a power of attorney is presumed to be genuine.

2014 Acts, ch 1078, §7

Referred to in §321.52, 633B.106, 633B.119

633B.106 Validity.

1. A power of attorney executed in this state on or after July 1, 2014, is valid if the execution of the power of attorney complies with section 633B.105.

2. A power of attorney executed in this state before July 1, 2014, is valid if the execution of the power of attorney complied with the law of this state as it existed at the time of execution.

3. A power of attorney executed other than in this state is valid in this state if, when the power of attorney was executed, the execution complied with any of the following:

a. The law of the jurisdiction that determines the meaning and effect of the power of attorney pursuant to section 633B.107.

b. The requirements for a military power of attorney pursuant to 10 U.S.C. §1044b, as amended.

4. Except as otherwise provided by law, a photocopy or electronically transmitted copy of an original power of attorney has the same effect as the original.

2014 Acts, ch 1078, §8

633B.107 Meaning and effect.

The meaning and effect of a power of attorney is determined by the law of the jurisdiction indicated in the power of attorney and, in the absence of an indication of jurisdiction, by the law of the jurisdiction in which the power of attorney was executed.

2014 Acts, ch 1078, §9

Referred to in §633B.106

633B.108 Nomination of conservator or guardian — relation of agent to court-appointed fiduciary.

1. Under a power of attorney, a principal may nominate a conservator of the principal's estate or guardian of the principal's person for consideration by the court if proceedings for the principal's estate or person are begun after the principal executes the power of attorney. Except for good cause shown or disqualification, the court shall make its appointment in accordance with the principal's most recent nomination. This section does not prohibit an individual from executing a petition for the voluntary appointment of a guardian or conservator on a standby basis pursuant to sections 633.568 and 633.591.

2. If, after a principal executes a power of attorney, a court appoints a conservator of the principal's estate or other fiduciary charged with the management of some or all of the principal's property, the power of attorney is suspended unless the power of attorney provides otherwise or unless the court appointing the conservator decides the power of attorney should continue. If the power of attorney continues, the agent is accountable to the fiduciary as well as to the principal. The power of attorney shall be reinstated upon termination of the conservatorship as a result of the principal regaining capacity.

2014 Acts, ch 1078, §10; 2019 Acts, ch 57, §40, 43, 44

Referred to in §633.641

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633B.109 When power of attorney effective.

1. A power of attorney is effective when executed unless the principal provides in the power of attorney that it becomes effective at a future date or upon the occurrence of a future event or contingency.

2. If a power of attorney becomes effective upon the occurrence of a future event or contingency, the principal, in the power of attorney, may authorize one or more persons to determine in a writing or other record that the event or contingency has occurred.

3. If a power of attorney becomes effective upon the principal's incapacity and the principal has not authorized a person to determine whether the principal is incapacitated or the person authorized is unable or unwilling to make the determination, the power of attorney becomes effective upon a determination in a writing or other record by the occurrence of any of the following:

a. A licensed physician or licensed psychologist determines that the principal is incapacitated.

b. A judge, or an appropriate governmental official determines that the principal is incapacitated.

4. A person authorized by the principal in the power of attorney to determine that the principal is incapacitated may act as the principal's personal representative pursuant to the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, including amendments thereto and regulations promulgated thereunder, to obtain access to the principal's health care information and to communicate with the principal's health care provider.

2014 Acts, ch 1078, §11

633B.110 Termination — power of attorney or agent authority.

1. A power of attorney terminates when any of the following occurs:

a. The principal dies.

b. The principal becomes incapacitated, if the power of attorney is not durable.

c. The principal revokes the power of attorney.

d. The power of attorney provides that it terminates.

e. The purpose of the power of attorney is accomplished.

f. The principal revokes the agent's authority or the agent dies, becomes incapacitated, or resigns, and the power of attorney does not provide for another agent to act under the power of attorney.

2. An agent's authority terminates when any of the following occurs:

a. The principal revokes the authority.

b. The agent dies, becomes incapacitated, or resigns.

c. An action is filed for the dissolution or annulment of the agent's marriage to the principal or for their legal separation, unless the power of attorney otherwise provides.

d. The power of attorney terminates.

e. The agent is named as having abused the principal in a founded dependent adult abuse report.

f. The agent is convicted of dependent adult abuse for having abused the principal.

3. Unless the power of attorney otherwise provides, an agent's authority is exercisable until the agent's authority terminates under subsection 2, notwithstanding a lapse of time since the execution of the power of attorney.

4. Termination of a power of attorney or an agent's authority under this section is not effective as to the agent or another person that, without actual knowledge of the termination, acts in good faith under the power of attorney. An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.

5. Incapacity of the principal of a power of attorney that is not durable does not revoke or terminate the power of attorney as to an agent or other person that, without actual knowledge of the incapacity, acts in good faith under the power of attorney. An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.

6. Except as provided in section 633B.103, the execution of a general or plenary power of

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attorney revokes all general or plenary powers of attorney previously executed in this state by the principal, but does not revoke a power of attorney limited to a specific and identifiable action or transaction, which action or transaction is still capable of performance but has not yet been fully accomplished by the agent.

2014 Acts, ch 1078, §12; 2018 Acts, ch 1084, §1

PART 2

AGENTS

633B.111 Coagents and successor agents.

1. A principal may designate two or more persons to act as coagents. Unless the power of attorney otherwise provides, all of the following apply to actions of coagents:

a. A power held by coagents shall be exercised by majority action.

b. If impasse occurs due to the failure to reach a majority decision, any agent may petition the court to decide the issue, or a majority of the agents may consent to an alternative form of dispute resolution.

c. If one or more agents resigns or becomes unable to act, the remaining coagents may act.

2. A principal may designate one or more successor agents to act if an agent resigns, dies, becomes incapacitated, is not qualified to serve, or declines to serve. A principal may grant authority to designate one or more successor agents to an agent or other person designated by name, office, or function. Unless the power of attorney otherwise provides, a successor agent:

a. Has the same authority as that granted to the original agent.

b. Shall not act until all predecessor agents have resigned, died, become incapacitated, are no longer qualified to serve, or have declined to serve.

3. Except as otherwise provided in the power of attorney and subsection 4, an agent that does not participate in or conceal a breach of fiduciary duty committed by another agent, including a predecessor agent, is not liable for the actions of the other agent.

4. An agent with actual knowledge of a breach or imminent breach of fiduciary duty by another agent shall notify the principal and, if the principal is incapacitated, take any action reasonably appropriate in the circumstances to safeguard the principal's best interest. An agent that fails to notify the principal or take action as required by this subsection is liable for the reasonably foreseeable damages that could have been avoided if the agent had notified the principal or taken such action.

2014 Acts, ch 1078, §13

633B.112 Reimbursement and compensation of agent.

Unless the power of attorney otherwise provides, an agent who is an individual is entitled to reimbursement of expenses reasonably incurred on behalf of the principal but not to compensation. If a power of attorney does provide for compensation or if the agent is a bank or trust company authorized to administer trusts in Iowa, the compensation must be reasonable under the circumstances.

2014 Acts, ch 1078, §14

633B.113 Agent's acceptance.

Except as otherwise provided in the power of attorney, a person accepts appointment as an agent under a power of attorney by exercising authority or performing duties as an agent or by any other assertion or conduct indicating acceptance.

2014 Acts, ch 1078, §15

633B.114 Agent's duties.

1. Notwithstanding provisions in the power of attorney, an agent that has accepted appointment shall act in conformity with all of the following:

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a. In accordance with the principal's reasonable expectations to the extent actually known by the agent and otherwise in the principal's best interest.

b. In good faith.

c. Only within the scope of authority granted in the power of attorney.

2. Except as otherwise provided in the power of attorney, an agent that has accepted appointment shall do all of the following:

a. Act loyally for the principal's benefit.

b. Act so as not to create a conflict of interest that impairs the agent's ability to act impartially in the principal's best interest.

c. Act with the care, competence, and diligence ordinarily exercised by agents in similar circumstances.

d. Keep a record of all receipts, disbursements, and transactions made on behalf of the principal.

e. Cooperate with a person that has authority to make health care decisions for the principal to carry out the principal's reasonable expectations to the extent actually known by the agent and, otherwise, act in the principal's best interest.

f. Attempt to preserve the principal's estate plan, to the extent actually known by the agent, if preserving the plan is consistent with the principal's best interest based upon all relevant factors, including all of the following:

(1) The value and nature of the principal's property.

(2) The principal's foreseeable obligations and need for maintenance.

(3) Minimization of the principal's taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes.

(4) The principal's eligibility for a benefit, a program, or assistance under a statute or regulation or contract.

3. An agent that acts in good faith is not liable to any beneficiary under the principal's estate plan for failure to preserve the plan.

4. An agent that acts with care, competence, and diligence for the best interest of the principal is not liable solely because the agent also benefits from the act or has an individual or conflicting interest in relation to the property or affairs of the principal.

5. If an agent is selected by the principal because of special skills or expertise possessed by the agent or in reliance on the agent's representation that the agent has special skills or expertise, the special skills or expertise shall be considered in determining whether the agent has acted with care, competence, and diligence under the circumstances.

6. Absent a breach of duty to the principal, an agent is not liable if the value of the principal's property declines.

7. An agent that exercises authority to delegate to another person the authority granted by the principal or that engages another person on behalf of the principal is not liable for an act, error of judgment, or default of that person if the agent exercises care, competence, and diligence in selecting and monitoring the person.

8. Except as otherwise provided in the power of attorney, an agent is not required to disclose receipts, disbursements, or transactions conducted on behalf of the principal unless ordered by a court or requested by the principal, a conservator, another fiduciary acting for the principal, a governmental agency having authority to protect the welfare of the principal, or, upon the death of the principal, by the personal representative or a successor in interest of the principal's estate. If an agent receives a request to disclose such information, the agent shall comply with the request within thirty days of the request or provide a writing or other record substantiating why additional time is necessary. Such additional time shall not exceed thirty days.

2014 Acts, ch 1078, §16

633B.115 Exoneration of agent.

A provision in a power of attorney relieving an agent of liability for breach of duty is binding on the principal and the principal's successors in interest except to the extent the provision does any of the following:

1. Relieves the agent of liability for a breach of duty committed in bad faith, with an

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improper motive, or with reckless indifference to the purposes of the power of attorney or the best interest of the principal.

2. Was included in the power of attorney as a result of an abuse of a confidential or fiduciary relationship with the principal.

2014 Acts, ch 1078, §17

633B.116 Judicial relief.

1. The following persons may petition a court to construe a power of attorney or to review an agent's conduct:

a. The principal or the agent.

b. A guardian, conservator, or other fiduciary acting for the principal.

c. A person authorized to make health care decisions for the principal.

d. The principal's spouse, parent, or descendant or an individual who would qualify as a presumptive heir of the principal.

e. A person named as a beneficiary to receive any property, benefit, or contractual right upon the principal's death or as a beneficiary of a trust created by or for the principal that has a financial interest in the principal's estate.

f. A governmental agency having regulatory authority to protect the welfare of the principal.

g. A person who becomes aware of pending criminal charges of dependent adult abuse against the agent as having abused the principal.

h. A person who becomes aware of an investigation of dependent adult abuse related to the agent as having abused the principal.

i. The principal's caregiver, including but not limited to a caretaker as defined in section 235B.2 or 235E.1, or another person that demonstrates sufficient interest in the principal's welfare.

j. A person asked to accept the power of attorney.

k. A person designated by the principal in the power of attorney.

2. Upon motion to dismiss by the principal, the court shall dismiss a petition filed under this section unless the court finds that the principal lacks the capacity to revoke the agent's authority or the power of attorney.

3. Upon a petition to the court to review an agent's conduct relating to pending criminal charges of dependent adult abuse or an investigation of dependent adult abuse related to the principal, the court may suspend the agent's power of attorney and may appoint a guardian ad litem to represent the principal. The guardian ad litem shall be a practicing attorney.

4. The court may award reasonable attorney fees and costs to the prevailing party in a proceeding under this section.

2014 Acts, ch 1078, §18; 2018 Acts, ch 1084, §2, 3

Referred to in §633B.403

633B.117 Agent's liability.

An agent that violates this chapter is liable to the principal or the principal's successors in interest for the amount required to do both of the following:

1. Restore the value of the principal's property to what it would have been had the violation not occurred.

2. Reimburse the principal or the principal's successors in interest for attorney fees and costs paid on the agent's behalf.

2014 Acts, ch 1078, §19

633B.118 Agent's resignation — notice.

Unless the power of attorney provides for a different method for an agent's resignation, an agent may resign by giving notice to the principal and, if the principal is incapacitated, to any of the following:

1. The conservator or guardian, if a conservator or guardian has been appointed for the principal, and any coagent or successor agent.

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2. If there is no conservator, guardian, or coagent or successor agent, the agent may give notice to any of the following:

a. The principal's caregiver, including but not limited to a caretaker as defined in section 235B.2 or 235E.1.

b. Any other person reasonably believed by the agent to have sufficient interest in the principal's welfare.

c. A governmental agency having regulatory authority to protect the welfare of the principal.

2014 Acts, ch 1078, §20

PART 3

ACKNOWLEDGED POWER OF ATTORNEY

633B.119 Acknowledged power of attorney — acceptance and reliance.

1. For purposes of this section and section 633B.120, *"acknowledged"* means purportedly verified before a notary public or other individual authorized by law to take acknowledgments.

2. A person that in good faith accepts an acknowledged power of attorney without actual knowledge that the signature is not genuine may rely upon the presumption under section 633B.105 that the signature is genuine.

3. A person that in good faith accepts an acknowledged power of attorney without actual knowledge that the power of attorney is void, invalid, or terminated, that the purported agent's authority is void, invalid, or terminated, or that the agent is exceeding or improperly exercising the agent's authority may rely upon the power of attorney as if the power of attorney was genuine, valid, and still in effect, the agent's authority was genuine, valid, and still in effect, and the agent had not exceeded and had not improperly exercised the authority.

4. A person that is asked to accept an acknowledged power of attorney may request, and rely upon, all of the following without further investigation:

a. An agent's certification under penalty of perjury of any factual matter concerning the principal, agent, or power of attorney in substantially the same form as set out in section 633B.302.

b. An English translation of the power of attorney if the power of attorney contains, in whole or in part, language other than English.

c. An opinion of agent's counsel as to any matter of law concerning the power of attorney if the person making the request provides the reason for the request in a writing or other record.

5. An English translation or an opinion of counsel requested under this section shall be provided at the principal's expense unless the request is made more than ten business days after the power of attorney is presented for acceptance.

6. For purposes of this section and section 633B.120, a person who conducts activities through an employee is without actual knowledge of a fact relating to a power of attorney, a principal, or an agent if the employee conducting the transaction involving the power of attorney is without actual knowledge of the fact.

2014 Acts, ch 1078, §21
Referred to in §633B.120

633B.120 Refusal to accept acknowledged power of attorney — liability.

1. Except as otherwise provided in subsection 2, all of the following shall apply to a person's actions regarding an acknowledged power of attorney:

a. A person shall either accept an acknowledged power of attorney or request a certification, a translation, or an opinion of counsel under section 633B.119, subsection 4, no later than seven business days after presentation of the power of attorney for acceptance.

b. If a person requests a certification, a translation, or an opinion of counsel under section 633B.119, subsection 4, the person shall accept the power of attorney no later than five business days after receipt of the certification, translation, or opinion of counsel.

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c. A person shall not require an additional or different form of power of attorney for authority granted in the power of attorney presented unless an exception in subsection 2 applies.

2. A person is not required to accept an acknowledged power of attorney if any of the following occurs:

a. The person is not otherwise required to engage in a transaction with the principal in the same circumstances.

b. Engaging in a transaction with the agent or the principal in the same circumstances would be inconsistent with federal law.

c. The person has actual knowledge of the termination of the agent's authority or of the power of attorney before exercise of the power.

d. A request for a certification, a translation, or an opinion of counsel under section 633B.119, subsection 4, is refused.

e. The person in good faith believes that the power of attorney is not valid or that the agent does not have the authority to perform the act requested, or that the power of attorney does not comply with federal or state law or regulations, whether or not a certification, a translation, or an opinion of counsel under section 633B.119, subsection 4, has been requested or provided.

f. The person makes, or has actual knowledge that another person has made, a report to the department of health and human services stating a good-faith belief that the principal may be subject to physical or financial abuse, neglect, exploitation, or abandonment by the agent or a person acting for or with the agent.

3. A person that refuses to accept an acknowledged power of attorney in violation of this section is subject to both of the following:

a. A court order mandating acceptance of the power of attorney.

b. Liability for damages sustained by the principal and reasonable attorney fees and costs incurred in any action or proceeding that confirms the validity of the power of attorney or mandates acceptance of the power of attorney, provided that any such action must be brought within one year of the initial request for acceptance of the power of attorney.

2014 Acts, ch 1078, §22; 2016 Acts, ch 1088, §4, 8, 9; 2023 Acts, ch 19, §1283; 2024 Acts, ch 1043, §103

Referred to in §633B.119

PART 4

MISCELLANEOUS

633B.121 Principles of law and equity.

Unless displaced by a provision of this chapter, the principles of law and equity supplement this chapter.

2014 Acts, ch 1078, §23

633B.122 Laws applicable to financial institutions and entities.

This chapter does not supersede any other law applicable to financial institutions or other entities, and the other law controls if inconsistent with this chapter.

2014 Acts, ch 1078, §24

633B.123 Remedies under other law.

The remedies under this chapter are not exclusive and do not abrogate any right or remedy under the law of this state other than this chapter.

2014 Acts, ch 1078, §25

633B.124 through 633B.200 Reserved.

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SUBCHAPTER II

AGENT AUTHORITY

633B.201 Authority — specific and general.

1. An agent under a power of attorney may do any of the following on behalf of the principal or with the principal's property only if the power of attorney expressly grants the agent the authority and the exercise of the authority is not otherwise prohibited by another agreement or instrument to which the authority or property is subject:

a. Create, amend, revoke, or terminate an inter vivos trust.

b. Make a gift.

c. Create or change rights of survivorship.

d. Create or change a beneficiary designation.

e. Delegate authority granted under the power of attorney.

f. Waive the principal's right to be a beneficiary of a joint and survivor annuity, including but not limited to a survivor benefit under a retirement plan.

g. Exercise fiduciary powers that the principal has authority to delegate.

h. Disclaim property, including but not limited to a power of appointment.

i. Exercise all rights and powers granted to an agent under chapter 638.

2. Notwithstanding a grant of authority to do an act described in subsection 1, unless the power of attorney otherwise provides, an agent that is not an ancestor, spouse, or descendant of the principal shall not exercise authority under a power of attorney to create in the agent, or in an individual to whom the agent owes a legal obligation of support, an interest in the principal's property, whether by gift, right of survivorship, beneficiary designation, disclaimer, or otherwise.

3. Subject to subsections 1, 2, 4, and 5, if a power of attorney grants an agent authority to do all acts that a principal could do, the agent has the general authority described in sections 633B.204 through 633B.216.

4. Unless the power of attorney otherwise provides, a grant of authority to make a gift is subject to section 633B.217.

5. Subject to subsections 1, 2, and 4, if the subjects over which authority is granted in a power of attorney are similar or overlap, the broadest authority controls.

6. Authority granted in a power of attorney is exercisable with respect to property that the principal has when the power of attorney is executed or acquires later, whether or not the property is located in this state and whether or not the authority is exercised or the power of attorney is executed in this state.

7. An act performed by an agent pursuant to a power of attorney has the same effect and inures to the benefit of and binds the principal and the principal's successors in interest as if the principal had performed the act.

2014 Acts, ch 1078, §26; 2017 Acts, ch 79, §3

Referred to in §633B.203, 633B.204, 633B.205, 633B.206, 633B.207, 633B.208, 633B.209, 633B.210, 633B.212, 633B.213

633B.202 Incorporation of authority.

1. An agent has authority described in this chapter if the power of attorney refers to general authority with respect to the descriptive term for the subjects stated in sections 633B.204 through 633B.217 or cites the section in which the authority is described.

2. A reference in a power of attorney to general authority with respect to the descriptive term for a subject stated in sections 633B.204 through 633B.217 or a citation to a section in sections 633B.204 through 633B.217 incorporates the entire section as if it were set out in full in the power of attorney.

3. A principal may modify authority incorporated by reference.

2014 Acts, ch 1078, §27

633B.203 Construction of authority generally.

Except as otherwise provided in the power of attorney, by executing a power of attorney that incorporates by reference a subject described in sections 633B.204 through 633B.217

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or that grants an agent authority to do all acts that a principal could do pursuant to section 633B.201, subsection 3, a principal authorizes the agent, with respect to that subject, to do all of the following:

1. Demand, receive, and obtain by litigation or otherwise, money or another thing of value to which the principal is, may become, or claims to be entitled, and conserve, invest, disburse, or use anything so received or obtained for the purposes intended.

2. Contract in any manner with any person, on terms agreeable to the agent, to accomplish a purpose of a transaction and perform, rescind, cancel, terminate, reform, restate, release, or modify the contract or another contract made by or on behalf of the principal.

3. Execute, acknowledge, seal, deliver, file, or record any instrument or communication the agent considers desirable to accomplish a purpose of a transaction, including but not limited to creating at any time a schedule listing some or all of the principal's property and attaching the instrument or communication to the power of attorney.

4. Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to a claim existing in favor of or against the principal or intervene in litigation relating to the claim.

5. Seek on the principal's behalf the assistance of a court or other governmental agency to carry out an act authorized in the power of attorney.

6. Engage, compensate, and discharge an attorney, accountant, discretionary investment manager, expert witness, or other advisor.

7. Prepare, execute, and file a record, report, or other document to safeguard or promote the principal's interest under a statute, rule, or regulation.

8. Communicate with any representative or employee of a government or governmental subdivision, agency, or instrumentality, on behalf of the principal.

9. Access communications intended for, and communicate on behalf of, the principal, whether by mail, electronic transmission, telephone, or other means.

10. Do any lawful act with respect to the subject and all property related to the subject.

2014 Acts, ch 1078, §28; 2015 Acts, ch 30, §183

633B.204 Real property.

Unless the power of attorney otherwise provides and subject to section 633B.201, language in a power of attorney granting general authority with respect to real property authorizes the agent to do all of the following:

1. Demand, buy, lease, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject an interest in real property or a right incident to real property.

2. Sell; exchange; convey with or without covenants, representations, or warranties; quitclaim; release; surrender; retain title for security; encumber; partition; consent to partitioning; be subject to an easement or covenant; subdivide; apply for zoning or other governmental permits; plat or consent to platting; develop; grant an option concerning; lease; sublease; contribute to an entity in exchange for an interest in that entity; or otherwise grant or dispose of an interest in real property or a right incident to real property, including the transfer or release of any and all of the principal's homestead rights under section 561.13 and chapter 597.

3. Pledge or mortgage an interest in real property or a right incident to real property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal, including the transfer or release of any and all of the principal's homestead rights under section 561.13 and chapter 597.

4. Release, assign, satisfy, or enforce by litigation or otherwise, a mortgage, deed of trust, conditional sale contract, encumbrance, lien, or other claim to real property which exists or is asserted.

5. Manage or conserve an interest in real property or a right incident to real property owned or claimed to be owned by the principal, including but not limited to by doing all of the following:

a. Insuring against liability or casualty or other loss.

b. Obtaining or regaining possession of or protecting the interest or right by litigation or otherwise.

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c. Paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with them.

d. Purchasing supplies, hiring assistance or labor, and making repairs or alterations to the real property.

6. Use, develop, alter, replace, remove, erect, or install structures or other improvements upon real property in or incident to which the principal has, or claims to have, an interest or right.

7. Participate in a reorganization with respect to real property or an entity that owns an interest in or a right incident to real property and receive, hold, and act with respect to stocks and bonds or other property received in a plan of reorganization, including by doing any of the following:

a. By selling or otherwise disposing of the stocks, bonds, or other property.

b. By exercising or selling an option, right of conversion, or similar right.

c. By exercising any voting rights in person or by proxy.

8. Change the form of title of an interest in or right incident to real property.

9. Dedicate to public use, with or without consideration, easements or other real property in which the principal has, or claims to have, an interest.

10. Relinquish any and all of the principal's rights of dower, homestead, and elective share.

2014 Acts, ch 1078, §29; 2015 Acts, ch 29, §109; 2016 Acts, ch 1088, §5, 8, 9; 2018 Acts, ch 1030, §1, 2

Referred to in §633B.201, 633B.202, 633B.203

633B.205 Tangible personal property.

Unless the power of attorney otherwise provides and subject to section 633B.201, language in a power of attorney granting general authority with respect to tangible personal property authorizes the agent to do all of the following:

1. Demand, buy, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject ownership or possession of tangible personal property or an interest in tangible personal property.

2. Sell; exchange; convey with or without covenants, representations, or warranties; quitclaim; release; surrender; create a security interest in; grant options concerning; lease; sublease; or otherwise dispose of tangible personal property or an interest in tangible personal property.

3. Grant a security interest in tangible personal property or an interest in tangible personal property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal.

4. Release, assign, satisfy, or enforce by litigation or otherwise, a security interest, lien, or other claim on behalf of the principal, with respect to tangible personal property or an interest in tangible personal property.

5. Manage or conserve tangible personal property or an interest in tangible personal property on behalf of the principal, including but not limited to by doing all of the following:

a. Insuring against liability or casualty or other loss.

b. Obtaining or regaining possession of or protecting the property or interest, by litigation or otherwise.

c. Paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with taxes or assessments.

d. Moving the property from place to place.

e. Storing the property for hire or on a gratuitous bailment.

f. Using and making repairs, alterations, or improvements to the property.

6. Change the form of title of an interest in tangible personal property.

2014 Acts, ch 1078, §30; 2015 Acts, ch 30, §184, 185

Referred to in §633B.201, 633B.202, 633B.203

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633B.206 Stocks and bonds.

Unless the power of attorney otherwise provides and subject to section 633B.201, language in a power of attorney granting general authority with respect to stocks and bonds authorizes the agent to do all of the following:

1. Buy, sell, and exchange stocks and bonds.
2. Establish, continue, modify, or terminate an account with respect to stocks and bonds.
3. Pledge stocks and bonds as security to borrow, pay, renew, or extend the time of payment of a debt of the principal.
4. Receive certificates and other evidence of ownership with respect to stocks and bonds.
5. Exercise voting rights with respect to stocks and bonds in person or by proxy, enter into voting trusts, and consent to limitations on the right to vote.

2014 Acts, ch 1078, §31
Referred to in §633B.201, 633B.202, 633B.203

633B.207 Commodities and options.

Unless the power of attorney otherwise provides and subject to section 633B.201, language in a power of attorney granting general authority with respect to commodities and options authorizes the agent to do all of the following:

1. Buy, sell, exchange, assign, settle, and exercise commodity futures contracts and call or put options on stocks or stock indexes traded on a regulated option exchange.
2. Establish, continue, modify, and terminate option accounts.

2014 Acts, ch 1078, §32
Referred to in §633B.201, 633B.202, 633B.203

633B.208 Banks and other financial institutions.

Unless the power of attorney otherwise provides and subject to section 633B.201, language in a power of attorney granting general authority with respect to banks and other financial institutions authorizes the agent to do all of the following:

1. Continue, modify, and terminate an account or other banking arrangement made by or on behalf of the principal.
2. Establish, modify, and terminate an account or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm, or other financial institution selected by the agent.
3. Contract for services available from a financial institution, including but not limited to renting a safe deposit box or space in a vault.
4. Withdraw, by check, order, electronic funds transfer, or otherwise, money or property of the principal deposited with or left in the custody of a financial institution.
5. Receive statements of account, vouchers, notices, and similar documents from a financial institution and act with respect to them.
6. Enter a safe deposit box or vault and withdraw or add to the contents.
7. Borrow money and pledge as security personal property of the principal necessary to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal.
8. Make, assign, draw, endorse, discount, guarantee, and negotiate promissory notes, checks, drafts, and other negotiable or nonnegotiable paper of the principal or payable to the principal or the principal's order, transfer money, receive the cash or other proceeds of those transactions, and accept a draft drawn by a person upon the principal and pay the promissory note, check, draft, or other negotiable or nonnegotiable paper when due.
9. Receive for the principal and act upon a sight draft, warehouse receipt, or other document of title whether tangible or electronic, or any other negotiable or nonnegotiable instrument.
10. Apply for, receive, and use letters of credit, credit and debit cards, electronic transaction authorizations, and traveler's checks from a financial institution and give an indemnity or other agreement in connection with letters of credit.

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11. Consent to an extension of the time of payment with respect to commercial paper or a financial transaction with a financial institution.

2014 Acts, ch 1078, §33
Referred to in §633B.201, 633B.202, 633B.203

633B.209 Operation of entity or business.

Subject to the terms of a document or an agreement governing an entity or business or an entity or business ownership interest, and subject to section 633B.201, and unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to operation of an entity or business authorizes the agent to do all of the following:

1. Operate, buy, sell, enlarge, reduce, or terminate an ownership interest.

2. Perform a duty or discharge a liability and exercise in person or by proxy a right, power, privilege, or option that the principal has, may have, or claims to have.

3. Enforce the terms of an ownership agreement.

4. Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party because of an ownership interest.

5. Exercise in person or by proxy or enforce by litigation or otherwise, a right, power, privilege, or option the principal has or claims to have as the holder of stocks and bonds.

6. Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party concerning stocks and bonds.

7. Do all of the following with respect to an entity or business owned solely by the principal:

a. Continue, modify, renegotiate, extend, and terminate a contract made by or on behalf of the principal with respect to the entity or business before execution of the power of attorney.

b. Determine all of the following:

(1) The location of the entity or business operation.

(2) The nature and extent of the entity or business.

(3) The methods of manufacturing, selling, merchandising, financing, accounting, and advertising employed in the operation of the entity or business.

(4) The amount and types of insurance carried by the entity or business.

(5) The mode of engaging, compensating, and dealing with the employees, accountants, attorneys, or other advisors of the entity or business.

c. Change the name or form of organization under which the entity or business is operated and enter into an ownership agreement with other persons to take over all or part of the operation of the entity or business.

d. Demand and receive money due or claimed by the principal or on the principal's behalf in the operation of the entity or business and control and disburse the money in the operation of the entity or business.

8. Inject needed capital into an entity or business in which the principal has an interest.

9. Join in a plan of reorganization, consolidation, conversion, domestication, or merger of the entity or business.

10. Sell or liquidate all or part of the entity or business.

11. Establish the value of an entity or business under a buyout agreement to which the principal is a party.

12. Prepare, sign, file, and deliver reports, compilations of information, returns, or other papers with respect to an entity or business and make related payments.

13. Pay, compromise, or contest taxes, assessments, fines, or penalties and perform any other act to protect the principal from illegal or unnecessary taxation, assessments, fines, or penalties with respect to an entity or business, including but not limited to attempts to recover, in any manner permitted by law, money paid before or after the execution of the power of attorney.

2014 Acts, ch 1078, §34
Referred to in §633B.201, 633B.202, 633B.203

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633B.210 Insurance and annuities.

Unless the power of attorney otherwise provides and subject to section 633B.201, language in a power of attorney granting general authority with respect to insurance and annuities authorizes the agent to do all of the following:

1. Continue, pay the premium or make a contribution on, or modify, exchange, rescind, release, or terminate a contract procured by or on behalf of the principal which insures or provides an annuity to either the principal or another person whether or not the principal is a beneficiary under the contract.

2. Procure new, different, and additional contracts of insurance and annuities for the principal and the principal's spouse, children, and other dependents, and select the amount, type of insurance or annuity, and mode of payment.

3. Pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract of insurance or annuity procured by the agent.

4. Apply for and receive a loan secured by a contract of insurance or annuity.

5. Surrender and receive the cash surrender value on a contract of insurance or annuity.

6. Exercise an election.

7. Exercise investment powers available under a contract of insurance or annuity.

8. Change the manner of paying premiums on a contract of insurance or annuity.

9. Change or convert the type of insurance or annuity with respect to which the principal has or claims to have authority described in this section.

10. Apply for and procure a benefit or assistance under a statute, rule, or regulation to guarantee or pay premiums of a contract of insurance on the life of the principal.

11. Collect, sell, assign, hypothecate, borrow against, or pledge the interest of the principal in a contract of insurance or annuity.

12. Select the form and timing of the payment of proceeds from a contract of insurance or annuity.

13. Pay, from proceeds or otherwise, compromise or contest, and apply for refunds in connection with a tax or assessment levied by a taxing authority with respect to a contract of insurance or annuity or its proceeds or liability accruing by reason of the tax or assessment.

2014 Acts, ch 1078, §35; 2015 Acts, ch 29, §110

Referred to in §633B.201, 633B.202, 633B.203

633B.211 Estates, trusts, and other beneficial interests.

1. In this section, *"estate, trust, or other beneficial interest"* means a trust, probate estate, guardianship, conservatorship, escrow, or custodianship, or a fund from which the principal is, may become, or claims to be, entitled to a share or payment.

2. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to estates, trusts, and other beneficial interests authorizes the agent to do all of the following:

a. Accept, receive, provide a receipt for, sell, assign, pledge, or exchange a share in or payment from an estate, trust, or other beneficial interest.

b. Demand or obtain money or another thing of value to which the principal is, may become, or claims to be, entitled by reason of an estate, trust, or other beneficial interest, by litigation or otherwise.

c. Exercise for the benefit of the principal a presently exercisable general power of appointment held by the principal.

d. Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to ascertain the meaning, validity, or effect of a deed, will, declaration of trust, or other instrument or transaction affecting the interest of the principal.

e. Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to remove, substitute, or surcharge a fiduciary.

f. Conserve, invest, disburse, or use any assets received for an authorized purpose.

g. Transfer an interest of the principal in real property, stocks and bonds, accounts with

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financial institutions or securities intermediaries, insurance, annuities, and other property to the trustee of a revocable trust created by the principal as settlor.

h. Establish a medical assistance special needs trust pursuant to chapter 633C for the benefit of the principal and transfer an interest of the principal in real property, stocks and bonds, accounts with financial institutions or securities intermediaries, insurance, annuities, and other property to the trustee of any such trust.

i. Establish a medical assistance income trust pursuant to chapter 633C for the benefit of the principal and transfer an income interest of the principal to the trustee of any such trust.

2014 Acts, ch 1078, §36; 2016 Acts, ch 1088, §6, 8, 9; 2023 Acts, ch 124, §8
Referred to in §633B.201, 633B.202, 633B.203

633B.212 Claims and litigation.

Unless the power of attorney otherwise provides and subject to section 633B.201, language in a power of attorney granting general authority with respect to claims and litigation authorizes the agent to do all of the following:

1. Assert and maintain before a court or administrative agency a claim, claim for relief, cause of action, counterclaim, offset, recoupment, or defense, including but not limited to an action to recover property or other thing of value, recover damages sustained by the principal, eliminate or modify tax liability, or seek an injunction, specific performance, or other relief.

2. Bring an action to determine adverse claims or intervene or otherwise participate in litigation.

3. Seek an attachment, garnishment, or other preliminary, provisional, or intermediate relief and use an available procedure to effect or satisfy a judgment, order, or decree.

4. Make or accept a tender, offer of judgment, or admission of facts, submit a controversy on an agreed statement of facts, consent to examination, and bind the principal in litigation.

5. Submit to alternative dispute resolution, or settle, propose, or accept a compromise.

6. Waive the issuance and service of process upon the principal, accept service of process, appear for the principal, designate persons upon which process directed to the principal may be served, execute and file or deliver stipulations on the principal's behalf, verify pleadings, seek appellate review, procure and give surety and indemnity bonds, contract and pay for the preparation and printing of records and briefs, receive, execute, and file or deliver a consent, waiver, release, confession of judgment, satisfaction of judgment, notice, agreement, or other instrument in connection with the prosecution, settlement, or defense of a claim or litigation.

7. Act for the principal with respect to bankruptcy or insolvency, whether voluntary or involuntary, concerning the principal or some other person, or with respect to a reorganization, receivership, or application for the appointment of a receiver or trustee which affects an interest of the principal in property or other thing of value.

8. Pay a judgment, award, or order against the principal or a settlement made in connection with a claim or litigation.

9. Receive money or other thing of value paid in settlement of or as proceeds of a claim or litigation.

2014 Acts, ch 1078, §37
Referred to in §633B.201, 633B.202, 633B.203

633B.213 Personal and family maintenance.

1. Unless the power of attorney otherwise provides and subject to section 633B.201, language in a power of attorney granting general authority with respect to personal and family maintenance authorizes the agent to do all of the following:

a. Perform the acts necessary to maintain the customary standard of living of the principal, the principal's spouse, and the following individuals, whether living when the power of attorney is executed or later born:

(1) The principal's minor children.

(2) The principal's adult children who are pursuing a postsecondary school education and are under the age of twenty-five.

(3) The principal's parents or the parents of the principal's spouse, if the principal had established a pattern of such payments.

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(4) Any other individuals legally entitled to be supported by the principal.

b. Make periodic payments of child support and other family maintenance required by a court or governmental agency or an agreement to which the principal is a party.

c. Provide living quarters for the individuals described in paragraph *"a"* by any of the following:

(1) Purchase, lease, or other contract.

(2) Paying the operating costs, including but not limited to interest, amortization payments, repairs, improvements, and taxes, for premises owned by the principal or occupied by those individuals.

d. Provide funds for shelter, clothing, food, appropriate education, including postsecondary and career and technical education, and other current living costs for the individuals described in paragraph *"a"* to enable those individuals to maintain their customary standard of living.

e. Pay expenses for necessary health care and custodial care on behalf of the individuals described in paragraph *"a"*.

f. Act as the principal's personal representative pursuant to the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, including amendments thereto and regulations promulgated thereunder, in making decisions related to past, present, or future payments for the provision of health care consented to by the principal or anyone authorized under the law of this state to consent to health care on behalf of the principal.

g. Continue any provision made by the principal for automobiles or other means of transportation, including registering, licensing, insuring, and replacing them, for the individuals described in paragraph *"a"*.

h. Maintain credit and debit accounts for the convenience of the individuals described in paragraph *"a"* and open new accounts.

i. Continue payments or contributions incidental to the membership or affiliation of the principal in a religious institution, club, society, order, or other organization.

2. Authority with respect to personal and family maintenance is neither dependent upon, nor limited by, authority that an agent may or may not have with respect to gifts under this chapter.

2014 Acts, ch 1078, §38; 2015 Acts, ch 30, §200; 2016 Acts, ch 1108, §74
Referred to in §633B.201, 633B.202, 633B.203, 633B.214

633B.214 Benefits from governmental programs or civil or military service.

1. In this section, *"benefits from governmental programs or civil or military service"* means any benefit, program, or assistance provided under a statute, rule, or regulation relating to but not limited to social security, Medicare, or Medicaid.

2. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to benefits from governmental programs or civil or military service authorizes the agent to do all of the following:

a. Execute vouchers in the name of the principal for allowances and reimbursements payable by the United States, a foreign government, or a state or subdivision of a state to the principal, including but not limited to allowances and reimbursements for transportation of the individuals described in section 633B.213, subsection 1, paragraph *"a"*, and for shipment of the household effects of such individuals.

b. Take possession and order the removal and shipment of property of the principal from a post, warehouse, depot, dock, or other place of storage or safekeeping, either governmental or private, and execute and deliver a release, voucher, receipt, bill of lading, shipping ticket, certificate, or other instrument for that purpose.

c. Enroll in, apply for, select, reject, change, amend, or discontinue, on the principal's behalf, a benefit or program.

d. Prepare, file, and maintain a claim of the principal for a benefit or assistance, financial or otherwise, to which the principal may be entitled under a statute, rule, or regulation.

e. Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or

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propose or accept a compromise with respect to litigation concerning any benefit or assistance the principal may be entitled to receive under a statute, rule, or regulation.

f. Receive the financial proceeds of a claim described in paragraph "*d*" and conserve, invest, disburse, or use for a lawful purpose anything so received.

g. Create and fund a medical assistance income trust as defined in section 633C.1 or a trust or device that meets the criteria of 42 U.S.C. §1396p(d)(4)(B)(i)-(ii) that is authorized under the applicable law of another jurisdiction in which the principal is a resident.

2014 Acts, ch 1078, §39; 2016 Acts, ch 1088, §7 – 9
Referred to in §633B.201, 633B.202, 633B.203

633B.215 Retirement plans.

1. In this section, "*retirement plan*" means a plan or account created by an employer, the principal, or another individual to provide retirement benefits or deferred compensation in which the principal is a participant, beneficiary, or owner, including but not limited to a plan or account under the following sections of the Internal Revenue Code:

a. An individual retirement account in accordance with section 408.

b. A Roth individual retirement account established under section 408A.

c. A deemed individual retirement account under section 408(q).

d. An annuity or mutual fund custodial account under section 403(b).

e. A pension, profit-sharing, stock bonus, or other retirement plan qualified under section 401(a).

f. An eligible deferred compensation plan under section 457(b).

g. A nonqualified deferred compensation plan under section 409A.

2. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to retirement plans authorizes the agent to do all of the following:

a. Select the form and timing of payments under a retirement plan and withdraw benefits from a plan.

b. Make a rollover, including a direct trustee-to-trustee rollover of benefits from one retirement plan to another.

c. Establish a retirement plan in the principal's name.

d. Make contributions to a retirement plan.

e. Exercise investment powers available under a retirement plan.

f. Borrow from, sell assets to, or purchase assets from a retirement plan.

2014 Acts, ch 1078, §40
Referred to in §633B.201, 633B.202, 633B.203

633B.216 Taxes.

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to taxes authorizes the agent to do all of the following:

1. Prepare, sign, and file federal, state, local, and foreign income, gift, payroll, property, Federal Insurance Contributions Act returns and other tax returns, claims for refunds, requests for extension of time, petitions regarding tax matters, and any other tax-related documents, including receipts, offers, waivers, consents, including but not limited to consents and agreements under section 2032A of the Internal Revenue Code, closing agreements, and any power of attorney required by the Internal Revenue Service or other taxing authority with respect to a tax year upon which the statute of limitations has not run.

2. Pay taxes due, collect refunds, post bonds, receive confidential information, and contest deficiencies determined by the Internal Revenue Service or other taxing authority.

3. Exercise any election available to the principal under federal, state, local, or foreign tax law.

4. Act for the principal in all tax matters for all periods before the Internal Revenue Service or any other taxing authority.

2014 Acts, ch 1078, §41
Referred to in §633B.201, 633B.202, 633B.203

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633B.217 Gifts.

1. In this section, a gift *"for the benefit of"* a person includes a gift to a trust, an account under a uniform transfers to minors Act, and a qualified state tuition program exempt from taxation pursuant to section 529 of the Internal Revenue Code.

2. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to gifts authorizes the agent only to do all of the following:

a. Make a gift of any of the principal's property outright to, or for the benefit of, a person, including but not limited to by the exercise of a presently exercisable general power of appointment held by the principal, in an amount per donee not to exceed the annual dollar limits of the federal gift tax exclusion under section 2503(b) of the Internal Revenue Code without regard to whether the federal gift tax exclusion applies to the gift or if the principal's spouse agrees to consent to a split gift pursuant to section 2513 of the Internal Revenue Code in an amount per donee not to exceed twice the annual federal gift tax exclusion limit.

b. Consent to the splitting of a gift made by the principal's spouse pursuant to section 2513 of the Internal Revenue Code in an amount per donee not to exceed the aggregate annual gift tax exclusions for both spouses.

3. An agent may make a gift of the principal's property only as the agent determines is consistent with the principal's objectives if actually known by the agent and, if unknown, as the agent determines is consistent with the principal's best interest based on all relevant factors, including but not limited to all of the following:

a. The value and nature of the principal's property.

b. The principal's foreseeable obligations and need for maintenance.

c. The minimization of taxes, including but not limited to income, estate, inheritance, generation-skipping transfer, and gift taxes.

d. Eligibility for a benefit, a program, or assistance under a statute, rule, or regulation.

e. The principal's personal history of making or joining in making gifts.

2014 Acts, ch 1078, §42
Referred to in §633B.201, 633B.202, 633B.203, 633B.301

633B.218 through 633B.300 Reserved.

SUBCHAPTER III

FORMS

633B.301 Power of attorney — form.

A document substantially in the following form may be used to create a statutory power of attorney that has the meaning and effect prescribed by this chapter:

IOWA STATUTORY POWER OF ATTORNEY FORM

1. POWER OF ATTORNEY

This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). Your agent will be able to make decisions and act with respect to your property (including but not limited to your money) whether or not you are able to act for yourself. The meaning of authority over subjects listed on this form is explained in the Iowa Uniform Power of Attorney Act, Iowa Code chapter 633B.

This power of attorney does not authorize the agent to make health care decisions for you.

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.

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Your agent is not entitled to compensation unless you state otherwise in the optional Special Instructions.

This form provides for designation of one agent. If you wish to name more than one agent, you may name a coagent in the optional Special Instructions. Coagents must act by majority rule unless you provide otherwise in the optional Special Instructions.

If your agent is unable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.

This power of attorney becomes effective immediately upon signature and acknowledgment unless you state otherwise in the optional Special Instructions.

If you have questions about this power of attorney or the authority you are granting to your agent, you should seek legal advice before signing this form.

DESIGNATION OF AGENT

I _____ (name of principal) name the following person as my agent:

Name of Agent _____

Agent's Address _____

Agent's Telephone Number _____

DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of Successor Agent _____

Successor Agent's Address _____

Successor Agent's Telephone Number _____

If my successor agent is unable or unwilling to act for me, I name as my second successor agent:

Name of Second Successor Agent _____

Second Successor Agent's Address _____

Second Successor Agent's Telephone Number _____

GRANT OF GENERAL AUTHORITY

I grant my agent and any successor agent general authority to act for me with respect to the following subjects as defined in the Iowa Uniform Power of Attorney Act, Iowa Code chapter 633B:

(Initial each subject you want to include in the agent's general authority. If you wish to grant general authority over all of the subjects you may initial "All Preceding Subjects" instead of initialing each subject.)

___ Real Property
___ Tangible Personal Property
___ Stocks and Bonds
___ Commodities and Options
___ Banks and Other Financial Institutions
___ Operation of Entity or Business
___ Insurance and Annuities
___ Estates, Trusts, and Other Beneficial Interests
___ Claims and Litigation
___ Personal and Family Maintenance
___ Benefits from Governmental Programs or Civil or Military Service
___ Retirement Plans
___ Taxes
___ All Preceding Subjects

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GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

My agent shall not do any of the following specific acts for me unless I have initialed the specific authority listed below:

(Caution: Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death. Initial only the specific authority you WANT to give your agent.)

___ Amend, revoke, or terminate a revocable inter vivos trust, if authorized by the trust.

___ Agree to the amendment or termination of any other inter vivos trust.

___ Make a gift to an individual who is not an agent, subject to the limitations of the Iowa Uniform Power of Attorney Act, Iowa Code section 633B.217, and any special instructions in this power of attorney.

Make gifts, either direct or indirect, to my agent acting under this power of attorney as follows:

___ Any such gift must be approved in writing by _____; or

___ No third-party approval is needed.

___ Authorize another person to exercise the authority granted under this power of attorney.

___ Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan.

___ Exercise fiduciary powers that the principal has authority to delegate.

___ Disclaim or refuse an interest in property, including a power of appointment.

LIMITATION ON AGENT'S AUTHORITY

An agent that is not my ancestor, spouse, or descendant shall not use my property to benefit the agent or a person to whom the agent owes an obligation of support unless I have included that authority in the optional Special Instructions.

SPECIAL INSTRUCTIONS (OPTIONAL)

You may give special instructions on the following lines:

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

_____ shall have the authority to request an accounting of any agent.

EFFECTIVE DATE

This power of attorney is effective immediately upon signature and acknowledgment unless I have stated otherwise in the optional Special Instructions.

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NOMINATION OF CONSERVATOR AND GUARDIAN
(OPTIONAL)

If it becomes necessary for a court to appoint a conservator of my estate or guardian of my person, I nominate the following person(s) for appointment:

Name of Nominee for Conservator of My Estate _____
Nominee's Address _____
Nominee's Telephone Number _____
Name of Nominee for Guardian of My Person _____
Nominee's Address _____
Nominee's Telephone Number _____

RELIANCE ON THIS POWER OF ATTORNEY

Any person, including my agent, may rely upon the validity of this power of attorney or a copy of it unless that person knows it has terminated or is invalid.

SIGNATURE AND ACKNOWLEDGMENT

_____ _____
Your Signature Date

_____
Your Name Printed

_____
_____
Your Address

_____
Your Telephone Number
State of _____
County of _____
This document was acknowledged before me on _____ (date), by _____ (name of principal)
_____ (Seal, if any)
Signature of Notary
My commission expires _____
This document prepared by
_____
_____

2. IMPORTANT INFORMATION FOR AGENT

AGENT'S DUTIES

When you accept the authority granted under this power of attorney, a special legal relationship is created between the principal and you. This relationship imposes upon you legal duties that continue until you resign or the power of attorney is terminated or revoked. You must do all of the following:

Do what you know the principal reasonably expects you to do with the principal's property or, if you do not know the principal's expectations, act in the principal's best interest.

Act in good faith.

Do nothing beyond the authority granted in this power of attorney.

Disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and signing your own name as agent in the following manner:

_____ (principal's name) by
_____ (your signature) as Agent

Unless the Special Instructions in this power of attorney state otherwise, you must also do all of the following:

Act loyally for the principal's benefit.

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Avoid conflicts that would impair your ability to act in the principal's best interest.

Act with care, competence, and diligence.

Keep a record of all receipts, disbursements, and transactions made on behalf of the principal.

Cooperate with any person that has authority to make health care decisions for the principal to do what you know the principal reasonably expects or, if you do not know the principal's expectations, to act in the principal's best interest.

Attempt to preserve the principal's estate plan if you know the plan and preserving the plan is consistent with the principal's best interest.

TERMINATION OF AGENT'S AUTHORITY

You must stop acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. Events that terminate a power of attorney or your authority to act under a power of attorney include any of the following:

Death of the principal.

The principal's revocation of the power of attorney or your authority.

The occurrence of a termination event stated in the power of attorney.

The purpose of the power of attorney is fully accomplished.

If you are married to the principal, a legal action is filed with a court to end your marriage, or for your legal separation, unless the Special Instructions in this power of attorney state that such an action will not terminate your authority.

LIABILITY OF AGENT

The meaning of the authority granted to you is defined in the Iowa Uniform Power of Attorney Act, Iowa Code chapter 633B. If you violate the Iowa Uniform Power of Attorney Act, Iowa Code chapter 633B, or act outside the authority granted, you may be liable for any damages caused by your violation.

If there is anything about this document or your duties that you do not understand, you should seek legal advice.

2014 Acts, ch 1078, §43

633B.302 Agent's certification — optional form.

The following optional form may be used by an agent to certify facts concerning a power of attorney:

IOWA STATUTORY POWER OF ATTORNEY AGENT'S CERTIFICATION FORM

AGENT'S CERTIFICATION OF VALIDITY OF POWER OF ATTORNEY AND AGENT'S AUTHORITY

State of _____

County of _____

I, _____ (name of agent), certify under penalty of perjury that _____ (name of principal) granted me authority as an agent or successor agent in a power of attorney dated _____.

I further certify all of the following to my knowledge:

The principal is alive and has not revoked the power of attorney or the power of attorney and my authority to act under the power of attorney have not terminated.

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If the power of attorney was drafted to become effective upon the happening of an event or contingency, the event or contingency has occurred.

If I was named as a successor agent, the prior agent is no longer able or willing to serve.

_____
_____
_____.

(Insert other relevant statements)

SIGNATURE AND ACKNOWLEDGMENT

_____ _____
Agent's Signature Date

_____
Agent's Name Printed

_____
_____
Agent's Address

_____
Agent's Telephone Number

This document was acknowledged before me on _____ (date), by _____ (name of agent)

_____ (Seal, if any)
Signature of Notary

My commission expires _____

This document prepared by

_____
_____

2014 Acts, ch 1078, §44; 2015 Acts, ch 29, §111
Referred to in §633B.119, 638.9

633B.303 through 633B.400 Reserved.

SUBCHAPTER IV

APPLICABILITY

633B.401 Uniformity of application and construction.

In applying and construing this chapter, consideration shall be given to the need to promote uniformity of the law with respect to the subject matter of this chapter among states that enact the uniform power of attorney Act.

2014 Acts, ch 1078, §45

633B.402 Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §7001 et seq., but does not modify, limit, or supersede section 101(c) of that Act, 15 U.S.C. §7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that Act, 15 U.S.C. §7003(b).

2014 Acts, ch 1078, §46

633B.403 Effect on existing powers of attorney.

Except as otherwise provided in this chapter:

1. This chapter applies to a power of attorney created before, on, or after July 1, 2014.
2. This chapter applies to all judicial proceedings concerning a power of attorney commenced on or after July 1, 2014.
3. This chapter applies to all judicial proceedings concerning a power of attorney

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commenced before July 1, 2014, including but not limited to proceedings pursuant to section 633B.116, unless the court finds that application of a provision of this chapter would substantially interfere with the effective conduct of the proceedings or the rights of the parties or other interested persons. In that case, the provision does not apply and the court shall apply prior law.

4. An act completed before July 1, 2014, shall not be affected by this chapter.

2014 Acts, ch 1078, §47

CHAPTER 633C

MEDICAL ASSISTANCE TRUSTS

Referred to in §12I.3, 633B.211

633C.1 Definitions.
633C.2 Disposition of medical assistance special needs trusts.
633C.3 Disposition of medical assistance income trusts.
633C.4 Other powers of trustees.
633C.5 Cooperation.

633C.1 Definitions.

For purposes of this chapter, unless the context otherwise requires:

1. *"Available monthly income"* means in reference to a medical assistance income trust beneficiary, any income received directly by the beneficiary, not from the trust, that counts as income in determining eligibility for medical assistance and any amounts paid to or otherwise made available to the beneficiary by the trustee pursuant to section 633C.3, subsection 1, paragraph *"b"*, or section 633C.3, subsection 2, paragraph *"b"*.

2. *"Beneficiary"* means the original beneficiary of a medical assistance special needs trust or medical assistance income trust, whose assets funded the trust.

3. *"Department"* means the department of health and human services.

4. *"Institutionalized individual"* means an individual receiving nursing facility services, a level of care in any institution equivalent to nursing facility services, or home and community-based services under the medical assistance home and community-based services waiver program.

5. *"Maximum monthly medical assistance payment rate for services in an intermediate care facility for persons with an intellectual disability"* means the allowable rate established by the department and as published in the Iowa administrative bulletin.

6. *"Medical assistance"* means medical assistance as defined in section 249A.2.

7. *"Medical assistance income trust"* means a trust or similar legal instrument or device that meets the criteria of 42 U.S.C. §1396p(d)(4)(B)(i)-(ii).

8. *"Medical assistance special needs trust"* means a trust or similar legal instrument or device that meets the criteria of 42 U.S.C. §1396p(d)(4)(A) or (C).

9. *"Statewide average charge for nursing facility services"* means the statewide average charge for such care, excluding charges by Medicare-certified, skilled nursing facilities, as calculated by the department and as published in the Iowa administrative bulletin.

10. *"Statewide average charge for state mental health institute care"* means the statewide average charge for such care as calculated by the department and as published in the Iowa administrative bulletin.

11. *"Statewide average charge to private-pay patients for psychiatric medical institutions for children care"* means the statewide average charge for such care as calculated by the department and as published in the Iowa administrative bulletin.

12. *"Total monthly income"* means in reference to a medical assistance income trust beneficiary, income received directly by the beneficiary, not from the trust, that counts as income in determining eligibility for medical assistance, income of the beneficiary received

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by the trust that would otherwise count as income in determining the beneficiary's eligibility for medical assistance, and income or earnings of the trust received by the trust.

94 Acts, ch 1120, §3
C95, §633.707
96 Acts, ch 1129, §106; 2004 Acts, ch 1086, §99; 2004 Acts, ch 1166, §1; 2005 Acts, ch 38, §52, 53, 55
CS2005, §633C.1
2012 Acts, ch 1019, §139; 2015 Acts, ch 137, §118, 162, 163; 2023 Acts, ch 19, §1284
Referred to in §249A.12, 633B.214

633C.2 Disposition of medical assistance special needs trusts.

Any income or assets added to or received by and any income or principal retained in a medical assistance special needs trust shall be used in accordance with a standard that is no more restrictive than specified under federal law. All distributions from a medical assistance special needs trust shall be for the sole benefit of the beneficiary to enhance the quality of life of the beneficiary, and the trustee shall have sole discretion regarding such disbursements to ensure compliance with beneficiary eligibility requirements. Any funds retained in the medical assistance special needs trust of a beneficiary who is also a designated beneficiary as defined in section 12I.1 may be transferred to the Iowa ABLE savings plan trust account of the designated beneficiary in accordance with this chapter and chapter 12I. Any distinct disbursement in excess of one thousand dollars shall be subject to review by the district court sitting in probate. The department shall adopt rules pursuant to chapter 17A for the establishment and disposition of medical assistance special needs trusts in accordance with this section.

94 Acts, ch 1120, §4
C95, §633.708
95 Acts, ch 68, §8; 2005 Acts, ch 38, §53, 55
CS2005, §633C.2
2015 Acts, ch 137, §119, 162, 163; 2021 Acts, ch 136, §8
Referred to in §249A.3, 633C.4, 633C.5

633C.3 Disposition of medical assistance income trusts.

1. Regardless of the terms of a medical assistance income trust, if the beneficiary's total monthly income is less than one hundred twenty-five percent of the average statewide charge for nursing facility services to a private-pay resident of a nursing facility, then, during the life of the beneficiary, any property received or held by the trust shall be expended only as follows, as applicable, and in the following order of priority:

a. A reasonable amount may be paid or set aside each month for necessary expenses of the trust, not to exceed ten dollars per month without court approval.

b. From the remaining principal or income of the trust, amounts may be paid for expenses that qualify as required deductions from income pursuant to 42 C.F.R. §435.725(c) or 435.726(c) for purposes of determining the amount by which medical assistance payments under chapter 249A for institutional services or for home and community-based services provided under a federal waiver will be reduced based on the beneficiary's income.

c. If the beneficiary is an institutionalized individual or receiving home and community-based services provided under a federal waiver, the remaining principal or income of the trust shall be paid directly to the provider of institutional care or home and community-based services, on a monthly basis, for any cost not paid under paragraph *"b"*, to reduce any amount paid as medical assistance under chapter 249A.

d. Any remaining principal or income of the trust may, at the trustee's discretion or as directed by the terms of the trust, be paid directly to providers of other medical care or services that would otherwise be covered by medical assistance, paid to the state as reimbursement for medical assistance paid on behalf of the beneficiary, or retained by the trust.

2. Regardless of the terms of a medical assistance income trust, if the beneficiary's total monthly income is at or above one hundred twenty-five percent of the average statewide

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charge for nursing facility services to a private-pay resident, then, during the life of the beneficiary, any property received or held by the trust shall be expended only as follows, as applicable, in the following order of priority:

a. A reasonable amount may be paid or set aside each month for necessary expenses of the trust, not to exceed ten dollars per month without court approval.

b. All remaining property received or held by the trust shall be paid to or otherwise made available to the beneficiary on a monthly basis, to be counted as income or a resource in determining eligibility for medical assistance under chapter 249A.

3. Subsections 1 and 2 shall apply to the following beneficiaries; however, the following amounts indicated shall be applied in lieu of the statewide average charge for nursing facility services:

a. For a beneficiary who meets the medical assistance level of care requirements for services in an intermediate care facility for persons with an intellectual disability and who either resides in an intermediate care facility for persons with an intellectual disability or is eligible for services under the medical assistance home and community-based services waiver except that the beneficiary's income exceeds the allowable maximum, the applicable rate is the maximum monthly medical assistance payment rate for services in an intermediate care facility for persons with an intellectual disability.

b. For a beneficiary who meets the medical assistance level of care requirements for services in a psychiatric medical institution for children and who resides in a psychiatric medical institution for children, the applicable rate is the statewide average charge to private-pay patients for psychiatric medical institution for children care.

c. For a beneficiary who meets the medical assistance level of care requirements for services in a state mental health institute and who either resides in a state mental health institute or is eligible for services under a medical assistance home and community-based services waiver except that the beneficiary's income exceeds the allowable maximum, the applicable rate is the statewide average charge for state mental health institute care.

d. For a beneficiary who meets the medical assistance level of care requirements for services in a nursing facility and is receiving care or is receiving specialized care such as an adult receiving Alzheimer's care, a child receiving skilled nursing facility care, or an adult or child receiving skilled nursing facility care for neurological disorders, the applicable rate is the statewide average charge for nursing facility services for the services or specialized services provided.

94 Acts, ch 1120, §5
C95, §633.709
96 Acts, ch 1129, §113; 2004 Acts, ch 1086, §100; 2004 Acts, ch 1166, §2; 2005 Acts, ch 38, §53
CS2005, §633C.3
2007 Acts, ch 136, §1; 2012 Acts, ch 1019, §140; 2014 Acts, ch 1084, §1 – 3
Referred to in §249A.3, 633C.1, 633C.4, 633C.5

633C.4 Other powers of trustees.

1. Sections 633C.2 and 633C.3 shall not be construed to limit the authority of the trustees to invest, sell, or otherwise manage property held in trust.

2. The trustee of a medical assistance income trust or a medical assistance special needs trust is a fiduciary for purposes of chapter 633A and, in the exercise of the trustee's fiduciary duties, the state shall be considered a beneficiary of the trust. Regardless of the terms of the trust, the trustee shall not take any action that is not prudent in light of the state's interest in the trust. Notwithstanding any provision of chapter 633A to the contrary, the trustee of a medical assistance special needs trust shall be subject to the jurisdiction of the district court sitting in probate and shall submit an accounting of the disposition of the trust to the district court sitting in probate on an annual basis.

94 Acts, ch 1120, §6
C2005, §633.710
2005 Acts, ch 38, §53, 55

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CS2005, §633C.4
2006 Acts, ch 1030, §78; 2015 Acts, ch 137, §120, 162, 163

633C.5 Cooperation.

1. The department shall cooperate with the trustee of a medical assistance special needs trust or a medical assistance income trust in determining the appropriate disposition of the trust under sections 633C.2 and 633C.3.

2. The trustee of a medical assistance special needs trust or medical assistance income trust shall cooperate with the department in supplying information regarding a trust established under this chapter.

94 Acts, ch 1120, §7
C2005, §633.711
2005 Acts, ch 38, §52, 53, 55
CS2005, §633C.5
2023 Acts, ch 19, §1285

CHAPTER 633D

TRANSFER ON DEATH SECURITY REGISTRATION

Referred to in §633.10

633D.1 Short title — rules of construction.
633D.2 Definitions.
633D.3 Registration in beneficiary form — sole or joint tenancy ownership.
633D.4 Registration in beneficiary form — applicable law.
633D.5 Origination of registration in beneficiary form.
633D.6 Form of registration in beneficiary form.
633D.7 Effect of registration in beneficiary form.
633D.8 Claims against a beneficiary of a transfer on death security registration.
633D.9 Death of the owner.
633D.10 Protection of registering entity.
633D.11 Nontestamentary transfer on death.
633D.12 Terms, conditions, and forms for registration.

633D.1 Short title — rules of construction.

1. This chapter shall be known and may be cited as the uniform transfer on death security registration Act.

2. The provisions of this chapter shall be liberally construed and applied to promote its underlying purposes and policy and to make uniform the laws with respect to the subject of its provisions among states enacting this uniform Act.

3. Unless displaced by the particular provisions of this chapter, the principles of law and equity supplement the provisions of this chapter.

97 Acts, ch 178, §17
CS97, §633.800
2005 Acts, ch 38, §52, 53
CS2005, §633D.1

633D.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Beneficiary form"* means a registration of a security which indicates the present owner of the security and the intention of the owner regarding the person who will become the owner of the security upon the death of the owner.

2. *"Devisee"* means any person designated in a will to receive a disposition of real or personal property.

3. *"Heir"* means a person, including the surviving spouse, who is entitled under the statutes of intestate succession to the property of a decedent.

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4. *"Register"* means to issue a certificate showing the ownership of a certificated security or, in the case of an uncertificated security, to initiate or transfer an account showing ownership of the security.

5. *"Registering entity"* means a person who originates or transfers a security title by registration, including a broker maintaining security accounts for customers and a transfer agent or other person acting for or as an issuer of securities.

6. *"Security"* means a security as defined in section 502.102. For purposes of this chapter, *"security"* includes, but is not limited to, a certificated security, an uncertificated security, and a security account.

7. *"Security account"* means any of the following:

a. Any of the following:

(1) A reinvestment account associated with a security.

(2) A securities account with a broker.

(3) A cash balance in a brokerage account.

(4) Cash, interest, earnings, or dividends earned or declared on a security in an account, a reinvestment account, or a brokerage account, whether or not credited to the account before the owner's death.

b. A cash balance or other property held for or due to the owner of a security as a replacement for or product of an account security, whether or not credited to the account before the owner's death.

c. An investment management or custody account with a bank, trust company, or a trust division of a bank with trust powers, including the securities in the account, cash balance in the account, cash, cash equivalents, interest, earnings, and dividends earned or declared on a security in the account whether or not credited to the account before the owner's death. For purposes of this paragraph, *"bank"* means an entity as defined in section 12C.1.

8. *"State"* includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.

97 Acts, ch 178, §18
CS97, §633.801
2000 Acts, ch 1147, §33; 2002 Acts, ch 1002, §2; 2005 Acts, ch 38, §52, 53
CS2005, §633D.2

633D.3 Registration in beneficiary form — sole or joint tenancy ownership.

Only an individual whose registration of a security shows sole ownership by one individual or multiple ownership by two or more individuals with a right of survivorship, rather than as tenants in common, may obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form shall hold as joint tenants with rights of survivorship, tenants by the entireties, or owners of community property held in survivorship form and not as tenants in common.

97 Acts, ch 178, §19
CS97, §633.802
2005 Acts, ch 38, §53
CS2005, §633D.3

633D.4 Registration in beneficiary form — applicable law.

1. A security may be registered in beneficiary form if the form is authorized by this chapter or a similar statute of the state of any of the following:

a. The state of organization of the issuer or registering entity.

b. The state of location of the registering entity's principal office.

c. The state of location of the office of the entity's transfer agent or the office of the entity making the registration.

d. The state of the address listed as the owner's at the time of registration.

2. A registration governed by the law of a jurisdiction in which this chapter or a similar

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statute is not in force or was not in force when a registration in beneficiary form was made is presumed to be valid and authorized as a matter of contract law.

97 Acts, ch 178, §20
CS97, §633.803
2005 Acts, ch 38, §52, 53
CS2005, §633D.4

633D.5 Origination of registration in beneficiary form.

A security, whether evidenced by a certificate or account, is registered in beneficiary form when the registration includes a designation of a beneficiary to take the ownership at the death of the owner or the deaths of all multiple owners.

97 Acts, ch 178, §21
CS97, §633.804
2005 Acts, ch 38, §53
CS2005, §633D.5

633D.6 Form of registration in beneficiary form.

Registration in beneficiary form may be shown by any of the following, appearing after the name of the registered owner and before the name of a beneficiary:

1. The words "transfer on death" or the abbreviation "TOD".
2. The words "pay on death" or the abbreviation "POD".

97 Acts, ch 178, §22
CS97, §633.805
2005 Acts, ch 38, §53
CS2005, §633D.6

633D.7 Effect of registration in beneficiary form.

The designation of a transfer on death or pay on death beneficiary on a registration in beneficiary form has no effect on ownership until the owner's death. A registration of a security in beneficiary form may be canceled or changed at any time by the sole owner or all surviving owners without the consent of the beneficiary.

97 Acts, ch 178, §23
CS97, §633.806
2005 Acts, ch 38, §53
CS2005, §633D.7

633D.8 Claims against a beneficiary of a transfer on death security registration.

1. If other assets of the estate of a deceased owner are insufficient to pay debts, taxes, and expenses of administration, including statutory allowances to the surviving spouse and children, a transfer at death of a security registered in beneficiary form is not effective against the estate of the deceased sole owner, or if multiple owners, against the estate of the last owner to die, to the extent needed to pay debts, taxes, and expenses of administration, including statutory allowances to the surviving spouse and children.

2. A beneficiary of a transfer on death security registration under this chapter is liable to account to the personal representative of the deceased owner for the value of the security as of the time of the deceased owner's death to the extent necessary to discharge debts, taxes, and expenses of administration, including statutory allowances to the surviving spouse and children. A proceeding against a beneficiary to assert liability shall not be commenced unless the personal representative has received a written demand by the surviving spouse, a creditor, a child, or a person acting for a minor child of the deceased owner.

3. An action for an accounting under this section must be commenced within two years after the death of the owner.

4. A beneficiary against whom a proceeding is brought may elect to transfer to the personal representative the security registered in the name of the beneficiary if the beneficiary still owns the security, or the net proceeds received by the beneficiary upon

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disposition of the security by the beneficiary. Such transfer fully discharges the beneficiary from all liability under this section.

5. A beneficiary against whom a proceeding for an accounting is brought may join as a party to the proceeding a beneficiary of any other security registered in beneficiary form by the deceased owner.

6. Amounts recovered by the personal representative with respect to a security shall be administered as part of the deceased owner's estate.

7. A district court in this state shall have subject matter jurisdiction over a claim against a designated beneficiary brought by the decedent's personal representative or by a claimant to an interest in a security registered under this chapter. Any provision in a security registration form restricting jurisdiction over a claim, or restricting a choice of forum, to a forum outside this state is void.

8. In an action for an accounting brought under this section, where the deceased owner was domiciled in this state, the laws of this state shall apply.

97 Acts, ch 178, §24
CS97, §633.807
2005 Acts, ch 38, §52, 53
CS2005, §633D.8

633D.9 Death of the owner.

On the death of a sole owner or on the death of the sole surviving owner of multiple owners, the ownership of securities registered in beneficiary form passes to the beneficiary or beneficiaries who survive all owners. On proof of death of all owners and compliance with any applicable requirements of the registering entity, a security registered in beneficiary form may be reregistered in the name of the beneficiary or beneficiaries who survived the death of all owners. A registering entity shall provide notice to the department of revenue of all reregistrations made pursuant to this chapter. The notice shall include the name, address, and social security number of the decedent and all transferees. Until the division of the security after the death of all owners, multiple beneficiaries surviving the death of all owners hold their interests as tenants in common. If no beneficiary survives the death of all owners, the security belongs to the estate of the deceased sole owner or the estate of the last to die of multiple owners.

97 Acts, ch 178, §25
CS97, §633.808
2003 Acts, ch 145, §286; 2005 Acts, ch 38, §52, 53
CS2005, §633D.9
Referred to in §633D.10

633D.10 Protection of registering entity.

1. A registering entity is not required to offer or to accept a request for security registration in beneficiary form. If a registration in beneficiary form is offered by a registering entity, the owner requesting registration in beneficiary form assents to the protections provided to the registering entity by this chapter.

2. By accepting a request for registration of a security in beneficiary form, the registering entity agrees that the registration in beneficiary form shall be implemented on the death of the deceased owners as provided in this chapter.

3. *a.* A registering entity is discharged from all claims to a security by the estate, creditors, heirs, or devisees of a deceased owner if the registering entity registers a transfer of the security in accordance with section 633D.9 and does so in good faith reliance on all of the following:

(1) The registration.

(2) The provisions of this chapter.

(3) Information provided by affidavit of the personal representative of the deceased owner, the surviving beneficiary, or the surviving beneficiary's representative, or other information available to the registering entity.

b. The protections of this chapter do not extend to a reregistration or payment made after a

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registering entity has received written notice from any claimant to any interest in the security objecting to implementation of a registration in beneficiary form. No other notice or other information available to the registering entity affects its right to protection under this chapter.

4. The protection provided by this chapter to the registering entity of a security does not affect the rights of beneficiaries in disputes between themselves and other claimants to ownership of the transferred security, its value, or its proceeds.

97 Acts, ch 178, §26
CS97, §633.809
2005 Acts, ch 38, §52, 53, 55
CS2005, §633D.10
2013 Acts, ch 30, §261

633D.11 Nontestamentary transfer on death.

1. A transfer on death resulting from a registration in beneficiary form shall be effective by reason of the contract regarding the registration between the owner and the registering entity under the provisions of this chapter, and is not testamentary.

2. The provisions of this chapter do not limit the rights of creditors or security owners against beneficiaries and other transferees under other laws of this state.

97 Acts, ch 178, §27
CS97, §633.810
2005 Acts, ch 38, §52, 53
CS2005, §633D.11

633D.12 Terms, conditions, and forms for registration.

1. A registering entity offering to accept registrations in beneficiary form may establish the terms and conditions under which the registering entity receives requests for either of the following:

a. Registration in beneficiary form.

b. Implementation of registrations in beneficiary form, including requests for cancellation of previously registered transfer on death or pay on death beneficiary designations and requests for reregistration to effect a change of beneficiary.

2. *a.* The terms and conditions established by the registering entity may provide for proving death, avoiding or resolving problems concerning fractional shares, designating primary and contingent beneficiaries, and substituting a named beneficiary's descendants to take in place of the named beneficiary in the event of the beneficiary's death. Substitution may be indicated by appending to the name of the beneficiary the letters "LDPS" standing for "lineal descendants per stirpes". This designation shall substitute a deceased beneficiary's descendants who survive the owner for a beneficiary who fails to survive, with the descendants to be identified and to share in accordance with the law of the beneficiary's domicile at the owner's death governing inheritance by descendants of an intestate. Other forms of identifying beneficiaries who are to take on one or more contingencies, and rules for providing proofs and assurances needed to satisfy reasonable concerns by registering entities regarding conditions and identities relevant to accurate implementation of registrations in beneficiary form, may be contained in a registering entity's terms and conditions.

b. The following are illustrations of registrations in beneficiary form which a registering entity may authorize:

(1) Sole owner-sole beneficiary: OWNER'S NAME transfer on death (TOD) or pay on death (POD) to BENEFICIARY'S NAME.

(2) Multiple owners-sole beneficiary: OWNERS' NAMES, as joint tenants or tenants in the entirety, transfer on death (TOD) or pay on death (POD) to BENEFICIARY'S NAME.

(3) Multiple owners-primary and secondary (substituted) beneficiaries: OWNERS' NAMES as joint tenants or tenants in the entirety, transfer on death (TOD) or pay on death (POD) to BENEFICIARY'S NAME, or lineal descendants per stirpes.

97 Acts, ch 178, §28
CS97, §633.811

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2005 Acts, ch 38, §53
CS2005, §633D.12

CHAPTER 633E

UNIFORM DISCLAIMER OF PROPERTY INTEREST ACT

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633E.1 Short title.

This chapter shall be known and may be cited as the *"Iowa Uniform Disclaimer of Property Interest Act"*.

2004 Acts, ch 1015, §8
C2005, §633.901
2005 Acts, ch 38, §52, 53
CS2005, §633E.1

633E.2 Definitions.

For purposes of this chapter, the following definitions shall apply:

1. *"Disclaimant"* means the person to whom a disclaimed interest or power would have passed had the disclaimer not been made.

2. *"Disclaimed interest"* means the interest the disclaimant refuses to accept that would have passed to the disclaimant had the disclaimer not been made.

3. *"Disclaimer"* means the refusal to accept an interest in or power over property.

4. *"Fiduciary"* means a personal representative, trustee, agent acting under a power of attorney, or other person authorized to act as a fiduciary with respect to the property of another person.

5. *"Jointly held property"* means property held in the name of two or more persons under an arrangement in which all holders have concurrent interests and under which the last surviving holder is entitled to the whole of the property.

6. *"Person"* means an individual; corporation; business trust; estate; trust; partnership; limited liability company; association; joint venture; government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.

7. *"State"* means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes any Indian tribe or band, or Alaskan village, recognized by federal law or formally acknowledged by a state.

8. *"Trust"* means any of the following:

a. An express trust, charitable or noncharitable, with additions thereto, whenever and however created.

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b. A trust created pursuant to a statute, judgment, or decree which requires the trust to be administered in the manner of an express trust.

2004 Acts, ch 1015, §9
C2005, §633.902
2005 Acts, ch 38, §52, 53
CS2005, §633E.2

633E.3 Scope.

This chapter applies to disclaimers of any interest in or power over property, whenever and however created.

2004 Acts, ch 1015, §10
C2005, §633.903
2005 Acts, ch 38, §52, 53
CS2005, §633E.3

633E.4 Tax qualified disclaimer.

Except as provided in sections 633E.13 and 633E.15, notwithstanding any other provision of this chapter, any disclaimer or transfer that meets the requirements of section 2518 of the Internal Revenue Code, and the regulations promulgated thereunder, for the purpose of being a tax qualified disclaimer with the effect that the disclaimed or transferred interest is treated as never having been transferred to the disclaimant is effective as a disclaimer under this chapter. For purposes of this section, *"Internal Revenue Code"* means the same as defined in section 422.3.

2004 Acts, ch 1015, §11
C2005, §633.904
2005 Acts, ch 38, §52, 53
CS2005, §633E.4
2010 Acts, ch 1020, §1
Referred to in §633E.7

633E.5 Power to disclaim — general requirements — when irrevocable.

1. A person may disclaim, in whole or in part, any interest in or power over property, including a power of appointment, whenever and however acquired. A person may disclaim the interest or power even if its creator imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to disclaim.

2. Except to the extent a fiduciary's right to disclaim is expressly restricted or limited by another statute of this state or by the instrument creating the fiduciary relationship, or a disclaimer by a fiduciary would be a breach of trust, a fiduciary may disclaim, in whole or in part, any interest in or power over property, including a power of appointment, whether acting in a personal or representative capacity. A fiduciary may disclaim the interest or power even if the creator imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to disclaim, or an instrument other than the instrument that created the fiduciary relationship imposed a restriction or limitation on the right to disclaim.

3. To be effective, a disclaimer must be in a writing or other record, declare the disclaimer, describe the interest or power disclaimed, be signed by the person making the disclaimer, and be delivered or filed in the manner provided in section 633E.12. In this subsection, *"record"* means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

4. A partial disclaimer may be expressed as a fraction, percentage, monetary amount, term of years, limitation of a power, or any other interest or estate in the property.

5. A disclaimer becomes irrevocable when it is delivered or filed pursuant to section 633E.12 or when it becomes effective as provided in sections 633E.6 through 633E.11, whichever occurs later.

6. A disclaimer made under this chapter is not a transfer, assignment, or release.

2004 Acts, ch 1015, §12
C2005, §633.905

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2005 Acts, ch 3, §106; 2005 Acts, ch 38, §52, 53, 55
CS2005, §633E.5
Referred to in §249A.3

633E.6 Effect of disclaimer of interest in property.

1. As used in this section:

a. "*Future interest*" means an interest that takes effect in possession or enjoyment, if at all, later than the time of its creation.

b. "*Time of distribution*" means the time when a disclaimed interest would have taken effect in possession or enjoyment.

2. Except for a disclaimer governed by section 633E.7 or 633E.8, the following rules apply to a disclaimer of an interest in property:

a. The disclaimer takes effect as of the time the instrument creating the interest becomes irrevocable, or, if the interest arose under the law of intestate succession, as of the time of the intestate's death.

b. The disclaimed interest passes according to any provision in the instrument creating the interest providing for the disposition of the interest, should it be disclaimed, or of disclaimed interests in general.

c. If the instrument does not contain a provision described in paragraph "*b*", the following rules shall apply:

(1) If the disclaimant is an individual, the disclaimed interest passes as if the disclaimant had died immediately before the time of distribution.

(2) If the disclaimant is not an individual, the disclaimed interest passes as if the disclaimant did not exist.

d. Upon the disclaimer of a preceding interest, a future interest held by a person other than the disclaimant takes effect as if the disclaimant had died or ceased to exist immediately before the time of distribution, but a future interest held by the disclaimant of the preceding interest is not accelerated in possession or enjoyment.

e. For purposes of this section, if an individual disclaims a future interest not held in trust, the disclaimed future interest passes as if that interest had been held in trust.

2004 Acts, ch 1015, §13
C2005, §633.906
2005 Acts, ch 38, §53, 55
CS2005, §633E.6
Referred to in §633E.5

633E.7 Disclaimer of rights of survivorship in jointly held property.

1. Upon the death of a holder of jointly held property, either of the following may occur:

a. If, during the deceased holder's lifetime, the deceased holder could have unilaterally regained a portion of the property attributable to the deceased holder's contribution without the consent of any other holder, a surviving holder may disclaim, in whole or in part, a fractional share of that portion of the property attributable to the deceased holder's contributions determined by dividing the number one by the number of joint holders alive immediately after the death of the holder to whose death the disclaimer relates.

b. For all other jointly held property, a surviving holder may disclaim, in whole or in part, a fraction of the whole of the property the numerator of which is one and the denominator of which is the product of the number of joint holders alive immediately before the death of the holder to whose death the disclaimer relates multiplied by the number of joint holders alive immediately after the death of the holder to whose death the disclaimer relates.

2. A disclaimer under subsection 1 takes effect as of the death of the holder of jointly held property to whose death the disclaimer relates.

3. An interest in jointly held property disclaimed by a surviving holder of the property passes as if the disclaimant predeceased the holder to whose death the disclaimer relates.

4. A noncitizen spouse who is a surviving joint tenant of real property interests created

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after July 13, 1988, can disclaim the spouse's interest to the full extent permitted under section 633E.4.

2004 Acts, ch 1015, §14
C2005, §633.907
2005 Acts, ch 38, §53
CS2005, §633E.7
2010 Acts, ch 1020, §2, 3
Referred to in §633E.5, 633E.6

633E.8 Disclaimer of interest by trustee.

If a trustee disclaims an interest in property that otherwise would have become trust property, the interest does not become trust property.

2004 Acts, ch 1015, §15
C2005, §633.908
2005 Acts, ch 38, §53
CS2005, §633E.8
Referred to in §633E.5, 633E.6

633E.9 Disclaimer of power of appointment or other power not held in fiduciary capacity.

If a holder disclaims a power of appointment or other power not held in a fiduciary capacity, the following rules shall apply:

1. If the holder has not exercised the power, the disclaimer takes effect as of the time the instrument creating the power becomes irrevocable.
2. If the holder has exercised the power and the disclaimer is of a power other than a presently exercisable general power of appointment, the disclaimer takes effect immediately after the last exercise of the power.
3. The instrument creating the power is construed as if the power expired when the disclaimer became effective.

2004 Acts, ch 1015, §16
C2005, §633.909
2005 Acts, ch 38, §53
CS2005, §633E.9
Referred to in §633E.5

633E.10 Disclaimer by appointee, object, or taker in default of exercise of power of appointment.

1. For purposes of this section, all of the following rules shall apply:

a. An appointee is a person to whom a holder of a power has effectively appointed the property subject to the power.

b. An object of a power is a person to whom a holder of a power may appoint the property subject to the power sometime in the future.

c. A taker in default of the exercise of a power of appointment is a person designated by the person creating the power in the holder to take the property subject to the power if the power has not been effectively exercised.

2. A disclaimer of an interest in property by an appointee of a power of appointment takes effect as of the time the instrument by which the holder exercises the power becomes irrevocable.
3. A disclaimer of an interest in property by an object or taker in default of an exercise of a power of appointment takes effect as of the time the instrument creating the power becomes irrevocable.

2004 Acts, ch 1015, §17
C2005, §633.910
2005 Acts, ch 38, §53
CS2005, §633E.10
Referred to in §633E.5

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633E.11 Disclaimer of power held in fiduciary capacity.

1. If a fiduciary disclaims a power held in a fiduciary capacity which has not been exercised, the disclaimer takes effect as of the time the instrument creating the power becomes irrevocable.

2. If a fiduciary disclaims a power held in a fiduciary capacity which has been exercised, the disclaimer takes effect immediately after the last exercise of the power.

3. A disclaimer under this section is effective as to another fiduciary if the disclaimer so provides and the fiduciary disclaiming has the authority to bind the estate, trust, or other person for whom the fiduciary is acting.

2004 Acts, ch 1015, §18
C2005, §633.911
2005 Acts, ch 38, §53
CS2005, §633E.11
Referred to in §633E.5

633E.12 Delivery or filing.

1. For the purposes of this section, *"beneficiary designation"* means an instrument, other than an instrument creating a trust, naming the beneficiary of any of the following:

a. An annuity or insurance policy.

b. An account with a designation for payment on death.

c. A security registered in beneficiary form.

d. A pension, profit-sharing, retirement, or other employment-related benefit plan.

e. Any other nonprobate transfer at death.

2. Subject to subsections 3 through 12, delivery of a disclaimer may be effected by personal delivery, first class mail, or any other method likely to result in its receipt.

3. In the case of an interest created under the law of intestate succession or an interest created by will, other than an interest in a testamentary trust, the following shall apply:

a. A disclaimer must be delivered to the personal representative of the decedent's estate.

b. If no personal representative is then serving, a disclaimer must be filed with a court having jurisdiction to appoint the personal representative.

4. In the case of an interest in a testamentary trust, one of the following shall apply:

a. A disclaimer must be delivered to the trustee then serving, or if no trustee is then serving, to the personal representative of the decedent's estate.

b. If no personal representative is then serving, a disclaimer shall be filed with a court having jurisdiction to enforce the trust.

5. In the case of an interest in an inter vivos trust, one of the following shall apply:

a. A disclaimer must be delivered to the trustee then serving.

b. If no trustee is then serving, a disclaimer must be filed with a court having jurisdiction to enforce the trust.

c. If a disclaimer is made before the time the instrument creating the trust becomes irrevocable, the disclaimer must be delivered to the settlor of a revocable trust or the transferor of the interest.

6. In the case of a disclaimer of an interest created by a beneficiary designation made before the time the designation becomes irrevocable, the disclaimer must be delivered to the person making the beneficiary designation.

7. In the case of a disclaimer of an interest created by a beneficiary designation made after the time the designation becomes irrevocable, the disclaimer must be delivered to the person obligated to distribute the interest.

8. In the case of a disclaimer by a surviving holder of jointly held property, the disclaimer must be delivered to the person to whom the disclaimed interest passes.

9. In the case of a disclaimer by an object or taker in default of an exercise of a power of appointment at any time after the power was created, one of the following shall apply:

a. The disclaimer must be delivered to the holder of the power or to the fiduciary acting under the instrument that created the power.

b. If no fiduciary is then serving, the disclaimer must be filed with a court having authority to appoint the fiduciary.

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10. In the case of a disclaimer by an appointee of a nonfiduciary power of appointment, one of the following shall apply:

a. The disclaimer must be delivered to the holder, the personal representative of the holder's estate, or to the fiduciary under the instrument that created the power.

b. If no fiduciary is then serving, the disclaimer must be filed with a court having authority to appoint the fiduciary.

11. In the case of a disclaimer by a fiduciary of a power over a trust or estate, the disclaimer must be delivered as provided in subsection 3, 4, or 5, as if the power disclaimed were an interest in property.

12. In the case of a disclaimer of a power by an agent, the disclaimer must be delivered to the principal or the principal's representative.

13. In addition to the foregoing, all of the following shall apply:

a. A copy of any instrument of disclaimer affecting real estate shall be filed in the office of the county recorder of the county where the real estate is located. Failure to file, record, or register the disclaimer does not affect its validity as between the disclaimant and persons to whom the property interest or power passes by reason of the disclaimer.

b. A copy of an instrument of disclaimer, regardless of its subject, may be filed with the clerk of court of the county in which proceedings for administration have been commenced, if applicable.

2004 Acts, ch 1015, §19
C2005, §633.912
2005 Acts, ch 38, §53
CS2005, §633E.12
Referred to in §633E.5

633E.13 When disclaimer barred or limited.

1. A disclaimer is barred by a written waiver of the right to disclaim.

2. A disclaimer of an interest in property is barred if any of the following events occur before the disclaimer becomes effective:

a. The disclaimant accepts the interest sought to be disclaimed.

b. The disclaimant voluntarily assigns, conveys, encumbers, pledges, or transfers the interest sought to be disclaimed or contracts to do so.

c. A judicial sale of the interest sought to be disclaimed occurs.

3. A disclaimer, in whole or part, of the future exercise of a power held in a fiduciary capacity is not barred by its previous exercise.

4. A disclaimer, in whole or part, of the future exercise of a power not held in a fiduciary capacity is not barred by its previous exercise unless the power is exercisable in favor of the disclaimant.

5. A disclaimer is barred or limited if so provided by law other than this chapter, except as provided in subsection 7.

6. A disclaimer of a power over property which is barred by this section is ineffective. A disclaimer of an interest in property which is barred by this section takes effect as a transfer of the interest disclaimed to the persons who would have taken the interest under this chapter had the disclaimer not been barred.

7. A disclaimer may be made at any time unless otherwise barred and any other law that would bar a disclaimer due to the passage of time shall not apply under this chapter.

2004 Acts, ch 1015, §20
C2005, §633.913
2005 Acts, ch 38, §52, 53
CS2005, §633E.13
2010 Acts, ch 1020, §4, 5
Referred to in §633E.4, 633E.16

633E.14 Chapter supplemented by other law.

1. Unless displaced by a provision of this chapter, the principles of law and equity supplement this chapter.

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2. This chapter does not limit any right of a person to disclaim an interest in or power over property under a statute other than this chapter.

2004 Acts, ch 1015, §21
C2005, §633.914
2005 Acts, ch 38, §52, 53
CS2005, §633E.14
2010 Acts, ch 1020, §6

633E.15 Medical assistance eligibility.

A disclaimer of any property, interest, or right pursuant to the provisions of this chapter constitutes a transfer of assets for the purpose of determining eligibility for medical assistance under chapter 249A in an amount equal to the value of the property, interest, or right disclaimed.

2004 Acts, ch 1015, §22
C2005, §633.915
2005 Acts, ch 38, §52, 53
CS2005, §633E.15
Referred to in §633E.4

633E.16 Application to existing relationship.

Except as otherwise provided in section 633E.13, an interest in or power over property existing on July 1, 2004, as to which the time for delivering or filing a disclaimer under law superseded by this chapter has not expired may be disclaimed after July 1, 2004.

2004 Acts, ch 1015, §23
C2005, §633.916
2005 Acts, ch 38, §52, 53, 55
CS2005, §633E.16

633E.17 Severability.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or application of the chapter which can be given effect without the invalid provisions or application, and to this end, the provisions of the chapter are severable.

2004 Acts, ch 1015, §24
C2005, §633.917
2005 Acts, ch 38, §52, 53
CS2005, §633E.17

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CHAPTER 633F

IOWA UNIFORM CUSTODIAL TRUST ACT

Referred to in §232D.503, 633.108, 633.555, 633.678, 633.681

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633F.1 Definitions.

For purposes of this chapter:

1. *"Adult"* means an individual who is at least eighteen years of age.

2. *"Beneficiary"* means an individual for whom property has been transferred to or held under a declaration of trust by a custodial trustee for the individual's use and benefit under this chapter.

3. *"Consent"* means affirmation given by a person who is not incapacitated; or if a person is incapacitated and there is no conflict of interest between the representer and the incapacitated person with respect to the fiduciary manner, the following may consent on behalf of the incapacitated individual:

a. A conservator may represent and bind the person whose estate the conservator controls.

b. A trustee may represent and bind the beneficiary of a trust.

c. A personal representative may represent and bind the persons interested in the decedent's estate.

d. If no conservator has been appointed, a parent may represent and bind a minor child.

4. *"Conservator"* means a person appointed or qualified by a court to manage the estate of an individual or a person legally authorized to perform substantially the same functions.

5. *"Court"* means the probate court of this state.

6. *"Custodial trust property"* means an interest in property transferred to or held under a declaration of trust by a custodial trustee under this chapter and the income from and proceeds of that interest.

7. *"Custodial trustee"* means a person designated as trustee of a custodial trust under this chapter or a substitute or successor to the person designated.

8. *"Guardian"* means a person appointed or qualified by a court as a guardian of an individual, including a limited guardian, but not a person who is only a court visitor.

9. *"Incapacitated"* means the inability of an individual to manage property or business affairs because the individual is any of the following:

a. An individual whose decision-making is so impaired that the individual is unable to make, communicate, or carry out important decisions concerning the individual's financial affairs.

b. Detailed or incarcerated in a penal system.

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c. Outside the United States and unable to return.

d. A minor.

10. *"Legal representative"* means a living person's agent acting under a durable financial power of attorney or conservator, a living or deceased person's trustee acting under a revocable trust created by such person, or a deceased person's personal representative.

11. *"Member of the beneficiary's family"* means the following persons who are competent adults at the time of acting hereunder, with such action to be taken in the following order of priority:

a. The surviving spouse, if not legally separated from the beneficiary, whose whereabouts are reasonably ascertainable.

b. The surviving child of the beneficiary, or, if there is more than one, a majority of the surviving children whose whereabouts are reasonably ascertainable.

c. The surviving parents of the beneficiary whose whereabouts are reasonably ascertainable.

d. A surviving grandchild of the beneficiary, or if there is more than one, a majority of the surviving grandchildren whose whereabouts are reasonably ascertainable.

e. A surviving sibling of the beneficiary, or if there is more than one, a majority of the surviving siblings whose whereabouts are reasonably ascertainable.

f. A surviving grandparent of the beneficiary, or if there is more than one, a majority of the surviving grandparents whose whereabouts are reasonably ascertainable.

g. A person in the next degree of kinship to the beneficiary in the order named by law who would inherit the estate of the beneficiary under the rules of inheritance for intestate succession, or if there is more than one, a majority of such surviving persons whose whereabouts are reasonably ascertainable.

12. *"Person"* means an individual, corporation, business trust, estate, trust, partnership, joint venture, association, or any other legal or commercial entity.

13. *"Personal representative"* means an executor, administrator, or special administrator of a decedent's estate, a person legally authorized to perform substantially the same functions, or a successor to any of them as defined in section 633.3.

14. *"State"* means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

15. *"Transferor"* means a person who creates a custodial trust by transfer or declaration.

16. *"Trust company"* means a financial institution, corporation, or other legal entity, authorized to exercise general trust powers.

2021 Acts, ch 8, §1

633F.2 Custodial trust — general.

1. A person may create a custodial trust of property by a written transfer of the property to another person, evidenced by registration or by other instrument of transfer, executed in any lawful manner, naming as beneficiary, an individual who may be the transferor, in which the transferee is designated, in substance, as custodial trustee under this chapter.

2. A person may create a custodial trust of property by a written declaration, evidenced by registration of the property or by other instrument of declaration executed in any lawful manner, describing the property and naming as beneficiary an individual other than the declarant, in which the declarant as titleholder is designated, in substance, as custodial trustee under this chapter. A registration or other declaration of trust for the sole benefit of the declarant is not a custodial trust under this chapter.

3. Title to custodial trust property is in the custodial trustee and the beneficial interest is in the beneficiary.

4. Except as provided in subsection 5, a transferor shall not terminate a custodial trust.

5. The beneficiary, if not incapacitated, or the legal representative of an incapacitated beneficiary, may terminate a custodial trust by delivering to the custodial trustee a writing signed by the beneficiary or legal representative declaring the termination. If not previously terminated, the custodial trust terminates on the death of the beneficiary.

6. Any person may augment existing custodial trust property by the addition of other property pursuant to this chapter, only upon receipt and acceptance by the custodial trustee.

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7. The transferor may designate, or authorize the designation of, a successor custodial trustee in the trust instrument.

8. This chapter does not displace or restrict other means of creating trusts. A trust whose terms do not conform to this chapter may be enforceable according to its terms under other law.

2021 Acts, ch 8, §2
Referred to in §633F.13, 633F.18

633F.3 Custodial trustee for future payment or transfer.

1. A person having the right to designate the recipient of property payable or transferable upon a future event may create a custodial trust upon the occurrence of the future event by designating in writing the recipient, followed in substance by:

"as custodial trustee for _____ (name of beneficiary) under the Iowa Uniform Custodial Trust Act".

2. Persons may be designated as substitute or successor custodial trustees to whom the property must be paid or transferred in the order named if the first designated custodial trustee is unable or unwilling to serve.

3. A designation under this section may be made in a will, a trust, a multiple-party account, an insurance policy, an instrument exercising a power of appointment, or a writing designating a beneficiary of contractual rights. Otherwise, to be effective, the designation must be registered with or delivered to the fiduciary, payor, issuer, or obligor of the future right.

2021 Acts, ch 8, §3
Referred to in §633F.5, 633F.13, 633F.15

633F.4 Form and effect of receipt and acceptance by custodial trustee — jurisdiction.

1. Obligations of a custodial trustee, including the obligation to follow directions of the beneficiary, arise under this chapter upon the custodial trustee's acceptance, express or implied, of the custodial trust property.

2. The custodial trustee's acceptance may be evidenced by a writing stating in substance:

CUSTODIAL TRUSTEE'S RECEIPT AND ACCEPTANCE

I, _____ (name of custodial trustee) acknowledge receipt of the custodial trust property described below or in the attached instrument and accept the custodial trust as custodial trustee for _____ (name of beneficiary) under the Iowa Uniform Custodial Trust Act. I undertake to administer and distribute the custodial trust property pursuant to the Iowa Uniform Custodial Trust Act. My obligations as custodial trustee are subject to the directions of the beneficiary unless the beneficiary is designated as, is, or becomes incapacitated. The custodial trust property consists of _____.

Dated: _____

Signed: _____
(signature of custodial trustee)

3. Upon accepting custodial trust property, a person designated as custodial trustee under this chapter is subject to personal jurisdiction of the court with respect to any matter relating to the custodial trust.

2021 Acts, ch 8, §4; 2021 Acts, ch 174, §27

633F.5 Transfer to custodial trustee by fiduciary or obligor — facility of payment.

1. Unless otherwise directed by an instrument designating a custodial trustee pursuant to section 633F.3, a person, including a fiduciary other than a custodial trustee, who holds property of or owes a debt to an incapacitated individual may make a transfer to a beneficiary's legal representative and if none, to a member of the beneficiary's family, or a

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trust company, as custodial trustee for the use and benefit of the incapacitated individual. If the value of the property or the debt exceeds fifty thousand dollars, the transfer is not effective unless authorized by the court.

2. A written acknowledgment of delivery, signed by a custodial trustee, is a sufficient receipt and discharge for property transferred to the custodial trustee pursuant to this section.

2021 Acts, ch 8, §5
Referred to in §633F.10

633F.6 Single beneficiaries — separate trust accounts.

1. Beneficial interests in a custodial trust shall not be created for multiple beneficiaries.

2. All custodial trust property held under this chapter by the same custodial trustee for the use and benefit of a single beneficiary may be administered as a single custodial trust.

2021 Acts, ch 8, §6

633F.7 General duties of custodial trustee.

1. If appropriate, a custodial trustee shall register or record the instrument vesting title to custodial trust property.

2. If the beneficiary is not incapacitated, a custodial trustee shall follow the directions of the beneficiary in the management, control, investment, or retention of the custodial trust property. In the absence of effective contrary direction by the beneficiary while not incapacitated, the custodial trustee shall observe the prudent investment standards set forth in section 633.123. However, a custodial trustee, in the custodial trustee's discretion, may retain any custodial trust property received from the transferor. If a custodial trustee has a special skill or expertise or is named custodial trustee on the basis of representation of a special skill or expertise, the custodial trustee shall use that skill or expertise.

3. Subject to subsection 2, a custodial trustee shall take control of and collect, hold, manage, invest, and reinvest custodial trust property.

4. A custodial trustee at all times shall keep custodial trust property of which the custodial trustee has control, separate from all other property in a manner sufficient to identify it clearly as custodial trust property of the beneficiary. Custodial trust property, the title to which is subject to recordation, is so identified if an appropriate instrument so identifying the property is recorded, and custodial trust property subject to registration is so identified if it is registered, or held in an account in the name of the custodial trustee, designated in substance:

"as custodial trustee for _____ (name of beneficiary)
under the Iowa Uniform Custodial Trust Act".

5. A custodial trustee shall keep records of all transactions with respect to custodial trust property, including information necessary for the preparation of tax returns, and shall make the records and information available at reasonable times to the beneficiary or legal representative of the beneficiary.

6. The exercise of a durable power of attorney for an incapacitated beneficiary is not effective to terminate or direct the administration or distribution of a custodial trust.

2021 Acts, ch 8, §7
Referred to in §633F.8

633F.8 General powers of custodial trustee.

1. A custodial trustee, acting in a fiduciary capacity, has all the rights and powers over custodial trust property which an unmarried adult owner has over individually owned property, but a custodial trustee may exercise those rights and powers in a fiduciary capacity only.

2. This section does not relieve a custodial trustee from liability for a violation of section 633F.7.

2021 Acts, ch 8, §8

633F.9 Use of custodial trust property.

1. A custodial trustee shall pay to the beneficiary or expend for the beneficiary's use and

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benefit so much or all of the custodial trust property as the beneficiary while not incapacitated may direct from time to time.

2. If the beneficiary is incapacitated, the custodial trustee shall expend so much or all of the custodial trust property as the custodial trustee considers advisable for the use and benefit of the beneficiary and individuals who are legally entitled to support by the beneficiary. Expenditures may be made in the manner, when, and to the extent that the custodial trustee determines suitable and proper, without court order and without regard to other support, income, or property of the beneficiary.

3. To facilitate distributions to the beneficiary, a custodial trustee may establish checking, savings, or other similar accounts of reasonable amounts under which either the custodial trustee or the beneficiary, if authorized, may withdraw funds from, or draw checks against, the accounts in amounts authorized by the custodian. Funds withdrawn from, or checks written against, the account by the beneficiary are distributions of custodial trust property by the custodial trustee to the beneficiary.

2021 Acts, ch 8, §9

633F.10 Determination of incapacity — effect.

1. The custodial trustee shall administer the custodial trust as for an incapacitated beneficiary in any of the following circumstances:

a. The custodial trust was created under section 633F.5.

b. The transferor has so directed in the instrument creating the custodial trust.

c. The custodial trustee has determined that the beneficiary is incapacitated.

2. A custodial trustee may determine that the beneficiary is incapacitated in reliance upon any of the following:

a. Previous direction or authority given by the beneficiary while not incapacitated, including direction or authority pursuant to a durable power of attorney.

b. Written documentation from the beneficiary's physician.

c. Other persuasive evidence.

3. If a custodial trustee for an incapacitated beneficiary reasonably concludes that the beneficiary's incapacity has ceased, or that circumstances concerning the beneficiary's ability to manage property and business affairs have changed since the creation of a custodial trust directing administration as for an incapacitated beneficiary, the custodial trustee may administer the trust as for a beneficiary who is not incapacitated.

4. On petition of the beneficiary, the custodial trustee, or other person interested in the custodial trust property or the welfare of the beneficiary, the court shall determine whether the beneficiary is incapacitated.

5. Absent determination of incapacity of the beneficiary under subsection 2 or 4, a custodial trustee who has reason to believe that the beneficiary is incapacitated shall administer the custodial trust in accordance with the provisions of this chapter applicable to an incapacitated beneficiary.

6. Incapacity of a beneficiary does not terminate the custodial trust, any designation of a successor custodial trustee, rights or powers of the custodial trustee, or any immunities of third persons acting on instructions of the custodial trustee.

2021 Acts, ch 8, §10

633F.11 Exemption of third person from liability.

1. A third person in good faith and without a court order may act on instructions of, or otherwise deal with, a person purporting to make a transfer as, or purporting to act in the capacity of, a custodial trustee.

2. A third person who receives instructions from the purported custodial trustee may require such custodial trustee to provide proof of their identity and a certification of trust or copies of those excerpts from the original trust instrument and amendments to the original trust instrument which designate the currently acting custodial trustee and confer upon the custodial trustee the power to act in the pending transaction.

3. If a certification of trust is provided, it must do all of the following:

a. State the names of all the currently acting trustees.

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b. If there is more than one currently acting trustee, state whether the trustees may act individually or must act by majority decision or must act by unanimous decision.

c. State that the trust has not been revoked, modified, or amended in any manner that would cause the representations in the certification of trust to be incorrect.

d. Be signed by a currently acting trustee or the attorney of a currently acting trustee.

e. Be dated and certified under penalty of perjury and pursuant to the laws of the state of Iowa that it is true and correct, or subscribed and sworn to under penalty of perjury before a notary public as provided in chapter 9B.

f. A third person who acts in reliance upon the information provided by the custodial trustee, after taking reasonable steps to verify the identity of the custodial trustee and without knowledge that the representations contained in the certification are incorrect, is not liable to any person for so acting and may assume without inquiry the existence of the facts contained in the certification. The period of time to verify the identity of the trustee shall not exceed ten business days from the date the third person received the requested information. Knowledge shall not be inferred solely from the fact that a copy of all or part of the trust instrument is held by the third person relying upon the trust certification. A transaction, and a lien created by a transaction, entered into by the custodial trustee and a person acting in reliance upon a certification of trust is enforceable against the trust assets.

4. A third person who makes a demand for information from the custodial trustee beyond that set forth in subsection 2 shall be liable for damages, including attorney fees, incurred as a result of the refusal to accept the information provided, if the court determines that the third person acted unreasonably in requesting such additional information.

5. If a custodial trustee has provided the information set forth in subsection 2, and the third person refuses to follow the instructions provided by the custodial trustee within the time period set forth in subsection 4, the custodial trustee may bring an action under this subsection and the court may award any or all of the following to the custodial trustee:

a. Any damages sustained by the trust.

b. The costs of the action.

c. A penalty in an amount of not less than five hundred dollars and not more than ten thousand dollars.

d. Reasonable attorney fees, based on the value of the time reasonably expended by the attorney and not on the amount of the recovery on behalf of the custodial trustee.

6. An action shall not be brought under subsection 5 more than one year after the date of the occurrence of the alleged violation.

2021 Acts, ch 8, §11; 2022 Acts, ch 1021, §166

633F.12 Liability to third person.

1. A claim based on a contract entered into by a custodial trustee acting in a fiduciary capacity, an obligation arising from the ownership or control of custodial trust property, or a tort committed in the course of administering the custodial trust, may be asserted by a third person against the custodial trust property by proceeding against the custodial trustee in a fiduciary capacity, whether or not the custodial trustee or the beneficiary is personally liable.

2. A custodial trustee is not personally liable to a third person for any of the following:

a. On a contract properly entered into in a fiduciary capacity unless the custodial trustee fails to reveal that capacity or to identify the custodial trust in the contract.

b. For an obligation arising from control of custodial trust property or for a tort committed in the course of the administration of the custodial trust unless the custodial trustee is personally at fault.

3. A beneficiary is not personally liable to a third person for an obligation arising from beneficial ownership of custodial trust property or for a tort committed in the course of administration of the custodial trust unless the beneficiary is personally in possession of the custodial trust property giving rise to the liability or is personally at fault.

4. Subsections 2 and 3 do not preclude actions or proceedings to establish liability of the custodial trustee or beneficiary to the extent the person sued is protected as the insured by liability insurance.

2021 Acts, ch 8, §12

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633F.13 Declination, resignation, incapacity, death, or removal of custodial trustee — designation of successor custodial trustee.

1. Before accepting the custodial trust property, a person designated as custodial trustee may decline to serve by notifying the person who made the designation, the transferor, or the transferor's legal representative. If an event giving rise to a transfer has not occurred, the substitute custodial trustee designated under section 633F.3 becomes the custodial trustee, or, if a substitute custodial trustee has not been designated, the person who made the designation may designate a substitute custodial trustee pursuant to section 633F.3. In other cases, the transferor or the transferor's legal representative may designate a substitute custodial trustee.

2. A custodial trustee who has accepted the custodial trust property may resign by doing all of the following:

a. Delivering written notice to a successor custodial trustee, if any, the beneficiary and, if the beneficiary is incapacitated, to the beneficiary's legal representative, if any.

b. Transferring or registering, or recording an appropriate instrument relating to, the custodial trust property, in the name of, and delivering the records to, the successor custodial trustee identified under subsection 3.

3. If a custodial trustee or successor custodial trustee is ineligible, resigns, dies, or becomes incapacitated, the successor designated under section 633F.2, subsection 7, or section 633F.3 becomes custodial trustee. If there is no effective provision for a successor, the beneficiary if not incapacitated, or the legal representative of an incapacitated beneficiary, may designate a successor custodial trustee. If the beneficiary is not incapacitated, but fails to act within ninety days after the ineligibility, resignation, death, or incapacity of the custodial trustee, or if the beneficiary is incapacitated and the beneficiary's legal representative fails to act within ninety days after the ineligibility, resignation, death, or incapacity of the custodial trustee, then the beneficiary's legal representative becomes successor custodial trustee. If the beneficiary does not have a legal representative or the legal representative fails to act, the resigning custodial trustee may designate a successor custodial trustee.

4. If a successor custodial trustee is not designated pursuant to subsection 3, the transferor, the legal representative of the transferor or of the custodial trustee, a beneficiary's legal representative and if none, a member of the beneficiary's family, a person interested in the custodial trust property may petition the court to designate a successor custodial trustee.

5. A custodial trustee who declines to serve or resigns, or the legal representative of a deceased or incapacitated custodial trustee, as soon as practicable, shall put the custodial trust property and records in the possession and control of the successor custodial trustee. The successor custodial trustee may enforce the obligation to deliver custodial trust property and records and becomes responsible for each item as received.

6. A substitute custodial trustee designated under section 633F.3, the beneficiary, the beneficiary's legal representative and if none, a member of the beneficiary's family, a person interested in the custodial trust property, may petition the court to remove the custodial trustee for cause and designate a successor custodial trustee, to require the custodial trustee to furnish a bond or other security for the faithful performance of fiduciary duties, or for other appropriate relief.

2021 Acts, ch 8, §13

633F.14 Expenses, compensation, and bond of custodial trustee.

Except as otherwise provided in the instrument creating the custodial trust, in an agreement with the beneficiary, or by court order, all of the following are true:

1. A custodial trustee is entitled to reimbursement from custodial trust property for reasonable expenses incurred in the performance of fiduciary services.

2. A custodial trustee has a noncumulative election, to be made no later than six months after the end of each calendar year, to charge a reasonable compensation for fiduciary services performed during that year.

3. A custodial trustee need not furnish a bond or other security for the faithful performance of fiduciary duties.

2021 Acts, ch 8, §14

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633F.15 Reporting and accounting by custodial trustee — determination of liability of custodial trustee.

1. Upon the acceptance of custodial trust property, the custodial trustee shall provide a written statement describing the custodial trust property and shall thereafter provide a written statement of the administration of the custodial trust property as follows:

a. Once each year.

b. Upon request at reasonable times, but not more than quarterly during any calendar year, by the beneficiary or the beneficiary's legal representative.

c. Upon resignation or removal of the custodial trustee.

d. Upon termination of the custodial trust.

2. The statements must be provided to the beneficiary or to the beneficiary's legal representative, if any. Upon termination of the beneficiary's interest, the custodial trustee shall furnish a current statement to the person to whom the custodial trust property is to be delivered.

3. A substitute or successor custodial trustee designated under section 633F.3, a beneficiary, the beneficiary's legal representative, a member of the beneficiary's family, or a person interested in the custodial trust property may petition the court for an accounting by the custodial trustee or the custodial trustee's legal representative.

4. A successor custodial trustee may petition the court for an accounting by a predecessor custodial trustee.

5. In an action or proceeding under this chapter or in any other proceeding, the court may require or permit the custodial trustee or the custodial trustee's legal representative to account. The custodial trustee or the custodial trustee's legal representative may petition the court for approval of final accounts.

6. If a custodial trustee is removed, the court shall require an accounting and order delivery of the custodial trust property and records to the successor custodial trustee and the execution of all instruments required for transfer of the custodial trust property.

7. On petition of the custodial trustee or any person who could petition for an accounting, the court, after notice to interested persons, may issue instructions to the custodial trustee or review the propriety of the acts of a custodial trustee or the reasonableness of compensation determined by the custodial trustee for the services of the custodial trustee or others.

2021 Acts, ch 8, §15

633F.16 Limitations of action against custodial trustee.

1. Except as provided in subsection 3, unless previously barred by adjudication, consent, or limitation, a claim for relief against a custodial trustee for accounting or breach of duty is barred as to a beneficiary, a person to whom custodial trust property is to be paid or delivered, or the legal representative of an incapacitated or deceased beneficiary or payee who either:

a. Has received an accounting or other statement adequately disclosing the matter unless an action or proceeding to assert the claim is commenced within one year after receipt of such accounting or statement.

b. Has not received an accounting or other statement adequately disclosing the matter unless an action or proceeding to assert the claim is commenced within three years after the termination of the custodial trust.

2. For the purpose of subsection 1, a beneficiary or a person to whom custodial trust property is to be paid or delivered, is deemed to have received an accounting or other statement, in the following instances:

a. In the case of an adult who is reasonably capable of understanding the accounting or other statement if it is personally received by such person.

b. In the case of an adult who is not reasonably capable of understanding the accounting or other statement, if it is received by such adult person's legal representative, and if none, then if received by a guardian ad litem, court visitor, or other person appointed for this purpose.

c. In the case of a minor, if it is received by a person who has authority to consent on the minor's behalf, and if none, then if received by a guardian ad litem, court visitor, or other person appointed for this purpose.

3. Except as provided in subsection 4, a claim for relief to recover from a custodial trustee

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for fraud, misrepresentation, or concealment related to the final settlement of the custodial trust or concealment of the existence of the custodial trust, is barred unless an action or proceeding to assert the claim is commenced within five years after the termination of the custodial trust.

4. Unless an accounting or other statement adequately disclosing the matter was provided as set forth above, a claim for relief is not barred by this section if the claimant is or was any of the following:

a. A minor, until the earlier of one year after the claimant becomes an adult or dies; an incapacitated adult, until the earliest of one year after the following:

(1) The appointment of a legal representative.

(2) The removal of the incapacity.

(3) The death of the claimant.

b. An adult, now deceased, who was not incapacitated, until one year after the claimant's death.

2021 Acts, ch 8, §16

633F.17 Distribution on termination.

1. Upon termination of a custodial trust, the custodial trustee shall transfer the unexpended custodial trust property:

a. To the beneficiary, if not incapacitated or deceased.

b. To the beneficiary's legal representative or other recipient designated by the court for an incapacitated beneficiary.

c. Upon the beneficiary's death, in the following order:

(1) As last directed in a writing signed by the deceased beneficiary while not incapacitated and received by the custodial trustee during the life of the deceased.

(2) As designated in the instrument creating the custodial trust.

(3) To the estate of the deceased beneficiary.

2. The direction to the custodial trustee by a beneficiary who is not incapacitated, for distribution on termination of the custodial trust may be in any written form clearly identifying the distributee and may be substantially similar to the following:

> I, _____ (name of beneficiary) hereby direct _____ (name of custodial trustee) as custodial trustee, to transfer and pay the unexpended balance of the custodial trust property of which I am beneficiary to _____ (name of distributee) as distributee on the termination of the trust at my death. In the event of the prior death of _____ (name of distributee) above named as distributee, I designate _____ (name of distributee) as distributee of the custodial trust property.
>
> Signed _____ (signature of beneficiary).
>
> Date _____
>
> Receipt Acknowledged: _____ (signature of custodial trustee)
>
> Date _____

3. If, when the custodial trust would otherwise terminate, the distributee is incapacitated, the custodial trust continues for the use and benefit of the distributee as beneficiary until the incapacity is removed or the custodial trust is otherwise terminated.

4. Death of a beneficiary does not terminate the power of the custodial trustee to discharge obligations of the custodial trustee or beneficiary incurred before the termination of the custodial trust.

2021 Acts, ch 8, §17; 2022 Acts, ch 1021, §167

633F.18 Methods and forms for creating custodial trusts.

1. If a transaction, including a declaration with respect to or a transfer of specific property,

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otherwise satisfies applicable law, the criteria of section 633F.2 are satisfied by any of the following:

a. The execution and either delivery to the custodial trustee or recording of an instrument in substantially the following form:

> TRANSFER UNDER THE IOWA UNIFORM CUSTODIAL TRUST ACT
>
> I, _____ (name of transferor or name and representative capacity if a fiduciary), transfer to _____ (name of trustee other than transferor), as custodial trustee for _____ (name of beneficiary) as beneficiary and _____ (name of distributee) as distributee on termination of the trust in absence of direction by the beneficiary under the Iowa Uniform Custodial Trust Act, the following:
>
> _____ (Insert a description of the custodial trust property legally sufficient to identify and transfer each item of property).
>
> If _____ (name of trustee other than transferor) declines to serve or ceases to serve as custodial trustee for any reason, then I designate _____ (name of substitute or successor custodial trustee) as substitute or successor custodial trustee.
>
> Dated: _____
>
> Signature: _____

b. The execution and the recording or giving notice of its execution to the beneficiary of an instrument in substantially the following form:

> DECLARATION OF TRUST UNDER IOWA UNIFORM CUSTODIAL TRUST ACT
>
> I, _____ (name of owner of property), declare that henceforth I hold as custodial trustee for _____ (name of beneficiary other than transferor) as beneficiary and _____ (name of distributee) as distributee on termination of the trust in absence of direction by the beneficiary under the Iowa Uniform Custodial Trust Act, the following: _____ (Insert a description of the custodial trust property legally sufficient to identify and transfer each item of property). If I cease to serve as custodial trustee for any reason, then I designate _____ (name of substitute or successor custodial trustee) as successor custodial trustee.
>
> Dated: _____
>
> Signature: _____

2. Customary methods of transferring or evidencing ownership of property may be used to create a custodial trust, including any of the following:

a. Registration of a security in the name of a trust company, an adult other than the transferor, or the transferor if the beneficiary is other than the transferor, designated in substance:

> "as custodial trustee for _____ (name of beneficiary) under the Iowa Uniform Custodial Trust Act".

b. Delivery of a certificated security, or a document necessary for the transfer of an uncertificated security, together with any necessary endorsement, to an adult other than the transferor or to a trust company as custodial trustee, accompanied by an instrument in substantially the form prescribed in subsection 1, paragraph "*a*".

c. Payment of money or transfer of a security held in the name of a broker or a financial institution or its nominee to a broker or financial institution for credit to an account in the name of a trust company, an adult other than the transferor, or the transferor if the beneficiary is other than the transferor, designated in substance:

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"as custodial trustee for _____ (name of beneficiary) under the Iowa Uniform Custodial Trust Act".

d. Registration of ownership of a life or endowment insurance policy or annuity contract with the issuer in the name of a trust company, an adult other than the transferor, or the transferor if the beneficiary is other than the transferor, designated in substance:

"as custodial trustee for _____ (name of beneficiary) under the Iowa Uniform Custodial Trust Act".

e. Delivery of a written assignment to an adult other than the transferor or to a trust company whose name in the assignment is designated in substance by the words:

"as custodial trustee for _____ (name of beneficiary) under the Iowa Uniform Custodial Trust Act".

f. Irrevocable exercise of a power of appointment, pursuant to its terms, in favor of a trust company, an adult other than the donee of the power, or the donee who holds the power if the beneficiary is other than the donee, whose name in the appointment is designated in substance:

"as custodial trustee for _____ (name of beneficiary) under the Iowa Uniform Custodial Trust Act".

g. Delivery of a written notification or assignment of a right to future payment under a contract to an obligor which transfers the right under the contract to a trust company, an adult other than the transferor, or the transferor if the beneficiary is other than the transferor, whose name in the notification or assignment is designated in substance:

"as custodial trustee for _____ (name of beneficiary) under the Iowa Uniform Custodial Trust Act".

h. Execution, delivery, and recordation of a conveyance of an interest in real property in the name of a trust company, an adult other than the transferor, or the transferor if the beneficiary is other than the transferor, designated in substance:

"as custodial trustee for _____ (name of beneficiary) under the Iowa Uniform Custodial Trust Act".

i. Issuance of a certificate of title by an agency of a state or of the United States which evidences title to tangible personal property:

(1) Issued in the name of a trust company, an adult other than the transferor, or the transferor if the beneficiary is other than the transferor, designated in substance:

"as custodial trustee for _____ (name of beneficiary) under the Iowa Uniform Custodial Trust Act".

(2) Delivered to a trust company or an adult other than the transferor or endorsed by the transferor to that person, designated in substance:

"as custodial trustee for _____ (name of beneficiary) under the Iowa Uniform Custodial Trust Act".

j. Execution and delivery of an instrument of gift to a trust company or an adult other than the transferor, designated in substance:

"as custodial trustee for _____ (name of beneficiary) under the Iowa Uniform Custodial Trust Act".

2021 Acts, ch 8, §18; 2021 Acts, ch 174, §28; 2022 Acts, ch 1021, §168

633F.19 Applicable law.

1. This chapter applies to a transfer or declaration creating a custodial trust that refers to this chapter if, at the time of the transfer or declaration, the transferor, beneficiary, or custodial trustee is a resident of or has its principal place of business in this state or custodial trust property is located in this state. The custodial trust remains subject to this chapter

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despite a later change in residence or principal place of business of the transferor, beneficiary, or custodial trustee, or removal of the custodial trust property from this state.

2. A transfer made pursuant to an act of another state substantially similar to this chapter is governed by the law of that state and may be enforced in this state.

2021 Acts, ch 8, §19

633F.20 Uniformity of application and construction.

This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

2021 Acts, ch 8, §20

633F.21 Short title.

This chapter shall be known and may be cited as the *"Iowa Uniform Custodial Trust Act"*.

2021 Acts, ch 8, §21

CHAPTER 634

PRIVATE FOUNDATIONS AND CHARITABLE TRUSTS

Referred to in §633A.5105

634.1 Applicability.
634.2 Statutory provisions as part of the trust.
634.3 Distribution to avoid tax liability.
634.4 Limitations.
634.5 Internal Revenue Code defined.
634.6 Statutory exception in trust.
634.7 Public grants by private foundations or trusts.

634.1 Applicability.

This chapter shall apply only to trusts which are private foundations as defined in section 509 of the Internal Revenue Code, charitable trusts as described in section 4947(a) (1) of the Internal Revenue Code, or split-interest trusts as described in section 4947(a) (2) of the Internal Revenue Code. With respect to any such trust created after December 31, 1969, this chapter shall apply from such trust's creation. With respect to any such trust created before January 1, 1970, this chapter shall apply only to such trust's federal taxable years beginning after December 31, 1971.

[C73, 75, 77, 79, 81, §634.1]

634.2 Statutory provisions as part of the trust.

1. The trust instrument of each trust to which this chapter applies shall be deemed to contain provisions prohibiting the trustee from doing any of the following:

a. Engaging in any act of self-dealing, as defined in section 4941(d) of the Internal Revenue Code, which would give rise to any liability for the tax imposed by section 4941(a) of the Internal Revenue Code.

b. Retaining any excess business holdings, as defined in section 4943(c) of the Internal Revenue Code, which would give rise to any liability for the tax imposed by section 4943(a) of the Internal Revenue Code.

c. Making any investments which would jeopardize the carrying out of any of the exempt purposes of the trust, within the meaning of section 4944 of the Internal Revenue Code, so as to give rise to any liability for the tax imposed by section 4944(a) of the Internal Revenue Code.

d. Making any taxable expenditures, as defined in section 4945(d) of the Internal Revenue Code, which would give rise to any liability for the tax imposed by section 4945(a) of the Internal Revenue Code.

2. However, this section shall not apply either to those split-interest trusts or to amounts

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thereof which are not subject to the prohibitions applicable to private foundations by reason of the provisions of section 4947 of the Internal Revenue Code.

[C73, 75, 77, 79, 81, §634.2]

2013 Acts, ch 90, §218

Referred to in §634.6

634.3 Distribution to avoid tax liability.

The trust instrument of each trust to which this chapter applies, except split-interest trusts, shall be deemed to contain a provision requiring the trustee to distribute for the purposes specified in the trust instrument for each taxable year of the trust amounts at least sufficient to avoid liability for the tax imposed by section 4942(a) of the Internal Revenue Code.

[C73, 75, 77, 79, 81, §634.3]

Referred to in §634.6

634.4 Limitations.

Nothing in this chapter shall impair the rights and powers of the courts or the attorney general of this state with respect to any trust.

[C73, 75, 77, 79, 81, §634.4]

634.5 Internal Revenue Code defined.

All references to sections of the Internal Revenue Code mean the Internal Revenue Code as defined in section 422.3.

[C73, 75, 77, 79, 81, §634.5]

84 Acts, ch 1305, §41

634.6 Statutory exception in trust.

Nothing in this chapter shall limit the power of a person who creates a trust after July 1, 1971, or the power of a person who has retained or has been granted the right to amend a trust created before July 1, 1971, to include a specific provision in the trust instrument or an amendment to the trust instrument as the case may be, which provides that some or all of the provisions of sections 634.2 and 634.3 shall have no application to such trust.

[C73, 75, 77, 79, 81, §634.6]

634.7 Public grants by private foundations or trusts.

A grant, by a trust organized and funded prior to January 1, 1992, to which this chapter applies, to the state of Iowa, or a political subdivision, or agency of the state or political subdivision, for purposes of economic development, shall be regarded as a charitable contribution if made prior to January 1, 1994.

92 Acts, ch 1244, §48

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CHAPTER 634A

SUPPLEMENTAL NEEDS TRUSTS FOR PERSONS WITH DISABILITIES

Referred to in §12I.3

634A.1 Definitions.
634A.2 Supplemental needs trust — requirements.

634A.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Person with a disability"* means a person to whom one of the following applies, prior to creation of a trust which otherwise qualifies as a supplemental needs trust for the person's benefit:

a. Is considered to be a person with a disability under the disability criteria specified in Tit. II or Tit. XVI of the federal Social Security Act.

b. Has a physical or mental illness or condition which, in the expected natural course of the illness or condition, to a reasonable degree of medical certainty, is expected to continue for a continuous period of twelve months or more and substantially impairs the person's ability to provide for the person's care or custody.

2. *"Supplemental needs trust"* means an inter vivos or testamentary trust created for the benefit of a person with a disability and funded by a person other than the trust beneficiary or the beneficiary's spouse, and which is declared to be a supplemental needs trust in the instrument creating the trust. *"Supplemental needs trust"* shall include, but is not limited to, a trust created for the benefit of a person with a disability and funded solely with moneys awarded as damages in a personal injury case or moneys received in the settlement of a personal injury case provided that the trust is created within six months of receiving the award or settlement, the trust is irrevocable, the beneficiary is not named a trustee of the trust, and the instrument creating the trust declares the trust to be a supplemental needs trust.

97 Acts, ch 112, §1; 2012 Acts, ch 1023, §84

634A.2 Supplemental needs trust — requirements.

1. A supplemental needs trust established in compliance with this chapter is in keeping with the public policy of this state and is enforceable.

2. A supplemental needs trust established under this chapter shall comply with all of the following:

a. Shall be established as a discretionary trust for the purpose of providing a supplemental source for payment of expenses which include but are not limited to the reasonable living expenses and basic needs of a person with a disability only if benefits from publicly funded benefit programs are not sufficient to provide adequately for those expenses and needs.

b. Shall contain provisions which prohibit disbursements that would result in replacement, reduction, or substitution for publicly funded benefits otherwise available to the beneficiary or in rendering the beneficiary ineligible for publicly funded benefits. The supplemental needs trust shall provide for distributions only in a manner and for purposes that supplement or complement the benefits available under medical assistance, state supplementary assistance, and other publicly funded benefit programs for persons with disabilities.

3. For the purpose of establishing eligibility of a person as a beneficiary of a supplemental needs trust, disability may be established conclusively by the written opinion of a licensed professional who is qualified to diagnose the illness or condition, if confirmed by the written opinion of a second licensed professional who is also qualified to diagnose the illness or condition.

4. A supplemental needs trust is not enforceable if the trust beneficiary becomes a patient or resident after sixty-four years of age in a state institution or nursing facility for six months or more and, due to the beneficiary's medical need for care in an institutional setting, there is no reasonable expectation, as certified by the beneficiary's attending physician, that the beneficiary will be discharged from the facility. For the purposes of this subsection, a beneficiary participating in a group residential program is not a patient or resident of a state institution or nursing facility.

5. The trust income and assets of a supplemental needs trust are considered available to the beneficiary for medical assistance or other public assistance program purposes to the extent that income and assets are considered available in accordance with the methodology applicable to a particular program.

6. A supplemental needs trust is not subject to administration in the Iowa district court sitting in probate. A trustee of a supplemental needs trust has all powers and shall be subject to all the duties and liabilities of a trustee as provided in the probate code, except the duty of reporting to or obtaining approval of the court.

7. Notwithstanding the prohibition of the funding of a supplemental needs trust by the beneficiary or the beneficiary's spouse, a supplemental needs trust may be established with the proceeds of back payments made by the United States social security administration

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resulting from a judgment regarding the regulatory schemes for determination of the disability of a child.

8. Any funds retained in a supplemental needs trust of a beneficiary who is also a designated beneficiary as defined in section 12I.1 may be transferred to the Iowa ABLE savings plan trust account of the designated beneficiary in accordance with this chapter and chapter 12I.

97 Acts, ch 112, §2; 2021 Acts, ch 136, §9

For medical assistance trusts, see chapter 633C

CHAPTER 635

ADMINISTRATION OF SMALL ESTATES

Referred to in §602.8102(106), 633.22, 633.31

635.1 When applicable.
635.2 Petition requirements.
635.3 through 635.6 Repealed by 2007 Acts, ch 134, §26, 28.
635.7 Report and inventory — value and conversion.
635.8 Closing by sworn statement.
635.9 and 635.10 Repealed by 2007 Acts, ch 134, §26, 28.
635.11 Statement in notice by clerk. Repealed by 2006 Acts, ch 1129, §15.
635.12 Sale of property. Repealed by 2007 Acts, ch 134, §26, 28.
635.13 Notice — claims.
635.14 Minimum time before distribution. Repealed by 2007 Acts, ch 134, §26, 28.

635.1 When applicable.

When the gross value of the probate assets of a decedent subject to the jurisdiction of this state does not exceed two hundred thousand dollars, and upon a petition as provided in section 635.2 of an authorized petitioner in accordance with sections 633.227 and 633.228, or section 633.290, subsection 1, paragraph "*a*" or "*b*", the clerk shall issue letters of appointment for administration to the proposed personal representative named in the petition, if qualified to serve pursuant to section 633.63 or upon court order pursuant to section 633.64. Unless otherwise provided in this chapter, the provisions of chapter 633 apply to an estate administered pursuant to this chapter.

[C75, 77, 79, 81, §635.1; 81 Acts, ch 199, §1; 82 Acts, ch 1204, §1 – 4]

89 Acts, ch 25, §1; 2007 Acts, ch 134, §21, 28; 2008 Acts, ch 1119, §34; 2013 Acts, ch 33, §8, 9; 2018 Acts, ch 1140, §2, 7, 10

Referred to in §635.2, 635.7, 635.8

635.2 Petition requirements.

The petition for administration of a small estate must contain the following:

1. The name, domicile, and date of death of the decedent.
2. The name and address of the surviving spouse.
3. The name and relationship of each heir so far as known to the petitioner in an intestate estate.
4. Whether the decedent died intestate or testate, and, if testate, the date the will was executed.
5. A statement that the probate assets of the decedent subject to the jurisdiction of this state do not have an aggregate gross value of more than the amount permitted under the provisions of section 635.1 and the approximate amount of personal property and income for the purposes of setting a bond.
6. The name and address of the proposed personal representative.

[C75, 77, 79, 81, §635.2; 81 Acts, ch 199, §2, 3]

89 Acts, ch 25, §2; 2007 Acts, ch 134, §22, 28; 2008 Acts, ch 1119, §35; 2017 Acts, ch 142, §1 – 3; 2018 Acts, ch 1140, §3, 6, 8

Referred to in §635.1

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635.3 through 635.6 Repealed by 2007 Acts, ch 134, §26, 28.

635.7 Report and inventory — value and conversion.

1. The personal representative is required to file the report and inventory for which provision is made in section 633.361, including all probate and nonprobate assets. This chapter does not exempt the personal representative from complying with the requirements of section 422.27, 633.480, or 633.481, and the administration of an estate whether converted to or from a small estate shall be considered one proceeding pursuant to section 633.330. For a death occurring before January 1, 2025, this chapter does not exempt the personal representative from complying with the requirements of section 450.22 or 450.58.

2. The report and inventory shall separately specify which assets are probate assets subject to the jurisdiction of this state and clearly state their gross value and the sum thereof.

3. If the gross value of probate assets subject to the jurisdiction of this state exceeds the amount permitted for a small estate under section 635.1, the estate shall be administered as provided in chapter 633.

4. If the report and inventory in an estate administered pursuant to chapter 633 separately specifies the gross value of the probate assets subject to the jurisdiction of this state does not exceed the amount permitted under section 635.1, the estate shall be administered as a small estate upon the filing of a statement by the personal representative that the estate is a small estate.

5. If the personal representative files a report to convert the estate administration to or from a small estate based on the gross value of probate assets subject to the jurisdiction of this state, the clerk shall make the conversion without an order of the court.

6. Other interested parties may apply to convert proceedings from a small estate to a regular estate or from a regular estate to a small estate which the court may grant only upon good cause shown.

[C75, 77, 79, 81, §635.7; 81 Acts, ch 199, §8]

89 Acts, ch 25, §3; 2003 Acts, ch 151, §57; 2004 Acts, ch 1120, §8; 2007 Acts, ch 134, §23, 28; 2012 Acts, ch 1123, §30; 2018 Acts, ch 1140, §4, 6, 9; 2025 Acts, ch 148, §50, 53, 54

2025 amendment to subsection 1 applies retroactively to January 1, 2025, to the estates of decedents dying on or after January 1, 2025; 2025 Acts, ch 148, §54

635.8 Closing by sworn statement.

1. The personal representative shall file with the court a closing statement and proof of service thereof to all interested parties within a reasonable time after the expiration of all times following all notices required in chapter 633. The closing statement shall be verified or affirmed under penalty of perjury and shall include all of the following statements and information:

a. To the best knowledge of the personal representative, the gross value of the probate assets subject to the jurisdiction of this state does not exceed the amount permitted under section 635.1.

b. The estate has been fully administered and will be distributed to persons entitled thereto if no objection is filed to the closing statement and the accounting and proposed distribution within thirty days after service thereof.

c. An accounting and proposed distribution explaining how and to whom the probate assets will be distributed including an accurate description of all the real estate of which the decedent died seized, stating the nature and extent of the interest in the real estate and its disposition.

d. Notice to all interested parties that the parties have thirty days from the date of service of the closing statement in which to request a hearing by filing an objection with the court.

e. A statement that all statutory requirements pertaining to taxes have been complied with, including whether federal estate tax due has been paid, whether a lien continues to exist for any federal estate tax, and whether inheritance tax was paid or a tax return was filed in this state for a death occurring before January 1, 2025.

f. A statement that all statutory requirements pertaining to claims have been complied

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with and a statement describing the resolution of all claims, including charges, and whether a lien continues to exist on any property as security for any claim.

g. The amount of fees to be paid to the personal representative and the personal representative's attorney with the appropriate documentation showing compliance with subsection 4.

2. If no actions or proceedings involving the estate are pending in the court thirty days after service of the closing statement to all interested parties as provided in section 633.40, the estate shall be distributed according to the closing statement.

3. The clerk shall close the estate without order of the court and the personal representative shall be discharged upon the earlier of either of the following:

a. Filing an affidavit of mailing or other proof of service of the closing statement and filing proof of asset distribution, including receipts and other evidence of disbursement.

b. Sixty days after the filing of the closing statement and an affidavit of mailing or other proof of service thereof.

4. The fees for the personal representative shall not exceed three percent of the gross value of the probate assets of the estate, unless the personal representative itemizes the personal representative's services to the estate. The personal representative's attorney shall be paid reasonable fees as approved by the court or as agreed to in writing by the personal representative and such writing shall be executed by the time of filing the report and inventory. All interested parties shall have the opportunity to object and request a hearing as to all fees reported in the closing statement.

5. If a closing statement is not filed within twelve months of the date of issuance of a letter of appointment, an interlocutory report shall be filed within such time period. Such report shall be provided to all interested parties at least once every six months until the closing statement has been filed unless excused by the court for good cause shown. The provisions of section 633.473 requiring final settlement within three years shall apply to an estate probated pursuant to this chapter. A closing statement filed under this section has the same effect as final settlement of the estate under chapter 633.

[C75, 77, 79, 81, §635.8; 81 Acts, ch 199, §9]

89 Acts, ch 25, §4; 2007 Acts, ch 134, §24, 28; 2008 Acts, ch 1119, §36; 2009 Acts, ch 52, §11, 14; 2012 Acts, ch 1123, §31; 2018 Acts, ch 1140, §5, 6, 8; 2025 Acts, ch 148, §51, 53, 54

2025 amendment to subsection 1, paragraph e applies retroactively to January 1, 2025, to the estates of decedents dying on or after January 1, 2025; 2025 Acts, ch 148, §54

635.9 and 635.10 Repealed by 2007 Acts, ch 134, §26, 28.

635.11 Statement in notice by clerk. Repealed by 2006 Acts, ch 1129, §15.

635.12 Sale of property. Repealed by 2007 Acts, ch 134, §26, 28.

635.13 Notice — claims.

If a petition for administration of a small estate is granted, the notice as provided in section 633.237, and either sections 633.230 and 633.231 or sections 633.304 and 633.304A shall be given. Creditors having claims against the estate must file them with the clerk within the applicable time periods provided in such notices. The notice has the same force and effect as in chapter 633. Claimants of the estate shall be interested parties of the estate as long as the claims are pending in the estate.

[81 Acts, ch 199, §12]

84 Acts, ch 1080, §15; 89 Acts, ch 25, §6; 2007 Acts, ch 134, §25, 28

635.14 Minimum time before distribution. Repealed by 2007 Acts, ch 134, §26, 28.

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CHAPTER 636

SURETIES — FIDUCIARIES — TRUSTS — INVESTMENTS

Referred to in §12.28, 331.301, 331.402, 364.4, 384.24A, 602.8102(123), 633.109

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SUBCHAPTER I

SURETY BONDS

636.1 Security to be by bond.

Whenever security is required to be given by law or by order or judgment of a court, and no particular mode is prescribed, it shall be by bond.

[C51, §2505; R60, §4113; C73, §246; C97, §355; C24, 27, 31, 35, 39, §**12751;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.1]

C93, §636.1

Oath and bond of fiduciaries, see chapter 633, subchapter III, part 7

636.2 Payee.

Such security, when not otherwise directed, may, if for the benefit of individuals, be given to the party intended to be secured thereby; if in relation to the public matters concerning the inhabitants of one county or part of a county, it may be made payable to the county; if

concerning the inhabitants of more than one county, it may be made payable to the state, but a mere mistake in these respects will not vitiate the security.

[C51, §2506; R60, §4114; C73, §247; C97, §356; C24, 27, 31, 35, 39, §**12752;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.2]

C93, §636.2

Obligees of bond, see §633.181

636.3 Defects rectified.

A defective bond or other security or affidavit in any case shall not prejudice the party giving or making the bond, security, or affidavit, provided that the defect is rectified, within a reasonable time after the defect is discovered, so as not to cause essential injury to the other party.

[C51, §2511; R60, §4119; C73, §248; C97, §357; C24, 27, 31, 35, 39, §**12753;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.3]

C93, §636.3

2021 Acts, ch 80, §364

636.4 Qualifications of sureties.

Each personal surety shall execute and file with the clerk an affidavit that the surety owns real estate subject to execution, other than real estate held in joint tenancy between persons other than cosureties, equal to double the amount of the bond, and shall include in the affidavit the total amount of the surety's obligations as surety on other official or statutory bonds. If there are two or more sureties on the same bond, they must in the aggregate have the qualification prescribed in this section.

[R60, §4126; C73, §249; C97, §358; S13, §358; C24, 27, 31, 35, 39, §**12754;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.4]

85 Acts, ch 71, §1

C93, §636.4

Referred to in §633.182, 636.5

636.5 Attorneys not receivable as surety.

Attorneys at law shall not be accepted as sureties upon any official bonds provided for in section 636.4.

[S13, §358; C24, 27, 31, 35, 39, §**12755;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.5]

C93, §636.5

Referred to in §636.6, 636.7

Qualifications for sureties on probate bonds, see §633.182

Similar provision, §621.7

636.6 New bond required.

Whenever the board of supervisors of any county shall have knowledge that any attorney at law is surety upon any official bond, as prohibited under section 636.5, it shall require the officer to forthwith file a new bond.

[S13, §358; C24, 27, 31, 35, 39, §**12756;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.6]

C93, §636.6

2021 Acts, ch 80, §365

Referred to in §331.322, 636.7

636.7 Surety bound notwithstanding disqualification.

Nothing in sections 636.5 and 636.6 shall exempt such person from any liability upon the bond signed by the person.

[S13, §358; C24, 27, 31, 35, 39, §**12757;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.7]

C93, §636.7

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636.8 Affidavit of sureties — effect of.

The officer whose duty it is to take a surety in any bond provided for or authorized by law shall require the person offered as surety to make affidavit of the person's qualification, which affidavit may be made before such officer, or other officer authorized to administer oaths.

[R60, §4125; C73, §250; C97, §359; C24, 27, 31, 35, 39, §**12758;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.8]

C93, §636.8

Referred to in §636.9

636.9 Effect of affidavit.

The taking of an affidavit under section 636.8 shall not exempt the officer from any liability to which the officer might otherwise be subject for taking insufficient security.

[R60, §4125; C73, §250; C97, §359; C24, 27, 31, 35, 39, §**12759;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.9]

C93, §636.9

2021 Acts, ch 80, §366

636.10 Appeal bonds — presumption.

The filing by an approving officer of a duly tendered appeal bond in an appeal to any court shall carry the presumption until the contrary is established that said officer approved the bond even though no formal approval is endorsed on the bond.

[C31, 35, §12759-c1; C39, §**12759.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.10]

C93, §636.10

SUBCHAPTER II

SURETY COMPANIES

636.11 Authority to act as surety — agent qualifications.

1. The commissioner of insurance shall annually file with the clerk of the district court of each county a complete list of the corporate sureties to whom the commissioner has issued a current certificate of authority to transact the business of a surety in this state.

2. An agent for a company authorized to engage in the business of becoming surety upon bonds pursuant to subsection 1 must be a resident of this state for the purpose of acting on behalf of the surety company with respect to any bond or bail in criminal cases.

[C97, §359; C24, 27, 31, 35, 39, §**12760;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.11]

88 Acts, ch 1034, §1; 91 Acts, ch 213, §33

C93, §636.11

636.12 Certificate revoked — notice.

Should the certificate of authority for a corporate surety be withdrawn at any time, the commissioner of insurance shall at once notify the clerk of each district court to that effect.

[C97, §359; C24, 27, 31, 35, 39, §**12761;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.12]

C93, §636.12

2021 Acts, ch 80, §367

636.13 Record by clerk. Repealed by 2004 Acts, ch 1120, §9.

636.14 Guaranty company as surety.

Whenever any person who now or hereafter may be required or permitted to give a bond applies for the approval thereof, any officer or body who is now or shall hereafter be required to approve the sufficiency of such bond shall accept and approve the same, whenever its conditions are guaranteed by a company or corporation duly organized or incorporated under the laws of this state, or authorized to do business therein, and to guarantee the fidelity of persons holding positions of public or private trust, or secure any bond above referred to, and

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which company shall have the certificate of the commissioner of insurance authorizing it to do business therein, as provided in chapter 515.

[C97, §360; SS15, §360; C24, 27, 31, 35, 39, §**12763;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.14]

C93, §636.14

Referred to in §633.182, 636.15, 636.18

636.15 Payment of premiums.

The premium for any such guaranty or surety company bond as defined in section 636.14, may, by the approval of the court, be paid out of the trust funds in the hands of the party of whom the bond is required.

[SS15, §360; C24, 27, 31, 35, 39, §**12764;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.15]

C93, §636.15

Referred to in §636.18

636.16 Certificate as authority.

The certificate of the commissioner of insurance, to the effect that such company has complied with the requirements of chapter 515 and is authorized to do business in this state, shall be sufficient evidence to authorize the officer or body having the approval of such bond to accept and approve the same.

[C97, §360; SS15, §360; C24, 27, 31, 35, 39, §**12765;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.16]

C93, §636.16

Referred to in §636.18

636.17 Limitation on acceptance.

No such security shall be accepted on any bond for an amount in excess of ten percent of the paid-up cash capital of such company or corporation unless the excess shall be reinsured in some other company or corporation authorized to do business in the state and in no case to exceed ten percent of the capital of the reinsuring company and provided that a certificate of such reinsurance shall be furnished to the insured.

[C97, §360; SS15, §360; C24, 27, 31, 35, 39, §**12766;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.17]

C93, §636.17

Referred to in §636.18

636.18 Criminal bonds.

Nothing contained in sections 636.14 through 636.17 shall apply to bonds in criminal cases.

[C97, §360; SS15, §360; C24, 27, 31, 35, 39, §**12767;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.18]

C93, §636.18

2019 Acts, ch 59, §222

636.19 Release.

Such company or corporation may be released from its liability as such surety on any bond on the same terms and conditions, and in the same manner, as is by law prescribed for the release of natural persons as such sureties; it being the intent of this chapter to enable companies created, incorporated, or chartered for such purposes to become surety on bonds required by law, subject to all the rights and liabilities of natural persons.

[C97, §361; C24, 27, 31, 35, 39, §**12768;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.19]

C93, §636.19

636.20 Suit on bond — service.

Whenever suit is required to be brought on any bond given by such company, service shall be had upon any agent of such company in this state, and if there is no agent in the state, then

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service may be had by serving the commissioner of insurance fifteen days before the term of court in which the suit is sought to be brought.

[C97, §362; C24, 27, 31, 35, 39, §**12769;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.20] C93, §636.20

Suit on bond under probate code, see §633.186

636.21 Commissioner as process agent.

It shall be the duty of the commissioner of insurance, upon service being made upon the commissioner, to immediately mail a copy of the notice to the company at the company's principal place of business, and any notice so served shall be deemed to be good and sufficient service on any such company.

[C97, §362; C24, 27, 31, 35, 39, §**12770;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.21] C93, §636.21

2016 Acts, ch 1011, §112

Suit on bond under probate code, see §633.186

636.22 Estoppel — stockholders liable.

Any company which shall execute any bond as surety under the provisions of this chapter shall be estopped, in any proceeding to enforce the liability which it shall have assumed to incur, to deny its corporate power to execute such instrument or assume such liability; and the private property of the stockholders shall be liable for the debts of the corporation to the full amount of the capital stock held by such stockholders.

[C97, §363; C24, 27, 31, 35, 39, §**12771;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.22] C93, §636.22

SUBCHAPTER III

INVESTMENT OF FUNDS

636.23 Authorized securities.

All proposed investments of trust funds by fiduciaries shall first be reported to the court or a judge for approval and be approved and unless otherwise authorized or directed by the court under authority of which the fiduciary acts, or by the will, trust agreement, or other document which is the source of authority, a trustee, executor, administrator, or guardian shall invest all moneys received by such fiduciary, to be by the fiduciary invested, in securities which at the time of the purchase thereof are included in one or more of the following classes:

1. *Federal bonds.* Bonds or other interest-bearing obligations of the United States for the payment of which the faith and credit of the United States is pledged.

2. *Federal bank bonds.* Bonds, notes or other obligations issued by any federal land bank, federal intermediate credit bank, bank for cooperatives, or any or all of the federal farm credit banks, and in bonds issued by any federal home loan bank under the Act of Congress known and cited as the federal Home Loan Bank Act, 12 U.S.C. §1421 – 1449 and the Acts amendatory thereof.

3. *State bonds.* Bonds or other interest-bearing obligations of any state in the United States for the payment of which the faith and credit of such state is pledged and which state has not defaulted in the payment of any of its bonded debts within the ten preceding years.

4. *Municipal bonds.* Bonds, or other interest-bearing obligations, which are a direct obligation of a county, township, city, school district, or other municipal corporation or district, having power to levy general taxes in the state of Iowa, and also bonds or other interest-bearing obligations which are a direct obligation of a county, township, city, village, school district, or other municipal corporation or district, having power to levy general taxes in any adjoining state, and having a population of not less than five thousand. However, the total funded indebtedness of a municipality enumerated in this subsection shall not exceed ten percent of the assessed value of the taxable property in the municipality, as ascertained by the last assessment for tax purposes, and the municipality or district shall not have defaulted in the payment of any of its bonded indebtedness within the ten preceding years.

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5. *Real estate mortgage bonds.* Notes or bonds of any individual secured by a first mortgage on improved real estate located in this state, provided the aggregate amount of such notes or bonds secured by such first mortgage, does not exceed fifty percent of the value of the mortgage property as determined by the fiduciary; any such loan may be made in an amount not to exceed seventy-five percentum of the appraised value of the real estate offered as security and for a term not longer than twenty years if the loan is secured by an amortized mortgage, deed of trust, or other such instrument under the terms of which the installment payments are sufficient to amortize the entire principal of the loan within the period ending on the date of its maturity.

6. *Corporate mortgages.* Notes or bonds of any corporation secured by a first mortgage on improved real estate located in this or any adjoining state upon which no default in payment of principal or interest shall have occurred within five preceding years provided the aggregate amount of such notes or bonds secured by such first mortgage does not exceed fifty percent of the value of the mortgage property as determined by the fiduciary.

7. *Railroad bonds.* Bonds of any railroad corporation which are secured by a first lien mortgage or trust deed upon not less than one hundred miles of main track in the United States and which mortgage or trust deed has been outstanding not less than fifteen years and upon which bonds issued thereunder there has been no default in the payment of principal or interest since the date of said such trust deed.

8. *Bonds guaranteed by railroad.* Bonds of any corporation secured by a first lien upon any railroad terminal depot, tunnel, or bridge in the United States used by two or more railroad companies which have guaranteed the payment of principal and interest of such bonds and have otherwise covenanted or agreed to pay the same, provided at least one of said railroad companies meets the following requirements:

a. Has earned net income equal to at least four percent of the par value of its outstanding capital stock for five preceding years, and

b. Has regularly and punctually paid interest and maturing principal on all of its mortgage indebtedness for five preceding years.

c. Has outstanding capital stock of the par value of at least one-third of its total mortgage indebtedness.

9. *Public utility bonds.* Bonds of any corporation supplying either water, electric energy, or artificial manufactured gas or two or more thereof for light, heat, power, water, or other purposes, or furnishing telephone or telegraph service, provided that such bonds are secured by a first mortgage on all property used in the business of the issuing corporation or by a first and refunding mortgage containing provision for retiring all prior liens, and provided further, that the issuing corporation is incorporated within the United States, and if operating entirely outside this state is operating in a state or other jurisdiction having a public utilities commission with regulatory powers, and providing such operating corporation has annual gross earnings of at least one million dollars, seventy-five percent of which gross earnings have come from the sale of water, gas, or electricity, or the rendering of telephone or telegraph service and not more than fifteen percent from any other one kind of business and which corporation has a record on its behalf or for its predecessors or constituent companies, of having officially reported net earnings at least twice its interest charges on all mortgage indebtedness for the period of five years immediately preceding the investment and having outstanding stock the book value of which is not less than two-thirds of its total funded debt, and which corporation shall have all franchises to operate in the territory it serves in which at least seventy-five percent of its gross income is earned, which franchise shall extend at least five years beyond the maturity of such bonds or which have indeterminate permits or agreements with duly constituted public authorities, or in the bonds of any constituent or subsidiary company of any such operating company which are secured by a first mortgage on all property of such constituent or subsidiary company, provided such bonds are to be retired or refunded by a junior mortgage, the bonds of which are eligible hereunder.

10. *Savings associations.* Shares of federal savings associations organized under the laws of the United States of America.

11. *Bonds and debentures guaranteed by the federal government.* Bonds, debentures, or

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other interest-bearing obligations, the payment of which is guaranteed by the United States of America.

12. *Stock in federal government instrumentalities.* Stock in any association or corporation created or which may be created by authority of the United States and as an instrumentality of the United States, when the purchase of said stock is necessary or required as an incident or condition of obtaining a loan from any association or corporation created or which may be created by authority of the United States and as an instrumentality of the United States.

13. *Life, endowment, or annuity contracts of legal reserve life insurance companies authorized to do business in Iowa.* The purchase of contracts authorized by this subsection shall be limited to executors or the successors to their powers when specifically authorized by will, and to guardians and trustees, in an amount not to exceed twenty-five percent of the value of the protected person's property in possession of the fiduciary. Such contract may be issued on the life or lives of a protected person or protected persons or beneficiary or beneficiaries of a trust fund created by will or trust agreement, or upon the life or lives of persons in whose life or lives such protected person or beneficiary has an insurable interest. The proceeds or avails of such contract shall be the sole property of the person or persons whose funds are invested therein.

14. *Limitation as to court-approved investments.* This section does not prohibit investment of such funds in a savings account or time certificate of deposit of a bank or savings association located within the city or its county of this state and when first approved by the court. However, a city that is the trustee of a cemetery as provided in section 523I.508 may invest perpetual care funds in a savings account or certificates of deposit at a bank located in this state without court approval.

15. *When court approval not required.* Nothing in this section contained shall be construed as modifying the probate code nor be construed as requiring investments of trust funds by fiduciaries to be reported to any court or judge for approval where the trust agreement or other document under which the fiduciary is acting is not being administered under the jurisdiction of any court or by its terms specifically exempts the fiduciary from reporting any such investments for approval.

16. *Investments included — government obligations.* Federal bonds, federal bank bonds, and bonds and debentures guaranteed by the federal government which are authorized investments under subsections 1, 2, and 11 include investments in an investment company or investment trust registered under the federal Investment Company Act of 1940, 15 U.S.C. §80a-1 et seq., the portfolio of which is limited to the United States government obligations described in subsections 1, 2, and 11 and to repurchase agreements fully collateralized by such United States government obligations, if the investment company or investment trust takes delivery of the collateral either directly or through an authorized custodian.

[C51, §2507; R60, §4115; C73, §251; C97, §364; S13, §364; C24, 27, 31, 35, 39, §**12772;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.23]

86 Acts, ch 1032, §2; 89 Acts, ch 296, §85

C93, §636.23

2005 Acts, ch 128, §72; 2012 Acts, ch 1017, §154; 2014 Acts, ch 1092, §194; 2020 Acts, ch 1063, §365; 2024 Acts, ch 1009, §91

Referred to in §37.24, 468.151, 523I.602, 636.24, 636.25, 636.26
Establishment of common trust funds, see §633.127
Trustee standard of care, portfolio strategy, and risk and return objectives, see §633A.4302
Institutional funds, investment authority; §540A.103

636.24 Population and indebtedness.

The population specified in section 636.23 shall be determined by the last preceding official federal census. The indebtedness of any municipality or governmental subdivision shall be determined by the official certificate of the officer of such municipality or district in charge of its public accounts.

[C31, 35, §12772-c1; C39, §**12772.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.24]

C93, §636.24

Referred to in §636.25

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636.25 Existing investments.

Any fiduciary not governed by the probate code may by and with the consent of the court having jurisdiction over such fiduciary or under permission of the instrument creating the trust, continue to hold any investment originally received by the fiduciary under the trust or any increase thereof. Such fiduciary may also make investments which the fiduciary may deem necessary to protect and safeguard investments already made according to the provisions of this section and sections 636.23 and 636.24.

[C31, 35, §12772-c2; C39, §**12772.2;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.25]

C93, §636.25

2023 Acts, ch 64, §98

Referred to in §636.26

Establishment of common trust funds, see §633.127

Trustee standard of care, portfolio strategy, and risk and return objectives, see §633A.4302

636.26 Security subject to court order.

1. When any investment is made pursuant to approval of the court as required by section 636.23 or made or held by and with the consent of the court as provided in section 636.25, such investment shall not be transferred and any security taken to secure such investment shall not be discharged or impaired prior to payment or satisfaction thereof without an order of the court to that effect, unless otherwise authorized by the will, trust agreement, or other document under which the fiduciary is acting. Nothing contained in this section shall be construed as requiring the approval of any court to release or discharge of record any mortgage or other lien held by any fiduciary upon the payment or satisfaction thereof in full.

2. All releases or discharges of record of mortgages or other liens prior to July 4, 1951, by any fiduciary without an order of court where such order was required by section 682.26, Code 1950, are hereby declared to be valid and effective from the filing or recording thereof without such order of court being had and obtained, unless within six months after said date a statement is filed under oath by the claimant or on the claimant's behalf if under disability with the county recorder where such release or discharge was filed or recorded setting forth the claim upon which the invalidity of such release or discharge is based. Nothing contained in this section shall affect pending litigation.

[C51, §2508; R60, §4116; C73, §252; C97, §365; C24, 27, 31, 35, 39, §**12773;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.26]

C93, §636.26

2016 Acts, ch 1073, §176

Release of liens and mortgages, see §633.95

636.27 Collection, application of funds, and reinvestment.

The clerk or other person appointed in such cases to make the investment must receive all moneys as they become due thereon, and apply or reinvest the same under the direction of the court, unless the court appoints some other person to do such acts.

[C51, §2509; R60, §4117; C73, §253; C97, §366; C24, 27, 31, 35, 39, §**12774;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.27]

C93, §636.27

636.28 Annual accounting.

Once in each year, and more often if required by the court, the person so appointed must, on oath, render to the court an account in writing of all moneys so received by that person, and of the application thereof.

[C51, §2510; R60, §4118; C73, §254; C97, §367; C24, 27, 31, 35, 39, §**12775;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.28]

C93, §636.28

2005 Acts, ch 3, §107

Accounting and reporting provisions, see §633.469, 633.470, 633.671, 633.752

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SUBCHAPTER IV

ESTATE AND TRUST FUNDS

636.29 Property or funds in litigation — deposit.

When it is admitted by the pleadings, or shown by the examination of a party, that the party has in the party's possession, or under the party's control, any money or property capable of delivery, which is in any degree the subject of litigation, and which is held by the party as trustee for another party, the court may order the same to be deposited in the office of the clerk, or delivered to such party, with or without security, subject to the further direction of the court; or may order such money to be deposited in a bank, with the consent of the parties in interest, to the credit of the court in which the action is pending, and the same shall be paid out by such bank only upon the check of the clerk, annexed to a certified copy of the order of the court directing such payment.

[R60, §3416; C73, §255; C97, §368; C24, 27, 31, 35, 39, §**12776;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.29]

C93, §636.29

636.30 Enforcement of order.

Whenever a court, in the exercise of its authority, has ordered the deposit or delivery of money or other property, and the order is disobeyed, such court, besides punishing the disobedience, may make an order requiring the sheriff to take the money or property, and deposit or deliver it in conformity with the directions of the court, and in such cases the sheriff has the same power as when acting under an order for the delivery of personal property.

[R60, §3417, 3418; C73, §256, 257; C97, §369; C24, 27, 31, 35, 39, §**12777;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.30]

C93, §636.30

Referred to in §331.653

636.31 Inability to distribute trust funds — deposit.

Whenever any fiduciary not governed by the probate code shall desire to make a final report, and shall then have in the fiduciary's possession or under the fiduciary's control any funds, moneys, or securities due, or to become due, to any heir, legatee, devisee, or other person, whose place of residence is unknown to such fiduciary, or to whom payment of the amount due cannot be made as shown by the report on file, such funds, moneys, or securities may upon order of the court and after such notice as the court may prescribe, be deposited with the clerk of the district court of the county wherein such appointment was made.

[C97, §370; S13, §370; C24, 27, 31, 35, 39, §**12778;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.31]

C93, §636.31

Referred to in §636.34

Similar provision, see §633.109

636.32 Receipt taken.

If a fiduciary not governed by the probate code shall otherwise discharge all the duties imposed upon that fiduciary by such appointment, the fiduciary may take the receipt of the clerk of the district court for such funds, moneys, or securities so deposited, which receipt shall specifically set forth from whom said funds, moneys, or securities, were derived, the amount thereof, and the name of the person to whom due or to become due, if known.

[C97, §370; S13, §370; C24, 27, 31, 35, 39, §**12779;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.32]

C93, §636.32

2021 Acts, ch 80, §368

Referred to in §636.33

Similar provision, see §633.110

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636.33 Final discharge.

A fiduciary not governed by the probate code may file the receipt described in section 636.32 with the fiduciary's final report, and if it shall be made to appear to the satisfaction of the court that the fiduciary has in all other respects complied with the law governing the fiduciary's appointment and duties, the court may approve such final report and enter the fiduciary's discharge.

[C97, §370; S13, §370; C24, 27, 31, 35, 39, §**12780;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.33]

C93, §636.33

2015 Acts, ch 30, §186; 2021 Acts, ch 80, §369

Fiduciaries' reports, §422.27

Similar provision, see §633.111

636.34 Notice of deposit.

Notice of a contemplated deposit under section 636.31, and of final report, shall be given for the same time and in the same manner as is now required in cases of final report by personal representatives under the probate code.

[C97, §370; S13, §370; C24, 27, 31, 35, 39, §**12781;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.34]

C93, §636.34

2015 Acts, ch 30, §187

Notice, §633.478, 633.487

Inability to distribute estate funds, see §633.109

636.35 and 636.36 Reserved.

636.37 Duty of clerk.

1. The clerk of the district court with whom any deposit of funds, moneys, or securities shall be made, as provided by any law or an order of court, shall enter in a book, to be provided and kept for that purpose, the amount of such deposit, the character thereof, the date of its deposit, from whom received, from what source derived, to whom due or to become due, if known.

2. A separate book shall be maintained for all certificates of deposit not in the name of the clerk of the district court that are being held by the clerk on behalf of a conservatorship, trust, or estate. The book shall list the relevant details of the transaction, including but not limited to the name of the conservator, trustee, or executor, and cross references to the court orders opening and closing the conservatorship, trust, or estate.

[C97, §371; S13, §371; C24, 27, 31, 35, 39, §**12782;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.37]

C93, §636.37

2009 Acts, ch 21, §13

Referred to in §602.8104

636.38 Liability.

The clerk shall be liable upon the clerk's bond for all such funds, moneys, or securities which may be deposited with the clerk and shall make complete verified statements thereof as required by the supreme court.

[C97, §371; S13, §371; C24, 27, 31, 35, 39, §**12783;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.38]

91 Acts, ch 258, §63

C93, §636.38

636.39 through 636.44 Reserved.

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SUBCHAPTER V

FEDERAL SECURITIES

636.45 Federally insured loans.

1. Insurance companies, savings associations, trustees, guardians, executors, administrators, and other fiduciaries, the state and its political subdivisions, and institutions and agencies thereof, and all other persons, associations, and corporations:

a. May make such loans and advances of credit and purchases of obligations representing loans and advances of credit as are eligible for insurance pursuant to Tit. I, §2, of the National Housing Act (1934), codified at 12 U.S.C. ch. 13, and may obtain such insurance;

b. May make such loans, secured by real property or leasehold, as the federal housing administrator insures or makes a commitment to insure pursuant to Tit. II of the National Housing Act (1934), and may obtain such insurance; and

c. May make real property loans which are guaranteed or insured by the secretary of the United States department of veterans affairs under the provisions of 38 U.S.C. §3701 et seq.

2. It shall be lawful for insurance companies, savings associations, trustees, guardians, executors, administrators, and other fiduciaries, the state and its political subdivisions, and institutions and agencies thereof, and all other persons, associations, and corporations, subject to the laws of this state, to originate real estate loans which are guaranteed or insured by the secretary of the United States department of veterans affairs under the provisions of 38 U.S.C. §3701 et seq., and originate loans secured by real property or leasehold, as the federal housing administrator insures or makes a commitment to insure pursuant to Tit. II of the National Housing Act (1934), and may obtain such insurance and may invest their funds, and the moneys in their custody or possession, eligible for investment, in bonds and notes secured by mortgage or trust deed insured by the federal housing administrator, and in the debentures issued by the federal housing administrator pursuant to Tit. II of the National Housing Act (1934), and in securities issued by national mortgage associations or similar credit institutions now or hereafter organized under Tit. III of the National Housing Act (1934), and in real estate loans which are guaranteed or insured by the secretary of the United States department of veterans affairs under the provisions of 38 U.S.C. §3701 et seq.

[C35, §12786-g1; C39, §**12786.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.45]
C93, §636.45

2009 Acts, ch 26, §24; 2010 Acts, ch 1061, §78; 2011 Acts, ch 34, §142; 2012 Acts, ch 1017, §155, 156
Referred to in §636.46

636.46 Inapplicable statutes.

No law of this state requiring security upon which loans or investments may be made, or prescribing the nature, amount or form of such security, or prescribing or limiting interest rates upon loans or investments which may be made, shall be deemed to apply to loans or investments pursuant to section 636.45.

[C35, §12786-g2; C39, §**12786.2;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.46]
C93, §636.46
Referred to in §533.316, 535.2

SUBCHAPTER VI

VOLUNTARY AGREEMENTS

636.47 Deposit and joint control agreements.

It shall be lawful for any party of whom a bond, undertaking or other obligation is required, to agree with the party's surety or sureties for the deposit of any or all moneys and assets for which the party and the party's surety or sureties are or may be held responsible, with a bank, savings bank, safe-deposit or trust company, authorized by law to do business as such, or with other depository approved by the court if such deposit is otherwise proper, for the safekeeping

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thereof, and in such manner as to prevent the withdrawal of such money or assets or any part thereof, without the written consent of such surety or sureties, or an order of court made on such notice to such surety or sureties as such court may direct; provided, however, that such agreement shall not in any manner release from or change the liability of the principal or sureties as established by the terms of the said bond.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §682.47]

C93, §636.47

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CHAPTER 637

UNIFORM PRINCIPAL AND INCOME ACT

Referred to in §633.352, 633A.4705

Chapter applies to every trust or decedent's estate on and after July 1, 2000, except as otherwise provided; see §637.701

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SUBCHAPTER I

DEFINITIONS AND FIDUCIARY DUTIES

637.101 Short title.

This Act may be cited as the *"Uniform Principal and Income Act"*.

99 Acts, ch 124, §1

637.102 Definitions.

As used in this chapter:

1. *"Accounting period"* means a calendar year, unless another twelve-month period is selected by a fiduciary. The term includes a portion of a calendar year or other twelve-month period that begins when an income interest begins or ends when an income interest ends.

2. *"Beneficiary"* includes, in the case of a decedent's estate, an heir, legatee, and devisee, and, in the case of a trust, an income beneficiary and a remainder beneficiary.

3. *"Fiduciary"* means a personal representative or a trustee. The term includes an executor, administrator, successor personal representative, special administrator, and a person performing substantially the same function.

4. *"Income"* means money or property a fiduciary receives as the current return from a principal asset. The term includes a portion of the receipts from a sale, exchange, or liquidation of a principal asset, to the extent provided in subchapter IV.

5. *"Income beneficiary"* means a person to whom a trust's net income is or may be payable.

6. *"Income interest"* means an income beneficiary's right to receive all or part of the net income, whether the terms of the trust require it to be distributed or authorize it to be distributed in the trustee's discretion.

7. *"Mandatory income interest"* means an income beneficiary's right to receive net income that the terms of the trust require the fiduciary to distribute.

8. *"Net income"* means the total receipts allocated to income during an accounting period minus the disbursements made from income during the period. In this definition, receipts and disbursements include items transferred to or from income during the period under this chapter.

9. *"Person"* means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or any other legal or commercial

entity. The term does not include a government or governmental subdivision, agency, or instrumentality.

10. *"Principal"* means property held in trust for distribution to a remainder beneficiary when the trust terminates.

11. *"Remainder beneficiary"* means a person, including another trust, entitled to receive principal when an income interest ends.

12. *"Terms of a trust"* means the manifestation of the intent of a settlor or decedent with respect to the trust, expressed in a manner that admits of its proof in a judicial proceeding, whether by written or spoken words or by conduct.

13. *"Trustee"* includes an original, additional, or successor trustee, whether or not appointed or confirmed by a court.

99 Acts, ch 124, §2; 2021 Acts, ch 76, §150

637.103 Fiduciary duties — general principles.

1. In allocating receipts and disbursements to or between principal and income, and in any matter within the scope of subchapters II and III, a fiduciary shall do all of the following:

a. Administer a trust or estate in accordance with the terms of the trust or the will, even if there is a different provision in this chapter.

b. Administer a trust or estate by the exercise of a discretionary power of administration given the fiduciary by the terms of the trust or the will, although the fiduciary may exercise that power in a manner different from a provision of this chapter.

c. Administer a trust or estate in accordance with this chapter if the terms of the trust or the will do not contain a different provision or do not give the fiduciary a discretionary power of administration.

d. Add a receipt or charge a disbursement to principal to the extent that the terms of the trust and this chapter do not provide a rule for allocating the receipt or disbursement to or between principal and income.

2. In exercising a discretionary power of administration regarding a matter within the scope of this chapter, whether granted by the terms of a trust, a will, or this chapter, a fiduciary shall administer a trust or estate impartially, based on what is fair and reasonable to all of the beneficiaries, unless the terms of the trust or the will clearly manifest an intention that the fiduciary shall or may favor one or more of the beneficiaries. A determination in accordance with this chapter is presumed to be fair and reasonable to all of the beneficiaries.

99 Acts, ch 124, §3; 2021 Acts, ch 76, §150

SUBCHAPTER II

DECEDENT'S ESTATE OR TERMINATING INCOME INTEREST

Referred to in §637.103

637.201 Determination and distribution of net income.

After a decedent dies, in the case of an estate, or after an income interest in a trust ends, the following rules apply:

1. A fiduciary of an estate or a terminating income interest shall determine the amount of net income and net principal receipts received from property specifically given to a beneficiary under the rules in subchapters III through V that apply to trustees, and under the rules in subsection 5. The fiduciary shall distribute the net income and net principal receipts to the beneficiary who is to receive the specific property.

2. A fiduciary shall determine the remaining net income of a decedent's estate or a terminating income interest under the rules in subchapters III through V that apply to trustees, and by doing the following:

a. Including in net income all income from property used to discharge liabilities.

b. Paying from income or principal, in the fiduciary's discretion, fees of attorneys, accountants, and fiduciaries; court costs and other expenses of administration; and interest

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on death taxes, but the fiduciary may pay those expenses from income of property passing to a trust for which the fiduciary claims an estate tax marital or charitable deduction only to the extent that the payment of those expenses from income will not cause the loss of the deduction.

c. Paying from principal all other disbursements made or incurred in connection with the settlement of a decedent's estate or the winding up of a terminating income interest, including debts, funeral expenses, disposition of remains, family allowances, and death taxes and related penalties that are apportioned to the estate or terminating income interest by the will, the terms of the trust, or applicable law.

3. A fiduciary shall distribute to a beneficiary who receives a pecuniary amount outright the amount, if any, provided by the will, the terms of the trust, or applicable law, from net income determined under subsection 2 or from principal to the extent the net income is insufficient. If a beneficiary is to receive a pecuniary amount outright from a trust after an income interest ends and no amount is provided for by the terms of the trust or applicable law, the fiduciary shall distribute the amount to which the beneficiary would be entitled under applicable law if the pecuniary amount were required to be paid under a will.

4. A fiduciary shall distribute the net income remaining after distributions required by subsection 3 in the manner described in section 637.202 to all other beneficiaries, including a beneficiary who receives a pecuniary amount in trust, even if the beneficiary holds an unqualified power to withdraw assets from the trust or other presently exercisable general power of appointment over the trust.

5. A fiduciary shall not reduce principal or income receipts from property described in subsection 1 because of a payment described in section 637.501 or 637.502 to the extent that the will, the terms of the trust, or applicable law requires the fiduciary to make the payment from assets other than the property or to the extent that the fiduciary recovers or expects to recover the payment from a third party. The property's net income and principal receipts are determined by including all of the amounts the fiduciary receives or pays with respect to the property, whether those amounts accrued or became due before, on, or after the date of a decedent's death or an income interest's terminating event, and by making a reasonable provision for amounts that the fiduciary believes the estate or terminating income interest may become obligated to pay after the property is distributed.

99 Acts, ch 124, §4; 2021 Acts, ch 76, §150
Referred to in §637.202, 637.302, 637.501

637.202 Distribution to residuary and remainder beneficiaries.

1. Each beneficiary described in section 637.201, subsection 4, is entitled to receive a portion of the net income equal to the beneficiary's fractional interest in undistributed principal assets, using values as of the distribution date. If a fiduciary makes more than one distribution of assets to beneficiaries to whom this section applies, each beneficiary, including one who does not receive part of the distribution, is entitled, as of each distribution date, to the net income the fiduciary has received after the date of death or terminating event or earlier distribution date but has not distributed as of the current distribution date.

2. In determining a beneficiary's share of net income, the following rules apply:

a. The beneficiary is entitled to receive a portion of the net income equal to the beneficiary's fractional interest in the undistributed principal assets immediately before the distribution date, including assets that later may be sold to meet principal obligations.

b. The beneficiary's fractional interest in the undistributed principal assets must be calculated without regard to property specifically given to a beneficiary and property required to pay pecuniary amounts not in trust.

c. The beneficiary's fractional interest in the undistributed principal assets must be calculated on the basis of the aggregate value of those assets as of the distribution date without reducing the value by any unpaid principal obligation.

d. The distribution date for purposes of this section may be the date as of which the fiduciary calculates the value of the assets if that date is reasonably near the date on which assets are actually distributed.

3. The rules in this section apply to net gain or loss realized after the date of death or

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terminating event or earlier distribution date from the disposition of a principal asset if this section applies to the income from the asset.

4. If a fiduciary does not distribute all of the collected but undistributed net income or gain to each person as of a distribution date, the fiduciary shall maintain appropriate records showing the interest of each beneficiary in that net income or gain.

99 Acts, ch 124, §5; 2000 Acts, ch 1058, §52
Referred to in §637.201

SUBCHAPTER III

APPORTIONMENT AT BEGINNING AND END OF INCOME INTEREST

Referred to in §637.103, 637.201

637.301 When right to income begins and ends.

1. An income beneficiary is entitled to net income from the date on which the income interest begins. An income interest begins on the date specified in the terms of the trust or, if no date is specified, on the date an asset becomes subject to a trust or successive income interest.

2. An asset becomes subject to a trust at the first occurrence of one of the following events:

a. On the date it is transferred to the trust in the case of an asset that is transferred to a trust during the transferor's life.

b. On the date of a testator's death in the case of an asset that becomes subject to a trust by reason of a will, even if there is an intervening period of administration of the testator's estate.

c. On the date of an individual's death in the case of an asset that is transferred to a fiduciary by a third party because of the individual's death.

3. An asset becomes subject to a successive income interest on the day after the preceding income interest ends, as determined under subsection 4, even if there is an intervening period of administration to wind up the preceding income interest.

4. An income interest ends on the day before an income beneficiary dies or another terminating event occurs. For purposes of this chapter, an income interest also ends on the last day of a period during which there is no beneficiary to whom a trustee may distribute income.

99 Acts, ch 124, §6

637.302 Apportionment of receipts and disbursements when decedent dies or income interest begins.

1. An income receipt or disbursement other than one to which section 637.201, subsection 1, applies must be allocated to principal if its due date occurs before a decedent dies in the case of an estate, or before an income interest begins in the case of a trust or successive income interest.

2. An income receipt or disbursement must be allocated to income if its due date occurs on or after the date on which a decedent dies or an income interest begins and it is a periodic due date. An income receipt or disbursement must be treated as accruing from day to day if its due date is not periodic or it has no due date. The portion of the receipt or disbursement accruing before the date on which a decedent dies or an income interest begins must be allocated to principal and the balance must be allocated to income.

3. An item of income or an obligation is due on the date on which the payor is required to make a payment. If there is no stated payment date, there is no due date for the purposes of this chapter. Distributions to shareholders or other owners from an entity to which section 637.401 applies are deemed to be due on the date fixed by the entity for determining who is entitled to receive the distribution or, if no date is fixed, on the declaration date for the distribution. A due date is periodic for receipts or disbursements that must be paid at regular

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intervals under a lease or an obligation to pay interest or if an entity customarily makes distributions at regular intervals.

99 Acts, ch 124, §7

637.303 Apportionment when income interest ends.

1. For purposes of this section, *"undistributed income"* means net income received before the date on which an income interest ends. The term does not include an item of income or expense that is due or accrued or net income that has been added or is required to be added to principal pursuant to the terms of the trust.

2. When a mandatory income interest ends, the trustee shall pay to a mandatory income beneficiary who survives that date, or the estate of a deceased mandatory income beneficiary whose death causes the interest to end, the beneficiary's share of the undistributed income that is not disposed of pursuant to the terms of the trust unless the beneficiary has an unqualified power to revoke more than five percent of the trust immediately before the income interest ends. In the latter case, the undistributed income from the portion of the trust that may be revoked must be added to principal.

3. When a trustee's obligation to pay a fixed annuity or a fixed fraction of the value of the trust's assets ends, the trustee shall prorate the final payment if and to the extent required by applicable law to accomplish a purpose of the trust or its settlor relating to income, gift, estate, or other tax requirements.

99 Acts, ch 124, §8

SUBCHAPTER IV

ADMINISTRATION OF TRUST

Referred to in §637.102, 637.201

PART 1

RECEIPTS FROM ENTITIES

637.401 Character of receipts.

1. For purposes of this section, *"entity"* means a corporation, partnership, joint venture, limited liability company, regulated investment company, real estate investment trust, common trust fund, and any other organization in which a trustee has an interest other than a trust or estate to which section 637.402 applies or a business or activity to which section 637.403 applies.

2. Except as otherwise provided in this section, cash received by a trustee from an entity must be allocated to income.

3. Receipts from an entity which must be allocated to principal include the following items:

a. Property other than cash, except as otherwise provided in paragraph *"d"*.

b. Cash or property received in one distribution or a series of related distributions in exchange for part or all of a trust's interest in the entity.

c. Cash or property received in total or partial liquidation of the entity.

d. Cash or property received from an entity that is a regulated investment company or a real estate investment trust if the distribution is a capital gain dividend for federal income tax purposes.

4. Cash or property is received in partial liquidation according to one of the following principles:

a. To the extent that the entity, at or near the time of a distribution, indicates that it is a distribution in partial liquidation.

b. If the total amount received in a distribution or series of related distributions is greater than twenty percent of the entity's gross assets, as shown by the entity's year-end financial statements immediately preceding the initial receipt.

5. Cash shall not be received in partial liquidation, nor shall it be taken into account under

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subsection 4, paragraph "*b*", to the extent that it does not exceed the amount of income tax that a trustee or beneficiary must pay on taxable income of the entity that distributes the cash.

6. A trustee may rely upon a statement made by an entity about the source or character of a distribution if the statement is made at or near the time of distribution by the entity's board of directors or other person or group of persons authorized to exercise powers to pay money or transfer property comparable to those of a corporation's board of directors.

99 Acts, ch 124, §9
Referred to in §637.302, 637.402, 637.427

637.402 Distribution from trust or estate.

1. Subject to the terms of a recipient trust, an amount received as a distribution of income from a trust or an estate in which the trust has an interest other than a purchased interest shall be allocated to income.

2. An amount received as a distribution of principal from such a trust or estate shall be allocated to principal.

3. If a trustee purchases an interest in a trust that is an investment entity, or a decedent or donor transfers an interest in such a trust to a trustee, section 637.401 applies to a receipt from the trust.

99 Acts, ch 124, §10
Referred to in §637.401

637.403 Business and other activities conducted by trustee.

1. If a trustee who conducts a business or other activity determines that it is in the best interest of all the beneficiaries to account separately for the business or activity instead of accounting for it as part of the trust's general accounting records, the trustee may maintain separate accounting records for its transactions, whether or not its assets are segregated from other trust assets.

2. A trustee who accounts separately for a business or other activity shall determine the extent to which its net cash receipts must be retained for working capital, the acquisition or replacement of fixed assets, and other reasonably foreseeable needs of the business or activity, and the extent to which the remaining net cash receipts are accounted for as principal or income in the trust's general accounting records. If a trustee sells assets of the business or other activity, other than in the ordinary course of the business or activity, the trustee shall account for the net amount received as principal in the trust's general accounting records to the extent the trustee determines that the amount received is no longer required in the conduct of the business.

3. The trustee may maintain separate accounting records for any of the following activities:

a. Retail, manufacturing, service, and other traditional business activities.
b. Farming.
c. Raising and selling livestock and other animals.
d. Management of rental properties.
e. Extraction of minerals and other natural resources.
f. Timber operations.
g. Activities to which section 637.426 applies.

99 Acts, ch 124, §11
Referred to in §637.401, 637.413, 637.424, 637.426, 637.503

637.404 through 637.409 Reserved.

PART 2

RECEIPTS NOT NORMALLY APPORTIONED

637.410 Principal receipts.

The following items must be allocated to principal:

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1. To the extent not allocated to income under this chapter, assets received from any of the following sources:

a. A transferor during the transferor's lifetime.

b. A decedent's estate.

c. A trust with a terminating income interest.

d. A payor pursuant to a contract naming the trust or its trustee as beneficiary.

2. Cash or other property received from the sale, exchange, liquidation, or change in form of a principal asset, including realized profit, subject to this subchapter.

3. Amounts recovered from third parties to reimburse the trust because of disbursements described in section 637.502, subsection 1, paragraph *"g"*, or for other reasons to the extent not based on the loss of income.

4. Proceeds of property taken by eminent domain, but a separate award made for the loss of income with respect to an accounting period during which a current income beneficiary had a mandatory income interest is income.

5. Net income received in a period during which there is no beneficiary to whom a trustee may or must distribute income.

6. Other receipts, as provided in part 3.

99 Acts, ch 124, §12

637.411 Rental property.

1. An amount received as rent of real or personal property, including an amount received for cancellation or renewal of a lease, must be allocated to income.

2. An amount received as a refundable deposit, including a security deposit or a deposit that is to be applied as rent for future periods, must be added to principal and held subject to the terms of the lease and is not available for distribution to a beneficiary until the trustee's contractual obligations have been satisfied with respect to that amount.

99 Acts, ch 124, §13

637.412 Obligation to pay money.

1. An amount received as interest, whether determined at a fixed, variable, or floating rate, on an obligation to pay money to the trustee, including an amount received as consideration for prepaying principal, must be allocated to income without any provision for amortization of premium.

2. An amount received from the sale, redemption, or other disposition of an obligation to pay money to the trustee more than one year after it is purchased or acquired by the trustee, including an obligation whose purchase price or value when it is acquired is less than its value at maturity, must be allocated to principal. If the obligation matures within one year after it is purchased or acquired by the trustee, an amount received in excess of its purchase price or its value when acquired by the trust must be allocated to income.

3. This section does not apply to obligations to which sections 637.421 through 637.424, 637.426, and 637.427 apply.

99 Acts, ch 124, §14

637.413 Insurance policies and similar contracts.

1. Proceeds from a life insurance policy whose beneficiary is the trust or its trustee or a policy that insures the trust or its trustee against loss for the damage or destruction of, or loss of title to, a principal asset must be allocated to principal. Dividends received from an insurance policy and the proceeds of any other contract in which the trust or its trustee is named as beneficiary must also be allocated to principal.

2. Insurance proceeds must be allocated to income if they are from a policy that insures the trustee against the loss of occupancy or other use by an income beneficiary, the loss of income, or, subject to section 637.403, the loss of profits from a business.

3. This section does not apply to a contract to which section 637.421 applies.

99 Acts, ch 124, §15

637.414 through 637.419 Reserved.

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PART 3

RECEIPTS NORMALLY APPORTIONED

637.420 Insubstantial allocations not required.

1. If a trustee determines that an allocation between principal and income required by sections 637.421 through 637.424 or section 637.427 is insubstantial, the trustee may allocate the entire receipt to principal.

2. An allocation is presumed to be insubstantial if either of the following would be true if an allocation was made:

a. The amount of the allocation would increase or decrease an accounting period's net income, as determined before the allocation, by less than ten percent.

b. The value of the asset producing the receipt for which the allocation would be made is less than ten percent of the total value of the trust's assets at the beginning of the accounting period.

99 Acts, ch 124, §16
Referred to in §637.424

637.421 Deferred compensation, annuities, and similar payments.

1. For purposes of this section, the following definitions shall apply:

a. *"Payments"* means a payment that a trustee may receive over a fixed number of years or during the life of one or more individuals because of services rendered or property transferred to the payor in exchange for future payments. *"Payments"* include those made in money or property from the payor's general assets or from a separate fund created by the payor. For purposes of subsections 4, 5, 6, and 7, *"payments"* also includes any payment from a separate fund regardless of the reason for the payment.

b. *"Separate fund"* includes a private or commercial annuity, an individual retirement account, and a pension, profit sharing, stock bonus, or stock ownership plan.

2. To the extent that a payment is characterized as interest, a dividend or a payment made in lieu of interest or a dividend, a trustee shall allocate the payment to income. The trustee shall allocate to principal the balance of the payment and any other payment received in the same accounting period that is not characterized as interest, a dividend, or an equivalent payment.

3. If no part of a payment is characterized as interest, a dividend, or an equivalent payment, and all or part of the payment is required to be made, a trustee shall allocate to income ten percent of the part that is required to be made during the accounting period and the balance to principal. If no part of a payment is required to be made or the payment received is the entire amount to which the trustee is entitled, the trustee shall allocate the entire payment to principal. For purposes of this subsection, a payment is not required to be made to the extent that the payment is made because the trustee exercises a right of withdrawal.

4. Except as otherwise provided in subsection 5, subsections 6 and 7 apply, and subsections 2 and 3 do not apply in determining the allocation of a payment made from a separate fund to any of the following:

a. A trust to which an election to qualify for a marital deduction had been made under section 2056(b)(7) of the Internal Revenue Code of 1986, as amended.

b. A trust that qualifies for a marital deduction under section 2056(b)(5) of the Internal Revenue Code of 1986, as amended.

5. Subsections 4, 6, and 7 do not apply if and to the extent that the series of payments would, without the application of subsection 4, qualify for a marital deduction under section 2056(b)(7)(c) of the Internal Revenue Code of 1986, as amended.

6. A trustee shall determine the internal income of each separate fund for the accounting period as if the separate fund were a trust subject to this chapter. Upon request of the surviving spouse, the trustee shall demand that the person administering the separate fund distribute such internal income to the trust. The trustee shall allocate a payment from the separate fund to income to the extent of the internal income of the separate fund

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and distribute that amount to the surviving spouse. The trustee shall allocate the balance to principal. Upon request of the surviving spouse, the trustee shall allocate principal to income to the extent the internal income of the separate fund exceeds payments made from the separate fund to the trust during the accounting period.

7. If a trustee cannot determine the internal income of a separate fund but can determine the value of the separate fund, the internal income of the separate fund is deemed to equal four percent of the value of the fund according to the most recent statement of the value prior to the beginning of the accounting period. If the trustee is unable to determine the internal income of the separate fund and the fund's value, the internal income of the fund is deemed to equal the product of the interest rate and the present value of the expected future payments as determined pursuant to section 7520 of the Internal Revenue Code of 1986, as amended.

8. This section does not apply to a payment made under section 637.422.

99 Acts, ch 124, §17; 2009 Acts, ch 52, §12, 14; 2009 Acts, ch 179, §46
Referred to in §637.412, 637.413, 637.420, 637.422, 637.427

637.422 Liquidating asset.

1. In this section, "*liquidating asset*" means an asset whose value will diminish or terminate because the asset is expected to produce receipts for a period of limited duration. The term includes leaseholds, patents, trademarks, copyrights, royalty rights, and rights to receive payments during a period of more than one year under an arrangement that does not provide for the payment of interest on the unpaid balance. The term does not include deferred compensation that is subject to section 637.421, natural resources that are subject to section 637.423, timber that is subject to section 637.424, an activity that is subject to section 637.426, or any asset for which the trustee establishes a reserve for depreciation under section 637.503.

2. A trustee shall allocate to income ten percent of the receipts from a liquidating asset and the balance to principal.

99 Acts, ch 124, §18
Referred to in §637.412, 637.420, 637.421

637.423 Minerals, water, and other natural resources.

1. Receipts from an interest in minerals or other natural resources must be allocated according to the type of payment, as follows:

a. If received as nominal delay rental or annual rent on a lease, a receipt must be allocated to income.

b. If received from a production payment, a receipt must be allocated to income to the extent that the agreement creating the production payment provides a factor for interest or its equivalent. The balance must be allocated to principal.

c. If an amount received as a royalty, bonus, or delay rental is more than nominal, ninety percent must be allocated to principal and the balance to income.

d. If an amount is received from a working interest or any other interest not provided for in paragraph "*a*", "*b*", or "*c*", ninety percent of the net amount received must be allocated to principal and the balance to income.

2. An amount received on account of an interest in water that is renewable must be allocated to income. If the water is not renewable, ninety percent of the amount must be allocated to principal and the balance to income.

3. This chapter applies without regard to whether a decedent or donor was extracting minerals, water, or other natural resources before the interest became subject to the trust.

4. If a trust owns an interest in minerals, water, or other natural resources on or before July 1, 2000, the trustee may allocate receipts from the interest as provided in this section or in the manner used by the trustee before July 1, 2000. If the trust acquires an interest in minerals, water, or other natural resources after July 1, 2000, the trustee shall allocate receipts from the interest as provided in this section.

99 Acts, ch 124, §19; 2000 Acts, ch 1154, §39
Referred to in §637.412, 637.420, 637.422

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637.424 Timber.

1. A trustee may account for net receipts from the sale of timber and related products under subsection 2 or section 637.403 or, if the trustee determines that net receipts are insubstantial, may allocate the net receipts to principal. The presumptions in section 637.420 apply in determining whether net receipts are insubstantial. If a trust owns more than one block of timberland, the trustee may use different methods to account for net receipts from different blocks.

2. If a trustee does not account under section 637.403 for net receipts from the sale of timber and related products or allocate the net receipts to principal because they are insubstantial, the trustee shall allocate the net receipts according to one of the following rules:

a. Allocate the net receipts to income to the extent that the amount of timber removed from the land does not exceed the rate of growth of the block as a whole during the accounting periods in which a beneficiary has a mandatory income interest.

b. Allocate the net receipts to principal to the extent that the amount of timber removed from the land exceeds the block's rate of growth or the net receipts are from the sale of standing timber.

c. Allocate the net receipts to or between income and principal if the net receipts are from the lease of timberland or from a contract to cut timber from land owned by a trust, by determining the amount of timber removed from the land under the lease or contract and applying the rules in paragraphs *"a"* and *"b"*.

d. Allocate the net receipts to principal to the extent that advance payments, bonuses, and other payments are not allocated pursuant to paragraph *"a"*, *"b"*, or *"c"*.

3. In determining the net receipts from the sale of timber, a trustee shall deduct and transfer to principal a reasonable amount for depletion.

4. This chapter applies regardless of whether a decedent or transferor was harvesting timber from the property before it became subject to the trust.

5. If a trust owns an interest in timberland on or before July 1, 2000, the trustee may allocate net receipts from the sale of timber and related products as provided in this section or in the manner used by the trustee before July 1, 2000. If the trust acquires an interest in timberland after July 1, 2000, the trustee shall allocate net receipts from the sale of timber and related products as provided in this section.

99 Acts, ch 124, §20; 2000 Acts, ch 1154, §40

Referred to in §637.412, 637.420, 637.422

637.425 Property not productive of income.

1. If a marital deduction is allowed for all or part of a trust whose assets consist substantially of property that does not provide the surviving spouse with sufficient income from or use of the trust assets, the spouse may require the trustee to make property productive of income or convert property within a reasonable time. The trustee may decide which action or combination of actions to take.

2. In all other cases, proceeds from the sale or other disposition of an asset are principal without regard to the amount of income the asset produces during any accounting period.

99 Acts, ch 124, §21

637.426 Derivatives and options.

1. For purposes of this section, *"derivative"* means a contract or financial instrument or a combination of contracts and financial instruments which gives a trust the right or obligation to participate in some or all changes in the price of a tangible or intangible asset or group of assets, or changes in a rate, an index of prices or rates, or other market indicator for an asset or a group of assets.

2. To the extent that a trustee does not account under section 637.403 for transactions in derivatives, receipts from and disbursements made in connection with those transactions must be allocated to principal.

3. If a trustee grants an option to buy property from the trust, whether or not the trust owns the property when the option is granted, grants an option that permits another person

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to sell property to the trust, or acquires an option to buy property for the trust or an option to sell an asset owned by the trust, and the trustee or other owner of the asset is required to deliver the asset if the option is exercised, an amount received for granting the option must be allocated to principal, and an amount paid to acquire the option must be paid from principal. A gain or loss realized upon the exercise of an option, including an option granted to a settlor of the trust for services rendered, must be allocated to principal.

99 Acts, ch 124, §22
Referred to in §637.403, 637.412, 637.422

637.427 Asset-backed securities.

1. For purposes of this section, *"asset-backed security"* means an asset whose value is based upon the right it gives the owner to receive distributions from the proceeds of financial assets that provide collateral for the security. The term includes an asset that gives the owner the right to receive only the interest or other current return from the collateral financial assets or only the proceeds from the capital investment in the collateral financial assets. It does not include an asset to which section 637.401 or 637.421 applies.

2. If a trust receives a payment from the interest or other current return and the capital investment of the collateral financial assets, the trustee shall allocate to income the portion of a payment that the payor identifies as being from the interest or other current return, and shall allocate the balance of the payment to principal.

3. If a trust receives one or more payments in exchange for the trust's entire interest in an asset-backed security in one accounting period, the trustee shall allocate the payments to principal. If a payment is one of a series of payments that will result in the liquidation of the trust's interest in the security over more than one accounting period, the trustee shall allocate ten percent of the payment to income and the balance to principal.

99 Acts, ch 124, §23
Referred to in §637.412, 637.420

SUBCHAPTER V

ALLOCATION OF DISBURSEMENTS DURING ADMINISTRATION OF TRUST

Referred to in §637.201

637.501 Disbursements from income.

A trustee shall make disbursements from income, to the extent that they are not disbursements to which section 637.201, subsection 2, paragraph *"b"* or "c", applies, according to the following:

1. One-half of the regular compensation of the trustee and of any person providing investment advisory or custodial services to the trustee.

2. One-half of all expenses for accountings, judicial proceedings, or other matters that involve both the income and remainder interests.

3. All of the other ordinary expenses incurred in connection with the administration, management, or preservation of trust property and the distribution of income, including interest, ordinary repairs, regularly recurring taxes assessed against principal, and expenses of a proceeding or other matter that concerns primarily the income interest.

4. Recurring premiums on insurance covering the loss of a principal asset or the loss of income from or use of the asset.

99 Acts, ch 124, §24
Referred to in §637.201, 637.502

637.502 Disbursements from principal.

1. A trustee shall make disbursements from principal according to the following:

a. The remaining one-half of the disbursements described in section 637.501, subsections 1 and 2.

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b. All of the trustee's compensation calculated on principal as an acceptance, distribution, or termination fee, and disbursements made to prepare property for sale.

c. Payments on the principal of a trust debt.

d. Expenses of a proceeding that concerns primarily principal, including a proceeding to construe the trust or to protect the trust or its property.

e. Insurance premiums paid on a policy not described in section 637.501, subsection 4, of which the trust is the owner and beneficiary.

f. Estate, inheritance, and other transfer taxes, including penalties, apportioned to the trust.

g. Disbursements related to environmental matters, including reclamation, assessing environmental conditions, remedying and removing environmental contamination, monitoring remedial activities and the release of substances, preventing future releases of substances, collecting amounts from persons liable or potentially liable for the costs of those activities, penalties imposed under environmental laws or regulations and other payments made to comply with those laws or regulations, statutory or common law claims by third parties, and defending claims based on environmental matters.

2. If a trust owns a policy of insurance on the life of an individual and the trust is not the beneficiary of the policy, premiums paid on the policy are a distribution from principal to the policy beneficiary.

3. If a principal asset is encumbered with an obligation that requires income from that asset to be paid directly to the creditor, the trustee shall transfer from principal to income an amount equal to the income paid to the creditor in reduction of the obligation's principal balance.

99 Acts, ch 124, §25
Referred to in §637.201, 637.410, 637.504

637.503 Transfers from income to principal for depreciation.

1. For purposes of this section, "*depreciation*" means a reduction in value of a fixed asset having a useful life of more than one year due to wear, tear, decay, corrosion, or gradual obsolescence.

2. A trustee may transfer to principal a reasonable amount of the net cash receipts from a principal asset that is subject to depreciation, but a transfer shall not be made for depreciation under any of the following circumstances:

a. When the depreciation involves the portion of real property used or available for use by a beneficiary as a residence, or tangible personal property held or made available for the personal use or enjoyment of a beneficiary.

b. When the depreciation occurs during the administration of a decedent's estate.

c. If the trustee is accounting under section 637.403 for the business or activity in which the asset is used.

3. An amount transferred to principal need not be held as a separate fund.

99 Acts, ch 124, §26
Referred to in §637.422

637.504 Transfers from income to reimburse principal.

1. If a trustee makes or expects to make a principal disbursement described in this section, the trustee may transfer an appropriate amount from income to principal in one or more accounting periods to reimburse principal or to provide a reserve for future principal disbursements.

2. Principal disbursements to which subsection 1 applies include all of the following, but only to the extent that the trustee has not been and does not expect to be reimbursed by a third party:

a. An amount chargeable to income but paid from principal because it is unusually large, including extraordinary repairs.

b. A capital improvement to a principal asset, whether in the form of changes to an existing asset or the construction of a new asset, including special assessments.

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c. Disbursements made to prepare property for rental, including leasehold improvements and broker's commissions.

d. Periodic payments on an obligation secured by a principal asset to the extent that the amount transferred from income to principal for depreciation is less than the periodic payments.

e. Disbursements described in section 637.502, subsection 1, paragraph *"g"*.

3. If the asset whose ownership gives rise to the disbursements becomes subject to a successive income interest after an income interest ends, a trustee may continue to transfer amounts from income to principal as provided in subsection 1.

99 Acts, ch 124, §27

637.505 Income taxes.

1. A tax required to be paid by a trustee based on receipts allocated to income must be paid from income.

2. A tax required to be paid by a trustee based on receipts allocated to principal must be paid from principal, even if the tax is called an income tax by the taxing authority.

3. A tax required to be paid by a trustee on the trust's share of an entity's taxable income must be paid according to all of the following principles:

a. From income, to the extent that receipts from the entity are allocated only to income.

b. From principal, to the extent that receipts from the entity are allocated only to principal.

c. Proportionately from principal and income to the extent that receipts from the entity are allocated to both income and principal.

d. From principal to the extent that the tax exceeds the total receipts from the entity.

4. After applying subsections 1 through 3, the trustee shall adjust income or principal receipts to the extent that the taxes of the trust are reduced because the trust receives a deduction for payments made to a beneficiary.

99 Acts, ch 124, §28; 2009 Acts, ch 52, §13, 14

637.506 Adjustments between principal and income because of taxes.

1. A fiduciary may make adjustments between principal and income to offset the shifting of economic interests or tax benefits between income beneficiaries and remainder beneficiaries which arise from any of the following:

a. Elections and decisions, other than those described in subsection 2, that the fiduciary makes from time to time regarding tax matters.

b. An income tax or any other tax that is imposed upon the fiduciary or a beneficiary as a result of a transaction involving or a distribution from the estate or trust.

c. The ownership by an estate or trust of an interest in an entity whose taxable income, whether or not distributed, is includable in the taxable income of the estate, trust, or a beneficiary.

2. If the amount of an estate tax marital deduction or charitable contributions deduction is reduced because a fiduciary deducts an amount that is paid from principal for income tax purposes instead of deducting it for estate tax purposes, and as a result estate taxes paid from principal are increased and income taxes paid by an estate, trust, or beneficiary are decreased, each estate, trust, or beneficiary that benefits from the decrease in income tax shall reimburse the principal from which the increase in estate tax is paid. The total reimbursement must equal the increase in the estate tax to the extent that the principal used to pay the increase would have qualified for a marital deduction or charitable contributions deduction but for the payment. The proportionate share of the reimbursement for each estate, trust, or beneficiary whose income taxes are reduced must be the same as its proportionate share of the total decrease in income tax. An estate or trust shall reimburse principal from income.

99 Acts, ch 124, §29

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SUBCHAPTER VI

TOTAL RETURN UNITRUSTS

637.601 Definitions.

For purposes of this subchapter:

1. *"Disinterested person"* means a person who is not a related or subordinate party as defined in section 672(c) of the Internal Revenue Code with respect to the person acting as trustee of the trust and excludes the trustor of the trust and any interested trustee.

2. *"Income trust"* means a trust, created by either an inter vivos or a testamentary instrument, which directs or permits the trustee to distribute the net income of the trust to one or more persons, either in fixed proportions or in amounts or proportions determined by the trustee. However, a trust that does not meet this definition is nonetheless an income trust if the trust is subject to taxation under section 2001 or 2501 of the Internal Revenue Code, until the expiration of the period for filing the return, including extensions.

3. *"Interested distributee"* means a person, to whom distributions of income or principal can currently be made, who has the power to remove the existing trustee and designate as successor a person who may be a related or subordinate party, as defined in section 672(c) of the Internal Revenue Code, with respect to such distributee.

4. *"Interested trustee"* means any of the following:

a. An individual trustee to whom the net income or principal of the trust can currently be distributed or would be distributed if the trust were to terminate and be distributed.

b. Any trustee who may be removed and replaced by an interested distributee.

c. An individual trustee whose legal obligation to support a beneficiary may be satisfied by distributions of income and principal of the trust.

5. *"Total return unitrust"* means an income trust which has been converted under and meets the provisions of this subchapter.

6. *"Trustee"* means a person acting as trustee of the trust, except where expressly noted otherwise, whether acting in the trustee's discretion or on the direction of one or more persons acting in a fiduciary capacity.

7. *"Trustor"* means an individual who creates an inter vivos or a testamentary trust.

8. *"Unitrust amount"* means an amount computed as a percentage of the fair market value of the trust.

99 Acts, ch 124, §30; 2002 Acts, ch 1086, §5, 21; 2003 Acts, ch 108, §110
Referred to in §637.613

637.602 Trustee's authority to convert.

A trustee, other than an interested trustee, or, where two or more persons are acting as trustee, a majority of the trustees who are not interested trustees, may, in the trustee's sole discretion and without the approval of the court, do any of the following subject to the requirements of section 637.603:

1. Convert an income trust to a total return unitrust.
2. Reconvert a total return unitrust to an income trust.
3. Change the method used to determine the fair market value of the trust.

2002 Acts, ch 1086, §6, 21
Referred to in §637.603, 637.606, 637.613

637.603 Trustee requirements to convert or change computation method.

A trustee may proceed to take action under section 637.602 if all of the following apply:

1. The trustee adopts a written policy for the trust as follows:

a. In the case of a trust being administered as an income trust, requiring that future distributions from the trust will be unitrust amounts rather than net income.

b. In the case of a trust being administered as a total return unitrust, requiring that future distributions from the trust will be net income rather than unitrust amounts.

c. Requiring that the method used to determine the fair market value of the trust will be changed as stated in the policy.

2. The trustee sends written notice of the trustee's intention to take any action described

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in section 637.602, along with copies of such written policy and this subchapter, to all of the following persons:

a. The trustor of the trust, if living.

b. All living persons who are currently receiving or eligible to receive distributions of income of the trust.

c. All living persons who would receive principal of the trust if the trust were to terminate at the time of the giving of such notice, without regard to the exercise of any power of appointment or, if the trust does not provide for its termination, all living persons who would receive or be eligible to receive distributions of income or principal of the trust if the persons identified in paragraph *"b"* were deceased.

d. All persons named in the governing instrument as adviser to or protector of the trust.

3. At least one person receiving notice under subsection 2, paragraphs *"b"* and *"c"*, is legally competent.

4. No person receiving such notice under subsection 2, objects, by written instrument delivered to the trustee, to the proposed action of the trustee within sixty days of receipt of such notice.

2002 Acts, ch 1086, §7, 21; 2003 Acts, ch 44, §104
Referred to in §637.602, 637.613

637.604 Interested trustee's authority to convert.

If there is no trustee of the trust other than an interested trustee, the interested trustee or, where two or more persons are acting as trustee and are interested trustees, a majority of such interested trustees may, in the trustee's sole discretion and without the approval of the court, do any of the following subject to the requirements of section 637.605:

1. Convert an income trust to a total return unitrust.
2. Reconvert a total return unitrust to an income trust.
3. Change the method used to determine the fair market value of the trust.

2002 Acts, ch 1086, §8, 21
Referred to in §637.605, 637.606, 637.613

637.605 Interested trustee requirements to convert or change computation method.

An interested trustee may proceed to take action under section 637.604 if all of the following apply:

1. The trustee adopts a written policy for the trust as follows:

a. In the case of a trust being administered as an income trust, requiring that future distributions from the trust will be unitrust amounts rather than net income.

b. In the case of a trust being administered as a total return unitrust, requiring that future distributions from the trust will be net income rather than unitrust amounts.

c. Requiring that the method used to determine the fair market value of the trust will be changed as stated in the policy.

2. The trustee appoints a disinterested person who, in the person's sole discretion, but acting in a fiduciary capacity, determines for the trustee the method to be used in determining the fair market value of the trust, and which assets, if any, are to be excluded in determining the unitrust amount.

3. The trustee sends written notice of the trustee's intention to take any action described in section 637.604, along with copies of such written policy, this subchapter, and the determination of the disinterested person to all of the following persons:

a. The trustor of the trust, if living.

b. All living persons who are currently receiving or eligible to receive distributions of income of the trust.

c. All living persons who would receive principal of the trust if the trust were to terminate at the time of the giving of such notice, without regard to the exercise of any power of appointment or, if the trust does not provide for its termination, all living persons who would receive or be eligible to receive distributions of income or principal of the trust if the persons identified in paragraph *"b"* were deceased.

d. All persons named in the governing instrument as adviser to or protector of the trust.

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4. At least one person receiving notice under subsection 3, paragraphs "*b*" and "*c*", is legally competent.

5. No person receiving the notice described in subsection 3 objects, by written instrument delivered to the trustee, to the proposed action of the trustee within sixty days of receipt of such notice.

2002 Acts, ch 1086, §9, 21; 2003 Acts, ch 44, §105; 2003 Acts, ch 108, §111
Referred to in §637.604, 637.613

637.606 Petition to court to convert trust.

1. If any trustee desires to do any of the following but does not have the ability to or elects not to do so under the provisions of section 637.602 or 637.604, the trustee may petition the court for such order as the trustee deems appropriate:

a. Convert an income trust to a total return unitrust.

b. Reconvert a total return unitrust to an income trust.

c. Change the percentage used to calculate the unitrust amount or the method used to determine the fair market value of the trust.

2. If, however, there is only one trustee of such trust and such trustee is an interested trustee or in the event there are two or more trustees of such trust and a majority of them are interested trustees, the court, in its own discretion or upon the petition of such trustee or trustees or any person interested in the trust, may appoint a disinterested person who, acting in a fiduciary capacity, shall present such information to the court as necessary to enable the court to make its determinations.

2002 Acts, ch 1086, §10, 21; 2013 Acts, ch 30, §261
Referred to in §637.613

637.607 Valuation of trust.

The fair market value of the trust shall be determined at least annually, using such valuation date or dates or averages of valuation dates as are deemed appropriate. Assets for which a fair market value cannot be readily ascertained shall be valued using such valuation methods as are deemed reasonable and appropriate. Such assets may be excluded from valuation, provided all income received with respect to such assets is distributed to the extent distributable in accordance with the terms of the governing instrument.

2002 Acts, ch 1086, §11, 21
Referred to in §637.613

637.608 Payout percentage.

The annual unitrust payout percentage shall be four percent unless the governing instrument specifically provides a different percentage or the court approves a percentage of not less than three percent or more than five percent after notice of intent to seek a payout percentage other than four percent has been given to all of the following persons:

1. The trustor of the trust, if living.

2. All living persons who are currently receiving or eligible to receive distributions of income of the trust.

3. All living persons who would receive principal of the trust if the trust were to terminate at the time of the giving of such notice without regard to the exercise of any power of appointment or, if the trust does not provide for its termination, all living persons who would receive or be eligible to receive distributions of income or principal of the trust if the persons identified in subsection 2 were deceased.

4. All persons named in the governing instrument as adviser to or protector of the trust.

2002 Acts, ch 1086, §12, 21
Referred to in §637.613

637.609 Unitrust amount. Repealed by 2008 Acts, ch 1119, §38.

637.610 Procedure upon conversion of income trust to total return unitrust.

Following the conversion of an income trust to a total return unitrust, the trustee:

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1. Shall treat the unitrust amount as if it were net income of the trust for purposes of determining the amount available, from time to time, for distribution from the trust.

2. Shall allocate an amount to trust income, not in excess of the annual unitrust payout amount, in the following order:

a. The amount derived from net income, as determined if the trust were other than a total return unitrust.

b. The amount derived from other ordinary income as determined for federal income tax purposes.

c. The amount derived from net realized short-term capital gains as determined for federal income tax purposes.

d. The amount derived from net realized long-term capital gains as determined for federal income tax purposes.

e. The amount derived from trust principal.

2002 Acts, ch 1086, §14, 21
Referred to in §637.613

637.611 Total return unitrust administration.

In administering a total return unitrust, the trustee may, in the trustee's sole discretion but subject to the provisions of the governing instrument, determine all of the following:

1. The effective date of the conversion.

2. The timing of distributions, including provisions for prorating a distribution for a short year in which a beneficiary's right to payments commences or ceases.

3. Whether distributions are to be made in cash or in kind or partly in cash and partly in kind.

4. If the trust is reconverted to an income trust, the effective date of such reconversion.

5. Such other administrative issues as may be necessary or appropriate to carry out the purposes of this subchapter.

2002 Acts, ch 1086, §15, 21
Referred to in §637.613

637.612 Principal distributions subject to governing instrument.

Conversion to a total return unitrust under the provisions of this subchapter shall not affect any other provision of the governing instrument, if any, regarding distributions of principal.

2002 Acts, ch 1086, §16, 21
Referred to in §637.613

637.613 Construction and applicability.

This subchapter shall be construed as pertaining to the administration of a trust and shall be available to any trust that is administered in Iowa under Iowa law unless any of the following apply:

1. The governing instrument reflects an intention that the current beneficiary or beneficiaries are to receive an amount other than a reasonable current return from the trust.

2. The trust is a trust described in section 170(f)(2)(B), 664(d), 1361(d), 2702(a)(3), or 2702(b) of the Internal Revenue Code.

3. One or more persons to whom the trustee could distribute income have a power of withdrawal over the trust that is not subject to an ascertainable standard under section 2041 or 2514 of the Internal Revenue Code or that can be exercised to discharge a duty of support the person possesses.

4. The governing instrument expressly prohibits use of this subchapter by specific reference to the subchapter. A provision in the governing instrument that the provisions of sections 637.601 through 637.615 or any corresponding provision of future law shall not be used in the administration of this trust or similar words reflecting such intent shall be sufficient to preclude the use of this subchapter.

2002 Acts, ch 1086, §17, 21

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637.614 Good faith actions.

Any trustee or disinterested person who in good faith takes or fails to take any action under this subchapter shall not be liable to any person affected by such action or inaction, regardless of whether such person received written notice as provided in this subchapter and regardless of whether such person was under a legal disability at the time of the delivery of such notice. Such person's exclusive remedy shall be to obtain an order of the court directing the trustee to convert an income trust to a total return unitrust, or to reconvert a total return unitrust to an income trust.

2002 Acts, ch 1086, §18, 21
Referred to in §637.613

637.615 Effective date.

This subchapter takes effect April 5, 2002, and applies to trusts in existence on that date or created after that date.

2002 Acts, ch 1086, §19, 21
Referred to in §637.613

SUBCHAPTER VII

MISCELLANEOUS PROVISIONS

637.701 Application of chapter to existing trusts and estates — chapter prevails.

This chapter applies to every trust or decedent's estate on and after July 1, 2000, except as otherwise expressly provided in the will, the terms of the trust, or this chapter. Notwithstanding any Code provision to the contrary, the provisions of this chapter shall prevail over any other applicable Code provision.

2002 Acts, ch 1086, §20, 21

CHAPTER 638

FIDUCIARY ACCESS TO DIGITAL ASSETS

Referred to in §633.90, 633A.4402, 633B.201

638.1 Short title.
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638.3 Applicability.
638.4 User direction for disclosure of digital assets.
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638.6 Procedure for disclosing digital assets.
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638.8 Disclosure of other digital assets of deceased user.
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638.14 Disclosure of digital assets to conservator or guardian of a protected person.
638.15 Fiduciary duty and authority.
638.16 Custodian compliance and immunity.
638.17 Uniformity of application and construction.
638.18 Relation to Electronic Signatures in Global and National Commerce Act.

638.1 Short title.

This chapter may be cited as the *"Iowa Uniform Fiduciary Access to Digital Assets Act"*.

2017 Acts, ch 79, §4

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638.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Account"* means an arrangement under a terms-of-service agreement in which a custodian carries, maintains, processes, receives, or stores a digital asset of the user or provides goods or services to the user.

2. *"Agent"* means an attorney in fact granted authority under a durable or nondurable power of attorney under chapter 633B.

3. *"Carries"* means engages in the transmission of an electronic communication.

4. *"Catalogue of electronic communications"* means information that identifies each person with which a user has had an electronic communication, the time and date of the communication, and the electronic address of the person.

5. *"Conservator"* means the same as defined in section 633.3. *"Conservator"* includes a person appointed to have the custody and control of the property of a protected person in a limited conservatorship unless otherwise provided by order of the court.

6. *"Content of an electronic communication"* means information concerning the substance or meaning of the communication to which all of the following apply:

a. The communication has been sent or received by a user.

b. The communication is in electronic storage by a custodian providing an electronic-communication service to the public or is carried or maintained by a custodian providing a remote-computing service to the public.

c. The communication is not readily accessible to the public.

7. *"Court"* means a district court in this state.

8. *"Custodian"* means a person that carries, maintains, processes, receives, or stores a digital asset of a user.

9. *"Designated recipient"* means a person chosen by a user using an online tool to administer digital assets of the user.

10. *"Digital asset"* means an electronic record in which an individual has a right or interest. *"Digital asset"* does not include an underlying asset or liability unless the asset or liability is itself an electronic record. *"Digital asset"* does not include health information or individually identifiable health information as those terms are defined in the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

11. *"Electronic"* means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

12. *"Electronic communication"* has the meaning set forth in 18 U.S.C. §2510(12).

13. *"Electronic-communication service"* means a custodian that provides to a user the ability to send or receive an electronic communication.

14. *"Fiduciary"* means a personal representative, conservator, guardian, agent, or trustee.

15. *"Guardian"* means the same as defined in section 633.3. *"Guardian"* includes a person appointed to have the custody and care of the person of the protected person in a limited guardianship unless otherwise provided by order of the court.

16. *"Information"* means data, text, images, videos, sounds, codes, computer programs, software, databases, or the like.

17. *"Online tool"* means an electronic service provided by a custodian that allows the user, in an agreement distinct from the terms-of-service agreement between the custodian and user, to provide directions for disclosure or nondisclosure of digital assets to a third person.

18. *"Person"* means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, instrumentality, or other legal entity.

19. *"Personal representative"* means the same as defined in section 633.3.

20. *"Power of attorney"* means the same as defined in section 633B.102.

21. *"Principal"* means the same as defined in section 633B.102.

22. *"Protected person"* means an individual for whom a conservator or guardian has been appointed. *"Protected person"* includes an individual for whom an application for the appointment of a conservator or guardian is pending and for which a court order authorizing access under this chapter has been granted.

23. *"Record"* means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

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24. *"Remote-computing service"* means a custodian that provides to a user computer-processing services or the storage of digital assets by means of an electronic communications system, as defined in 18 U.S.C. §2510(14).

25. *"Terms-of-service agreement"* means an agreement that controls the relationship between a user and a custodian.

26. *"Trustee"* means the same as defined in section 633.3 or 633A.1102.

27. *"User"* means a person that has an account with a custodian.

28. *"Will"* means the same as defined in section 633.3.

2017 Acts, ch 79, §5; 2024 Acts, ch 1009, §92

638.3 Applicability.

1. This chapter applies to all of the following:

a. A fiduciary acting under a will or power of attorney executed before, on, or after July 1, 2017.

b. A personal representative acting for a decedent who died before, on, or after July 1, 2017.

c. A conservator or guardian acting for a protected person on or after July 1, 2017.

d. A trustee acting under a trust created before, on, or after July 1, 2017.

2. This chapter applies to a custodian if the user resides in this state or resided in this state at the time of the user's death.

3. This chapter does not apply to a digital asset of an employer used by an employee in the ordinary course of the employer's business.

2017 Acts, ch 79, §6; 2024 Acts, ch 1009, §93

638.4 User direction for disclosure of digital assets.

1. A user may use an online tool to direct the custodian to disclose to the designated recipient or not to disclose some or all of the user's digital assets, including the content of electronic communications. If the online tool allows the user to modify or delete a direction at any time, a direction regarding disclosure using an online tool overrides a contrary direction by the user in a will, trust, power of attorney, or other record.

2. If a user has not used an online tool to give direction under subsection 1, or if the custodian has not provided an online tool, the user may allow or prohibit in a will, trust, power of attorney, or other record, disclosure to a fiduciary of some or all of the user's digital assets, including the content of electronic communications sent or received by the user.

3. A user's direction under subsection 1 or 2 overrides a contrary provision in a terms-of-service agreement that does not require the user to act affirmatively and distinctly from the user's assent to the terms of service.

2017 Acts, ch 79, §7

Referred to in §638.5, 638.15

638.5 Terms-of-service agreement.

1. This chapter does not change or impair a right of a custodian or a user under a terms-of-service agreement to access and use digital assets of the user.

2. This chapter does not give a fiduciary or a designated recipient any new or expanded rights other than those held by the user for whom, or for whose estate, the fiduciary or a designated recipient acts or represents.

3. A fiduciary's or designated recipient's access to digital assets may be modified or eliminated by a user, by federal law, or by a terms-of-service agreement if the user has not provided direction under section 638.4.

2017 Acts, ch 79, §8

638.6 Procedure for disclosing digital assets.

1. When disclosing digital assets of a user under this chapter, the custodian may at its sole discretion do any of the following:

a. Grant a fiduciary or designated recipient full access to the user's account.

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b. Grant a fiduciary or designated recipient partial access to the user's account sufficient to perform the tasks with which the fiduciary or designated recipient is charged.

c. Provide a fiduciary or designated recipient a copy in a record of any digital asset that, on the date the custodian received the request for disclosure, the user could have accessed if the user were alive, was competent, and had access to the account.

2. A custodian may assess a reasonable administrative charge for the cost of disclosing digital assets under this chapter.

3. A custodian need not disclose under this chapter a digital asset deleted by a user.

4. If a user directs or a fiduciary requests a custodian to disclose some, but not all, of the user's digital assets, the custodian need not disclose the assets if segregation of the assets would impose an undue burden on the custodian. If the custodian believes the direction or request imposes an undue burden, the custodian or fiduciary may seek an order from the court to disclose any of the following:

a. A subset of the user's digital assets limited by date.

b. All of the user's digital assets to the fiduciary or designated recipient.

c. None of the user's digital assets.

d. All of the user's digital assets to the court for review in camera.

2017 Acts, ch 79, §9

638.7 Disclosure of content of electronic communications of deceased user.

If a deceased user consented or a court directs disclosure of the contents of electronic communications of the user, the custodian shall disclose to the personal representative of the estate of the user the content of an electronic communication sent or received by the user if the personal representative gives the custodian all of the following:

1. A written request for disclosure in physical or electronic form.

2. A certified copy of the death certificate of the user.

3. A certified copy of the letters of appointment of the personal representative, an original affidavit made pursuant to section 633.356, or a file-stamped copy of the court order authorizing the personal representative to administer the user's estate.

4. Unless the user provided direction using an online tool, a copy of the user's will, trust, power of attorney, or other record evidencing the user's consent to disclosure of the content of electronic communications.

5. If requested by the custodian, any of the following:

a. A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account.

b. Evidence linking the account to the user.

c. A finding by the court of any of the following:

(1) The user had a specific account with the custodian, identifiable by the information specified in paragraph *"a"*.

(2) Disclosure of the content of electronic communications of the user would not violate 18 U.S.C. §2701 et seq., 47 U.S.C. §222, or other applicable law.

(3) Unless the user provided direction using an online tool, that the user consented to disclosure of the content of electronic communications.

(4) Disclosure of the content of electronic communications of the user is reasonably necessary for administration of the estate.

2017 Acts, ch 79, §10

Referred to in §638.16

638.8 Disclosure of other digital assets of deceased user.

Unless the user prohibited disclosure of digital assets or the court directs otherwise, a custodian shall disclose to the personal representative of the estate of a deceased user a catalogue of electronic communications sent or received by the user and digital assets, other than the content of electronic communications, of the user if the personal representative gives the custodian all of the following:

1. A written request for disclosure in physical or electronic form.

2. A certified copy of the death certificate of the user.

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3. A certified copy of the letters of appointment of the personal representative, an original affidavit made pursuant to section 633.356, or a file-stamped copy of the court order authorizing the personal representative to administer the user's estate.

4. If requested by the custodian, any of the following:

a. A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account.

b. Evidence linking the account to the user.

c. An affidavit stating that disclosure of the user's digital assets is reasonably necessary for administration of the estate.

d. A finding by the court of any of the following:

(1) The user had a specific account with the custodian, identifiable by the information specified in paragraph *"a"*.

(2) Disclosure of the user's digital assets is reasonably necessary for administration of the estate.

2017 Acts, ch 79, §11
Referred to in §638.16

638.9 Disclosure of content of electronic communications of principal.

To the extent a power of attorney expressly grants an agent authority over the content of electronic communications sent or received by the principal and unless directed otherwise by the principal or the court, a custodian shall disclose to the agent the content if the agent gives the custodian all of the following:

1. A written request for disclosure in physical or electronic form.

2. An original or copy of the power of attorney expressly granting the agent authority over the content of electronic communications of the principal.

3. A certification by the agent, under penalty of perjury, that the power of attorney is in effect. The certification form provided in section 633B.302 shall satisfy the requirement of this subsection.

4. If requested by the custodian, any of the following:

a. A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the principal's account.

b. Evidence linking the account to the principal.

2017 Acts, ch 79, §12
Referred to in §638.16

638.10 Disclosure of other digital assets of principal.

Unless otherwise ordered by the court, directed by the principal, or provided by a power of attorney, a custodian shall disclose to an agent with specific authority over digital assets or general authority to act on behalf of a principal a catalogue of electronic communications sent or received by the principal and digital assets, other than the content of electronic communications, of the principal if the agent gives the custodian all of the following:

1. A written request for disclosure in physical or electronic form.

2. An original or a copy of the power of attorney that gives the agent specific authority over digital assets or general authority to act on behalf of the principal.

3. A certification by the agent, under penalty of perjury, that the power of attorney is in effect.

4. If requested by the custodian, any of the following:

a. A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the principal's account.

b. Evidence linking the account to the principal.

2017 Acts, ch 79, §13
Referred to in §638.16

638.11 Disclosure of digital assets held in trust when trustee is original user.

Unless otherwise ordered by the court or provided in a trust, a custodian shall disclose to a trustee that is an original user of an account any digital asset of the account held in

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trust, including a catalogue of electronic communications of the trustee and the content of electronic communications.

2017 Acts, ch 79, §14
Referred to in §638.16

638.12 Disclosure of contents of electronic communications held in trust when trustee not original user.

Unless otherwise ordered by the court, directed by the user, or provided in a trust, a custodian shall disclose to a trustee that is not an original user of an account the content of an electronic communication sent or received by an original or successor user and carried, maintained, processed, received, or stored by the custodian in the account of the trust if the trustee gives the custodian all of the following:

1. A written request for disclosure in physical or electronic form.

2. A certified copy of the trust instrument or a certification of trust under section 633A.4604 that includes consent to disclosure of the content of electronic communications to the trustee.

3. A certification by the trustee, under penalty of perjury, that the trust exists and the trustee is a currently acting trustee of the trust.

4. If requested by the custodian, any of the following:

a. A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the trust's account.

b. Evidence linking the account to the trust.

2017 Acts, ch 79, §15
Referred to in §638.16

638.13 Disclosure of other digital assets held in trust when trustee not original user.

Unless otherwise ordered by the court, directed by the user, or provided in a trust, a custodian shall disclose, to a trustee that is not an original user of an account, a catalogue of electronic communications sent or received by an original or successor user and stored, carried, or maintained by the custodian in an account of the trust and any digital assets, other than the content of electronic communications, in which the trust has a right or interest if the trustee gives the custodian all of the following:

1. A written request for disclosure in physical or electronic form.

2. A certified copy of the trust instrument or a certification of trust under section 633A.4604.

3. A certification by the trustee, under penalty of perjury, that the trust exists and the trustee is a currently acting trustee of the trust.

4. If requested by the custodian, any of the following:

a. A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the trust's account.

b. Evidence linking the account to the trust.

2017 Acts, ch 79, §16
Referred to in §638.16

638.14 Disclosure of digital assets to conservator or guardian of a protected person.

1. After an opportunity for a hearing to all interested parties, the court may grant a conservator or guardian access to the digital assets of a protected person.

2. Unless otherwise ordered by the court or directed by the user, a custodian shall disclose to a conservator or guardian the catalogue of electronic communications sent or received by a protected person and any digital assets, other than the content of electronic communications, in which the protected person has a right or interest if the conservator or guardian gives the custodian all of the following:

a. A written request for disclosure in physical or electronic form.

b. A file-stamped copy of the court order that gives the conservator or guardian authority over the digital assets of the protected person.

c. If requested by the custodian, any of the following:

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(1) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the account of the protected person.

(2) Evidence linking the account to the protected person.

3. If the conservatorship or guardianship is not limited, the conservator or guardian may request a custodian of the digital assets of the protected person to suspend or terminate an account of the protected person for good cause. A request made under this section must be accompanied by a file-stamped copy of the court order establishing the conservatorship or guardianship.

2017 Acts, ch 79, §17; 2024 Acts, ch 1009, §94
Referred to in §638.16

638.15 Fiduciary duty and authority.

1. The legal duties imposed on a fiduciary charged with managing tangible property apply to the management of digital assets, including all of the following:

a. The duty of care.

b. The duty of loyalty.

c. The duty of confidentiality.

2. All of the following apply to a fiduciary's or a designated recipient's authority with respect to a digital asset of a user:

a. Except as otherwise provided in section 638.4, the fiduciary's or designated recipient's authority is subject to the applicable terms of service.

b. The fiduciary's or designated recipient's authority is subject to other applicable law, including copyright law.

c. In the case of a fiduciary, the fiduciary's authority is limited by the scope of the fiduciary's duties.

d. The fiduciary's or designated recipient's authority shall not be used to impersonate the user.

3. A fiduciary with authority over the property of a decedent, protected person, principal, or settlor has the right to access any digital asset in which the decedent, protected person, principal, or settlor had a right or interest and that is not held by a custodian or subject to a terms-of-service agreement.

4. A fiduciary acting within the scope of the fiduciary's duties is an authorized user of the property of the decedent, protected person, principal, or settlor for the purpose of applicable computer-fraud and unauthorized-computer-access laws, including section 716.6B.

5. A fiduciary with authority over the tangible, personal property of a decedent, protected person, principal, or settlor possesses all of the following authority:

a. Has the right to access the property and any digital asset stored in the property.

b. Is an authorized user for the purpose of computer-fraud and unauthorized-computer-access laws, including section 716.6B.

6. A custodian may disclose information in an account to a fiduciary of the user when the information is required to terminate an account used to access digital assets licensed to the user.

7. A fiduciary of a user may request a custodian to terminate the user's account. A request for termination must be in writing, in either physical or electronic form, and accompanied by all of the following:

a. If the user is deceased, a certified copy of the death certificate of the user.

b. A certified copy of the letters of appointment of the personal representative, an original affidavit made pursuant to section 633.356, a file-stamped copy of the court order authorizing the personal representative to administer the user's estate, power of attorney, or trust, including a certification of trust, giving the fiduciary authority over the account.

c. If requested by the custodian, any of the following:

(1) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account.

(2) Evidence linking the account to the user.

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(3) A finding by the court that the user had a specific account with the custodian, identifiable by the information specified in subparagraph (1).

2017 Acts, ch 79, §18; 2024 Acts, ch 1009, §95

Referred to in §638.16

638.16 Custodian compliance and immunity.

1. Not later than sixty days after receipt of the information required under sections 638.7 through 638.15, a custodian shall comply with a request under this chapter from a fiduciary or designated recipient to disclose digital assets or terminate an account. If the custodian fails to comply, the fiduciary or designated recipient may apply to the court for an order directing compliance.

2. An order under subsection 1 directing compliance must contain a finding that compliance is not in violation of 18 U.S.C. §2702.

3. A custodian may notify the user that a request for disclosure or to terminate an account was made under this chapter.

4. A custodian may deny a request under this chapter from a fiduciary or designated recipient for disclosure of digital assets or to terminate an account if the custodian is aware of any lawful access to the account following the receipt of the fiduciary's request.

5. This chapter does not limit a custodian's ability to obtain or require a fiduciary or designated recipient requesting disclosure or termination under this chapter to obtain a court order which finds all of the following:

a. That the account belongs to the user.

b. That there is sufficient consent from the user to support the requested disclosure.

c. Any specific factual finding required by any applicable law other than this chapter.

6. A custodian and the custodian's officers, employees, and agents are immune from liability for an act or omission done in good faith in compliance with this chapter.

2017 Acts, ch 79, §19

638.17 Uniformity of application and construction.

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to this chapter's subject matter among states that enact the revised uniform fiduciary access to digital assets Act.

2017 Acts, ch 79, §20

638.18 Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, or supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §7001 et seq., but does not modify, limit, or supersede section 101(c) of that Act, 15 U.S.C. §7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that Act, 15 U.S.C. §7003(b).

2017 Acts, ch 79, §21

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SUBTITLE 5

SPECIAL ACTIONS

CHAPTER 639

ATTACHMENT

Referred to in §331.653, 445.4, 537.5110, 602.8102(107)

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639.1 Method.

The plaintiff in a civil action may cause the property of the defendant not exempt from execution to be attached at the commencement or during the progress of the proceeding, by pursuing the course hereinafter prescribed.

[C51, §1846; R60, §3172; C73, §2949; C97, §3876; C24, 27, 31, 35, 39, §**12078;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.1]

639.2 Proceedings auxiliary.

If it be subsequent to the commencement of the action, a separate petition or an amendment to the petition must be filed, and in all cases the proceedings relative to the attachment are to be deemed independent of the ordinary proceedings and only auxiliary thereto.

[C51, §1847; R60, §3173; C73, §2950; C97, §3877; C24, 27, 31, 35, 39, §**12079;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.2]

639.3 Grounds.

The petition or amendment to petition which asks an attachment, must in all cases be sworn to. It must state one or more of the following grounds:

1. That the defendant is a foreign corporation or acting as such.
2. That the defendant is a nonresident of the state.
3. That the defendant is about to remove the defendant's property out of the state without leaving sufficient remaining for the payment of the defendant's debts.
4. That the defendant has disposed of the defendant's property, in whole or in part, with intent to defraud the defendant's creditors.
5. That the defendant is about to dispose of the defendant's property with intent to defraud the defendant's creditors.
6. That the defendant has absconded, so that the ordinary process cannot be served upon the defendant.
7. That the defendant is about to remove permanently out of the county, and has property therein not exempt from execution, and that the defendant refuses to pay or secure the plaintiff.
8. That the defendant is about to remove permanently out of the state, and refuses to pay or secure the debt due the plaintiff.
9. That the defendant is about to remove the defendant's property or a part thereof out of the county with intent to defraud the defendant's creditors.
10. That the defendant is about to convert the defendant's property or a part thereof into money for the purpose of placing it beyond the reach of the defendant's creditors.
11. That the defendant has property or rights in action which the defendant conceals.
12. That the debt is due for property obtained under false pretenses.
13. That the defendant is about to dispose of property belonging to the plaintiff.
14. That the defendant is about to convert the plaintiff's property or a part thereof into money for the purpose of placing it beyond the reach of the plaintiff.
15. That the defendant is about to move permanently out of state, and refuses to return property belonging to the plaintiff.

[C51, §1848; R60, §3174; C73, §2951; C97, §3878; C24, 27, 31, 35, 39, §**12080;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.3]

87 Acts, ch 80, §25

Referred to in §124.407, 537.5110

639.4 Alternative statement of grounds.

The causes for the attachment shall not be stated in the alternative.

[R60, §3242; C73, §3021; C97, §3878; C24, 27, 31, 35, 39, §**12081;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.4]

639.5 Issued on Sunday.

Where the petition states, in addition to the other facts required, that the plaintiff will lose the plaintiff's claim unless the attachment issues and is served on Sunday, it may be issued and served on that day.

[C73, §2952; C97, §3879; C24, 27, 31, 35, 39, §**12082;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.5]

Analogous or related provisions, §626.6, 643.3, and 667.3

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639.6 On contract — amount due.

If the plaintiff's demand is founded on contract, the petition must state that something is due, and, as nearly as practicable, the amount, which must be more than five dollars in order to authorize an attachment.

[C51, §1849; R60, §3175; C73, §2953; C97, §3880; C24, 27, 31, 35, 39, §**12083;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.6]

639.7 Value of property attached.

The amount thus sworn to is intended as a guide to the sheriff, who must, as nearly as the circumstances of the case will permit, levy upon property fifty percent greater in value than that amount.

[C51, §1850; R60, §3176; C73, §2954; C97, §3881; C24, 27, 31, 35, 39, §**12084;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.7]

639.8 Allowance of value in other cases.

If the demand is not founded on contract, the original petition must be presented to some judge of the supreme or district court, or the judge of the court from which the issuance of a writ of attachment is sought, who shall make an allowance thereon of the amount in value of the property that may be attached.

[C51, §1851; R60, §3177; C73, §2955; C97, §3882; C24, 27, 31, 35, 39, §**12085;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.8]

639.9 For debts not due — grounds.

The property of a debtor may be attached on debts not due, when nothing but time is wanting to fix an absolute indebtedness, and when the petition, in addition to that fact, states one or more of the following grounds:

1. That the defendant is about to dispose of the defendant's property with intent to defraud the defendant's creditors.
2. That the defendant is about to remove or has removed from the state, and refuses to secure the payment of the debt when it falls due, and which removal or contemplated removal was not known to the plaintiff at the time the debt was contracted.
3. That the defendant has disposed of the defendant's property in whole or in part with intent to defraud the defendant's creditors.
4. That the debt was incurred for property obtained under false pretenses.

[C51, §1852; R60, §3178; C73, §2956; C97, §3883; C24, 27, 31, 35, 39, §**12086;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.9]

639.10 Appearance — judgment — perishable property.

If, at the time of the service of the attachment, the claim upon which suit is brought is not due, the defendant need not appear in the action until the maturity of the demand, unless the defendant elects to plead, in which event the cause shall stand for trial when it is reached in its regular order, and no final judgment shall be rendered therein before the maturity of the debt unless such election is made, but if perishable property is levied upon, it may be sold as in other attachment cases.

[R60, §3179, 3180; C73, §2957, 2958; C97, §3884; C24, 27, 31, 35, 39, §**12087;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.10]

639.11 Bond.

In all cases before it can be issued, the plaintiff must file with the clerk a bond for the use of the defendant, with sureties to be approved by such clerk, in a penalty at least double the value of the property sought to be attached, and in no case less than two hundred fifty dollars conditioned that the plaintiff will pay all damages which the defendant may sustain by reason of the wrongful suing out of the attachment.

[C51, §1853; R60, §3181; C73, §2959; C97, §3885; C24, 27, 31, 35, 39, §**12088;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.11]

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639.12 Bond for levy on real property only.

In any case where only real property is sought to be attached, the plaintiff shall file such bond in a penalty to be fixed by the court or the clerk, and in such cases, the clerk shall issue a writ thereunder and shall direct therein that real property only shall be attached.

[C31, 35, §12088-d1; C39, §**12088.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.12]

639.13 Additional security.

The defendant may, at any time before judgment, move the court for additional security on the part of the plaintiff, and if, on such motion, the court is satisfied that the surety on the plaintiff's bond has removed from the state, or is not sufficient, the attachment may be vacated and restitution directed of any property taken under it, unless, in a reasonable time, to be fixed by the court, security is given by the plaintiff.

[R60, §3182; C73, §2960; C97, §3886; C24, 27, 31, 35, 39, §**12089;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.13]

639.14 Action on bond.

In an action on such bond, the plaintiff therein may recover, if the plaintiff shows that the attachment was wrongfully sued out, and that there was no reasonable cause to believe the ground upon which the same was issued to be true, the actual damages sustained, and reasonable attorney's fees to be fixed by the court; and if it be shown such attachment was sued out maliciously, the plaintiff may recover exemplary damages, nor need the plaintiff wait until the principal suit is determined before suing on the bond.

[C51, §1854; R60, §3183; C73, §2961; C97, §3887; C24, 27, 31, 35, 39, §**12090;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.14]

Referred to in §445.4

639.15 Remedy for falsely suing out — counterclaim.

The fact stated as a cause of attachment shall not be contested in the action by a mere defense. The defendant's remedy shall be on the bond, but the defendant may in the defendant's discretion sue thereon by way of counterclaim, and in such case shall recover damages as in an original action on such bond.

[R60, §3238; C73, §3017; C97, §3888; C24, 27, 31, 35, 39, §**12091;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.15]

639.16 Writ to sheriff.

The clerk shall issue a writ of attachment, directing the sheriff of the county therein named to attach the property of the defendant to the requisite amount therein stated.

[C51, §1856; R60, §3185; C73, §2962; C97, §3889; C24, 27, 31, 35, 39, §**12092;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.16]

639.17 Several writs to different counties.

Attachments may be issued from the district court to different counties, and several may, at the option of the plaintiff, be issued at the same time, or in succession and subsequently, until sufficient property has been attached; but only those executed shall be taxed in the costs, unless otherwise ordered by the court.

[C51, §1855, 1858; R60, §3184; C73, §2963; C97, §3890; C24, 27, 31, 35, 39, §**12093;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.17]

639.18 Surplus levy.

If more property is attached in the aggregate than the plaintiff is entitled to, the surplus must be abandoned, and the plaintiff pay all costs incurred in relation to such surplus.

[C51, §1858; R60, §3184; C73, §2963; C97, §3890; C24, 27, 31, 35, 39, §**12094;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.18]

639.19 Property attached.

The sheriff shall in all cases attach the amount of property directed, if sufficient, not exempt from execution, is found in the sheriff's county, giving that in which the defendant has a legal

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and unquestionable title a preference over that in which the defendant's title is doubtful or only equitable.

[C51, §1857; R60, §3186; C73, §2964; C97, §3891; C24, 27, 31, 35, 39, §**12095;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.19]

639.20 Several attachments.

Where there are several attachments against the same defendant, they shall be executed in the order in which they were received by the sheriff.

[R60, §3187; C73, §2965; C97, §3892; C24, 27, 31, 35, 39, §**12096;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.20]

639.21 Following property.

If, after an attachment has been placed in the hands of the sheriff, any property of the defendant is moved from the county, the sheriff may pursue and attach the same in an adjoining county within twenty-four hours after removal.

[R60, §3188; C73, §2966; C97, §3893; C24, 27, 31, 35, 39, §**12097;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.21]

Analogous provisions, §643.8, 643.9

639.22 Reserved.

639.23 Judgments — money — things in action.

Judgments, money, bank bills, and other things in action may be levied upon by the officer under an attachment in the same manner as levies are made under execution, except that notice of such levy shall be given as in levies by attachment, and after judgment such property shall be sold, appropriated, or transferred as provided for in the chapter on executions.

[C51, §1859, 1860; R60, §3194; C73, §2967; C97, §3895; C24, 27, 31, 35, 39, §**12099;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.23]

Executions, chapter 626
Levy on judgments, moneys, etc., §626.21, 626.22

639.24 Property in possession of another.

Property of defendant in possession of another, and of which defendant is entitled to the immediate possession, may be seized under attachment by taking possession thereof, in the same manner as though found in the defendant's possession.

[C51, §1859, 1860; R60, §3194; C73, §2967; C97, §3896; C24, 27, 31, 35, 39, §**12100;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.24]

639.25 Garnishment.

Property of the defendant in the possession of another, or debts due the defendant, may be attached by garnishment as hereinafter provided.

[C51, §1859, 1860; R60, §3194; C73, §2967; C97, §3897; C24, 27, 31, 35, 39, §**12101;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.25]

Garnishment, chapter 642

639.26 When property bound.

Property capable of manual delivery, and attached otherwise than by garnishment, is bound thereby from the time manual custody thereof is taken by the officer under the attachment.

[C51, §1859, 1860, 1874; R60, §3194, 3215; C73, §2967, 2969; C97, §3898; C24, 27, 31, 35, 39, §**12102;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.26]

639.27 Real estate.

Real estate or equitable interests therein may be attached.

[R60, §3243; C73, §3022; C97, §3899; C24, 27, 31, 35, 39, §**12103;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.27]

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639.28 Lien.

The levy shall be a lien thereon from the time of an entry made and signed by the officer making the same upon the encumbrance book in the office of the clerk of the county in which the land is situated, showing the levy, the date thereof, name of the county from which the attachment issued, title of the action, and a description of the land levied on.

[R60, §3243; C73, §3022; C97, §3899; C24, 27, 31, 35, 39, §**12104;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.28]

Analogous provision, §626.20

639.29 Levy on equitable interest.

In case of a levy upon any equitable interest in real estate, such entry shall show, in addition to the foregoing matters, the name of the person holding the legal title, and the owner of the alleged equitable interest, where known.

[C97, §3899; C24, 27, 31, 35, 39, §**12105;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.29]

639.30 Lands fraudulently conveyed.

The grantor of real estate conveyed in fraud of creditors shall, as to such creditors, be deemed the equitable owner thereof, and such interest may be attached as above provided, when the petition alleges such fraudulent conveyance and the holder of the legal title is made a party to the action.

[C97, §3899; C24, 27, 31, 35, 39, §**12106;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.30]

Equitable proceedings to satisfy judgment debt, §630.16

639.31 Notice to defendant — return.

When any property is attached, the officer making the levy shall at once give written notice thereof to the defendant, if found within the county in which the levy is made, and the fact of the giving of such notice, or that the defendant is not found within the county, shall be shown by the officer's return.

[C51, §1859, 1860; R60, §3194; C73, §2967; C97, §3900; C24, 27, 31, 35, 39, §**12107;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.31]

Referred to in §537.5110

639.32 Notice to party in possession.

A like notice shall be given to the party in possession of the property attached.

[C51, §1860; R60, §3194; C73, §2967; C97, §3900; C24, 27, 31, 35, 39, §**12108;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.32]

639.33 Service when party absent.

If the party required to be notified is not found at the party's usual place of business or residence, such notice may be served upon a member of the party's family over fourteen years of age at such place.

[C97, §3900; C24, 27, 31, 35, 39, §**12109;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.33]

Referred to in §537.5110

639.34 Examination of defendant.

Whenever it appears by the affidavit of the plaintiff, or by the return of the attachment, that no property is known to the plaintiff or the officer on which the attachment can be executed, or not enough to satisfy the plaintiff's claim, and it being shown to the court by affidavit that the defendant has property within the state not exempt, the defendant may be required to attend before the court in which the action is pending, or a commissioner appointed for that purpose, and give information on oath respecting the defendant's property.

[R60, §3189; C73, §2968; C97, §3901; C24, 27, 31, 35, 39, §**12110;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.34]

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639.35 Money paid clerk.

Money attached by the sheriff, or coming into the sheriff's hands by virtue of the attachment, shall be paid, less the sheriff's costs, to the clerk. The clerk shall retain the money until directed otherwise by the court.

[C51, §1875, 1882; R60, §3217; C73, §2971; C97, §3902; C24, 27, 31, 35, 39, §**12111;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.35]

92 Acts, ch 1044, §2

For duties of officer pertaining to execution, see R.C.P. 1.1018

639.36 Other property.

The sheriff shall make such disposition of other attached property as may be directed by the court, and, where there is no direction upon the subject, the sheriff shall safely keep the property subject to the order of the court.

[R60, §3218; C73, §2972; C97, §3903; C24, 27, 31, 35, 39, §**12112;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.36]

639.37 Common or joint property.

In executing an attachment against a person who owns property jointly or in common with another, the officer may take possession of such property so owned jointly or in common, sufficiently to enable the officer to inventory and appraise the same, and for that purpose shall call to the officer's assistance three disinterested persons; which inventory and appraisement shall be returned by the officer with the attachment, and such return shall state who claims to own such property.

[R60, §3190; C73, §2973; C97, §3904; C24, 27, 31, 35, 39, §**12113;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.37]

Analogous provision, §626.32

639.38 Lien acquired — action to determine interest.

The plaintiff shall, from the time such property is taken possession of by the officer, have a lien on the interest of the defendant therein, and may, either before or after the plaintiff obtains judgment in the action in which the attachment issued, commence action by equitable proceedings to ascertain the nature and extent of such interest and to enforce the lien.

[C73, §2974; C97, §3904; C24, 27, 31, 35, 39, §**12114;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.38]

639.39 Receiver.

If deemed necessary or proper, the court may appoint a receiver under the circumstances and conditions provided in chapter 680.

[C73, §2974; C97, §3904; C24, 27, 31, 35, 39, §**12115;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.39]

639.40 Personal property subject to security interest.

Personal property subject to a security interest may be levied on under attachment in the method provided for levying execution thereon.

[C97, §3905; C24, 27, 31, 35, 39, §**12116;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.40]

Manner of levying, §626.34 et seq.

639.41 Indemnifying bond.

The provisions as to notice of ownership and indemnifying bond to be given in cases of levies under execution shall in all respects be applicable to levies made under writs of attachment.

[C97, §3906; C24, 27, 31, 35, 39, §**12117;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.41]

Indemnifying bond, §626.54 et seq.

Notice of ownership, §626.50 et seq.

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639.42 Bond to discharge.

If the defendant, at any time before judgment, causes a bond to be executed to the plaintiff with sufficient sureties, to be approved by the officer having the attachment, or after the return thereof, by the clerk, to the effect that the defendant will perform the judgment of the court, the attachment shall be discharged, and restitution made of property taken or proceeds thereof.

[R60, §3191; C73, §2994; C97, §3907; C24, 27, 31, 35, 39, §**12118;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.42]

Referred to in §537.5110
Similar provisions, §639.45, 643.12, 667.7

639.43 Automatic appearance.

The execution of such bond shall be deemed an appearance of such defendant to the action.

[R60, §3192; C73, §2994; C97, §3907; C24, 27, 31, 35, 39, §**12119;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.43]

639.44 Judgment on bond.

Such bond shall be part of the record. If judgment go against the defendant, the same shall be entered against the defendant and sureties.

[R60, §3193; C73, §2995; C97, §3908; C24, 27, 31, 35, 39, §**12120;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.44]

639.45 Delivery bond.

The defendant, or any person in whose possession any attached property is found, or any person making affidavit that the person has an interest in it, may, at any time before judgment, discharge the property attached, or any part thereof, by giving bond with security, to be approved by the sheriff, or after the return of the writ, by the clerk, in a penalty at least double the value of the property sought to be released, but if that sum would exceed double the amount of the claim for which an attachment is sued out, then in such sum as equals double the amount of such claim, conditioned that such property or its appraised value shall be delivered to the sheriff, to satisfy any judgment which may be obtained against the defendant in that suit, within twenty days after the rendition thereof. This bond shall be filed with the clerk of the court.

[C51, §1876; R60, §3219; C73, §2996; C97, §3909; C24, 27, 31, 35, 39, §**12121;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.45]

Referred to in §537.5110
Similar provisions, §639.42, 643.12, 667.7

639.46 Appraisement.

To determine the value of property in cases where a bond is to be given, unless the parties agree otherwise, the sheriff shall summon two disinterested persons having the qualification of jurors, who, after having been sworn by the sheriff to make the appraisement faithfully and impartially, shall proceed to the discharge of their duty. If such persons disagree as to the value of the property, the sheriff shall decide between them.

[C51, §1877, 1878; R60, §3220; C73, §2997; C97, §3910; C24, 27, 31, 35, 39, §**12122;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.46]

639.47 Defense in action on delivery bond.

In an action brought upon such bond, it shall be a sufficient defense that the property for the delivery of which the bond was given did not, at the time of the levy, belong to the defendant against whom the attachment was issued, or was exempt from seizure under such attachment.

[C51, §1879; R60, §3221; C73, §2998; C97, §3911; C24, 27, 31, 35, 39, §**12123;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.47]

639.48 Perishable property — examination.

When the sheriff thinks the property attached is in danger of serious and immediate waste and decay, or when the keeping of the property will necessarily be attended with such

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expense as greatly to depreciate the amount of proceeds to be realized therefrom, or when the plaintiff makes an affidavit to that effect, the sheriff may summon three persons having the qualifications of jurors to examine the property.

[C51, §1881; R60, §3222; C73, §2999; C97, §3912; S13, §3912-a; C24, 27, 31, 35, 39, §**12124;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.48]

2023 Acts, ch 66, §146

639.49 Notice.

The sheriff shall give the defendant, if within the county, three days' notice of such hearing, and the defendant may appear before such jury and have a personal hearing.

[C51, §1881; R60, §3222; C73, §2999; C97, §3912; S13, §3912-a; C24, 27, 31, 35, 39, §**12125;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.49]

639.50 Determination and sale.

If they are of the opinion that the property requires soon to be disposed of, they shall specify in writing a day beyond which they do not deem it prudent that it should be kept in the hands of the sheriff. If such day occurs before the trial day, the sheriff shall thereupon give the same notice as for sale of goods on execution, and for the same length of time, unless the condition of the property renders a more immediate sale necessary. The sale shall be made accordingly. If the defendant gives written consent, such sale may be made without such finding.

[C51, §1881; R60, §3222; C73, §2999; C97, §3912; S13, §3912-a; C24, 27, 31, 35, 39, §**12126;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.50]

Notice of sale, §626.74 et seq.

639.51 Sheriff's return.

The sheriff shall return upon every attachment what the sheriff has done under it, which must show the property attached, the time it was attached, and the disposition made of it, by a full and particular inventory; also the appraisement above contemplated when such has been made.

[R60, §3224; C73, §3010; C97, §3923; C24, 27, 31, 35, 39, §**12127;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.51]

639.52 Garnishment.

When garnishees are summoned, their names and the time each was summoned must be stated, with a copy of each notice of garnishment served attached as a part of the sheriff's return.

[R60, §3224; C73, §3010; C97, §3923; C24, 27, 31, 35, 39, §**12128;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.52]

639.53 Description of real estate.

Where real property is attached, the sheriff shall describe it with certainty to identify it, and, where the sheriff can do so, by a reference to the document reference number where the deed under which the defendant holds is recorded.

[R60, §3224; C73, §3010; C97, §3923; C24, 27, 31, 35, 39, §**12129;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.53]

2001 Acts, ch 44, §29

639.54 Bonds, notices and moneys.

The sheriff shall return with the writ all bonds taken under it, any notice of claim to such property by another than the defendant, any indemnifying bond given by the plaintiff in consequence of such notice, and all money and bank bills levied upon or paid to the sheriff thereunder.

[R60, §3224; C73, §3010; C97, §3923; C24, 27, 31, 35, 39, §**12130;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.54]

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639.55 Time of return.

Such return must be made immediately after the sheriff has attached sufficient property, or all that the sheriff can find.

[R60, §3224; C73, §3010; C97, §3923; C24, 27, 31, 35, 39, §**12131;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.55]

639.56 Judgment — satisfaction — special execution.

If judgment is rendered for the plaintiff in any case in which an attachment has been issued, the court shall apply, in satisfaction thereof, any money seized by or paid to the sheriff under such attachment and by the sheriff delivered to the clerk, and any money arising from the sales of perishable property, and if the same is not sufficient to satisfy the plaintiff's claim, the court shall order the issuance of a special execution for the sale of any other attached property which may be under the sheriff's control.

[R60, §3232; C73, §3011; C97, §3924; C24, 27, 31, 35, 39, §**12132;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.56]

639.57 Court may control property.

The court may from time to time make and enforce proper orders respecting the property, sales, and application of the money collected.

[R60, §3233; C73, §3012; C97, §3925; C24, 27, 31, 35, 39, §**12133;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.57]

639.58 Expenses for keeping.

The sheriff shall be allowed by the court the necessary expenses of keeping the attached property, to be paid by the plaintiff and taxed in the costs.

[R60, §3234; C73, §3013; C97, §3926; C24, 27, 31, 35, 39, §**12134;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.58]

639.59 Surplus.

Any surplus of the attached property and its proceeds shall be returned to the defendant.

[R60, §3235; C73, §3014; C97, §3927; C24, 27, 31, 35, 39, §**12135;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.59]

639.60 Intervention — petition.

Any person other than the defendant may, before the sale of any attached property, or before the payment to the plaintiff of the proceeds thereof, or any attached debt, present a petition verified by oath to the court, disputing the validity of the attachment, or stating a claim to the property or money, or to an interest in or lien on it, under any other attachment or otherwise, and setting forth the facts upon which the claim is founded.

[R60, §3237; C73, §3016; C97, §3928; C24, 27, 31, 35, 39, §**12136;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.60]

Intervention generally, R.C.P. 1.407

639.61 Hearing and orders.

The petitioner's claim shall be in a summary manner investigated. The court may hear the proof or order a reference, or may impanel a jury to inquire into the facts. If it is found that the petitioner has a title to, a lien on, or any interest in such property, the court shall make such order as may be necessary to protect the petitioner's rights.

[R60, §3237; C73, §3016; C97, §3928; C24, 27, 31, 35, 39, §**12137;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.61]

639.62 Costs.

The costs of such proceedings shall be paid by either party at the discretion of the court.

[R60, §3237; C73, §3016; C97, §3928; C24, 27, 31, 35, 39, §**12138;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.62]

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639.63 Discharge on motion.

A motion may be made to discharge the attachment or any part thereof, at any time before trial, for insufficiency of statement of cause thereof, or for other cause making it apparent of record that the attachment should not have issued, or should not have been levied on all or on some part of the property held.

[R60, §3239; C73, §3018; C97, §3929; C24, 27, 31, 35, 39, §**12139;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.63]

Referred to in §537.5110

639.64 Automatic discharge — canceling entry on encumbrance book.

If the judgment is rendered in the action for the defendant, or, if the action is dismissed by the court, by the plaintiff, or, by agreement of the parties, or, if judgment has been entered for the plaintiff and has been satisfied of record, the attachment shall, subject to the right of appeal, automatically be discharged and the property attached, or its proceeds, shall be returned to the defendant. If the attachment has been entered on the encumbrance book, it shall be the duty of the clerk to cancel such attachment, and in the entry of cancellation, the clerk shall refer to the entry in the case showing the clerk's authority to cancel said attachment.

[R60, §3236; C73, §3015; C97, §3930; C24, 27, 31, 35, 39, §**12140;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.64]

639.65 Perfecting appeal from order of discharge.

When an attachment has been discharged, if the plaintiff then announces the plaintiff's purpose to appeal from such order of discharge, the plaintiff shall have two days in which to perfect an appeal, and during that time such discharge shall not operate to divest any lien or claim under the attachment, nor shall the property be returned, and the appeal, if so perfected, shall operate as a supersedeas thereof.

[R60, §3240; C73, §3019; C97, §3931; C24, 27, 31, 35, 39, §**12141;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.65]

639.66 Appeal from judgment against plaintiff.

If a judgment in the action be also given against the plaintiff, the plaintiff must, within the same time, take an appeal thereon, or such discharge shall be final.

[R60, §3241; C73, §3020; C97, §3932; C24, 27, 31, 35, 39, §**12142;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.66]

639.67 Liberal construction — amendments.

This chapter shall be liberally construed, and the plaintiff, at any time when objection is made thereto, shall be permitted to amend any defect in the petition, affidavit, bond, writ, or other proceeding; and no attachment shall be quashed or dismissed, or the property attached released, if the defect in any of the proceedings has or can be amended so as to show that a legal cause for the attachment existed at the time it was issued; and the court shall give the plaintiff a reasonable time to perfect such defective proceedings.

[R60, §3242; C73, §3021; C97, §3933; C24, 27, 31, 35, 39, §**12143;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.67]

Amendments generally, R.C.P. 1.402(4), (5) and R.C.P. 1.1009

639.68 Sheriff or officer.

The word *"sheriff"*, or *"officer"*, as used in this chapter is meant to apply to the like officer of any other court.

[C51, §1883; R60, §3244; C73, §3023; C97, §3934; C24, 27, 31, 35, 39, §**12144;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.68]

639.69 Certificate of release.

When real estate or an equitable interest therein is attached in any county other than that in which the action is commenced, or is pending, and the action is dismissed, or the attachment is dissolved and discharged or satisfied, the clerk of the court of the county wherein such

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action is pending must issue a certificate directed to the clerk of the court in which the land is situated giving date of release and setting forth a true copy of the order or release and the clerk shall be allowed as compensation for such service the sum of fifty cents, to be taxed as a part of the costs in the case.

[S13, §3934-a; C24, 27, 31, 35, 39, §**12145;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.69]

639.70 Filing and recording.

The clerk of the court receiving such certificate shall file and record the same upon the margin of the encumbrance book at place where the original entry of attachment is found.

[S13, §3934-b; C24, 27, 31, 35, 39, §**12146;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §639.70]

CHAPTER 640

SPECIFIC ATTACHMENT

Referred to in §331.653

Seizure of boats or rafts, chapter 667

640.1 When authorized.
640.2 Fraudulently induced sales.
640.3 Granted by court or judge — terms.
640.4 Form of writ.
640.5 Bond to discharge.

640.1 When authorized.

In an action to enforce a security interest in or a lien upon personal property, or for the recovery, sale, or partition of such property, or by a plaintiff having a future estate or interest therein for the security of the plaintiff's rights, where it satisfactorily appears by the petition, verified on oath, or by affidavits or the proofs in the cause, that the plaintiff has a just claim, and that the property has been or is about to be sold, concealed, or removed from the state, or where plaintiff states on oath that the plaintiff has reasonable cause to believe, and does believe, that unless prevented by the court the property will be sold, concealed, or removed, an attachment may be granted against the property.

[R60, §3225; C73, §3000; C97, §3913; C24, 27, 31, 35, 39, §**12147;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §640.1]

Referred to in §640.3

640.2 Fraudulently induced sales.

In an action by a vendor of property fraudulently purchased to vacate the contract and have a restoration of the property or compensation therefor, where the petition shows such fraudulent purchase of property and the amount of the plaintiff's claim, and is verified, an attachment against the property may be granted.

[R60, §3226; C73, §3001; C97, §3914; C24, 27, 31, 35, 39, §**12148;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §640.2]

Referred to in §640.3

640.3 Granted by court or judge — terms.

The attachment in the cases mentioned in sections 640.1 and 640.2 may be granted by the court in which the action is brought, upon such terms and conditions as to security by the plaintiff for the damages which may be occasioned, and with such directions as to the disposition to be made of the property attached as may be just and proper under the circumstances of each case.

[R60, §3227; C73, §3002; C97, §3915; C24, 27, 31, 35, 39, §**12149;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §640.3]

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640.4 Form of writ.

The attachment shall describe the specific property against which it is issued, and have endorsed upon it the direction of the court as to the disposition to be made of the attached property, and be directed, executed, and returned as other attachments.

[R60, §3230; C73, §3003; C97, §3916; C24, 27, 31, 35, 39, §**12150;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §640.4]

640.5 Bond to discharge.

The court may, in any of the cases mentioned under this head of specific attachments, direct the terms and conditions of the bond to be executed by the defendant, with security, in order to obtain a discharge of the attachment or to release the attached property.

[R60, §3231; C73, §3004; C97, §3917; C24, 27, 31, 35, 39, §**12151;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §640.5]

CHAPTER 641

ATTACHMENT BY THE STATE

Referred to in §331.653

Actions by state, R.C.P. 1.207

641.1 Indebtedness due the state.
641.2 Attachment authorized.
641.3 No bond required.
641.4 Bond to discharge or release.
641.5 Sheriff indemnified.

641.1 Indebtedness due the state.

In all cases in which any person is indebted to the state, or to any officer or agent thereof for the use or benefit of the state, the attorney general shall demand payment or security therefor, when, in the opinion of the attorney general, the debt is not sufficiently secured.

[C73, §3005; C97, §3918; C24, 27, 31, 35, 39, §**12152;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §641.1]

94 Acts, ch 1173, §40

641.2 Attachment authorized.

In all actions for money due to the state, or to any agent or officer for the use of the state, it shall be lawful for an attachment to issue against the property or debts of the defendant not exempt from execution, upon the filing of an affidavit of the attorney general, that the attorney general verily believes that a specific amount therein stated is justly due, and the defendant therein has refused to pay or secure the same, and unless an attachment is issued against the property of the defendant there is danger that the amount due will be lost to the state.

[C73, §3006; C97, §3919; C24, 27, 31, 35, 39, §**12153;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §641.2]

94 Acts, ch 1173, §41

Referred to in §641.4, 641.5

641.3 No bond required.

The attachment so issued shall be levied as in other cases of attachment, and no bond shall be required of the plaintiff in such cases, and the sheriff shall not be authorized to require any indemnifying bond in case of such levy.

[C73, §3007; C97, §3920; C24, 27, 31, 35, 39, §**12154;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §641.3]

Referred to in §641.4, 641.5

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641.4 Bond to discharge or release.

An attachment levied under the provisions of sections 641.2 and 641.3 may be discharged, or any property taken thereunder may be released, by the execution of a bond with sufficient sureties, as provided by law in other cases of attachment.

[C73, §3008; C97, §3921; C24, 27, 31, 35, 39, §**12155;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §641.4]

Referred to in §641.5
Delivery bond, §639.45

641.5 Sheriff indemnified.

If any sheriff is held liable to pay any damages by reason of the wrongful execution of any writ of attachment issued under sections 641.2 through 641.4 and if a judgment is rendered for those damages, the amount of the judgment, when paid by such sheriff, shall become a claim against the state in the sheriff's favor, and a warrant for that amount shall be drawn by the director of the department of administrative services upon proper proof.

[C73, §3009; C97, §3922; C24, 27, 31, 35, 39, §**12156;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §641.5]

2003 Acts, ch 145, §286; 2021 Acts, ch 80, §370

CHAPTER 642

GARNISHMENT

Referred to in §91A.3, 96.3, 252B.6A, 331.653, 421.17A, 421.17B, 422.26, 602.8102(108)

642.1 Who may be garnished.
642.2 Garnishment of public employer.
642.3 Fund in court.
642.4 Death of garnishee.
642.5 Sheriff may take answers.
642.6 Garnishee required to appear.
642.7 Examination in court.
642.8 Witness fees.
642.9 Failure to appear or answer — cause shown.
642.10 Paying or delivering.
642.11 Answer controverted.
642.12 Notice of controverting pleadings.
642.13 Judgment against garnishee.
642.14 Notice of garnishment proceedings.
642.14A Notice to defendant — nonemployer garnishees.
642.14B Notice to defendant — employer garnishees.
642.15 Pleading by defendant — discharge of garnishee.
642.16 When debt not due.
642.17 Negotiable paper — indemnity.
642.18 Judgment conclusive.
642.19 Docket to show garnishments.
642.20 Appeal.
642.21 Exemption from net earnings.
642.22 Validity of garnishment notice — duty to monitor account.
642.23 Support disbursements by the clerk.
642.24 Garnishments — support payment priority.
642.25 Sheriff not an agent.

642.1 Who may be garnished.

A sheriff may be garnished for money of the defendant in the sheriff's hands; a judgment debtor of the defendant, when the judgment has not been assigned on the record, or by writing filed in the office of the clerk and by the clerk minuted as an assignment on the margin of the judgment docket; and an executor, for money due from decedent.

[C51, §1862; R60, §3196; C73, §2976; C97, §3936; C24, 27, 31, 35, 39, §**12158;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.1]

Garnishment proceedings by director of revenue, director of inspections, appeals, and licensing, or director of the department of workforce development, §626.29 – 626.31
Response of garnishee, see R.C.P. 1.304

642.2 Garnishment of public employer.

1. The state of Iowa, and all of its governmental subdivisions and agencies, may be garnished, only as provided in this section and the consent of the state and of its governmental subdivisions and agencies to those garnishment proceedings is hereby given.

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However, notwithstanding the requirements of this chapter, income withholding notices shall be served on the state, and all of its governmental subdivisions and agencies, pursuant to the requirements of chapter 252D.

2. Garnishment pursuant to this section may be made only upon a judgment against an employee of the state, or of a governmental subdivision or agency thereof.

3. No debt of the garnishee is subject to garnishment other than the wages of the public employee.

4. Notwithstanding subsections 2, 3, 6, and 7, any moneys owed to the child support obligor by the state, with the exception of unclaimed property held by the treasurer of state pursuant to chapter 556, and payments owed to the child support obligor through the Iowa public employees' retirement system are subject to garnishment, attachment, execution, or assignment by child support services if child support services is providing enforcement services pursuant to chapter 252B. Any moneys that are determined payable by the treasurer pursuant to section 556.20, subsection 2, to the child support obligor shall be subject to setoff pursuant to section 421.65, notwithstanding any administrative rule pertaining to child support services limiting the amount of the offset.

5. Except as provided in subsection 1, service upon the garnishee shall be made by serving an original notice with a copy of the judgment against the defendant, and with a copy of the questions specified in section 642.5, by certified mail or by personal service upon the attorney general, county attorney, city attorney, secretary of the school district, or legal counsel of the appropriate governmental unit. The garnishee shall be required to answer within thirty days following receipt of the notice.

6. If it is established that the garnishee owed wages to the defendant at the time of being served with the notice of garnishment, judgment shall be entered, subject to the requirement of section 642.14 against the garnishee in an amount not exceeding the amount recoverable upon the judgment against the defendant employee, but in no event shall the judgment granted be for any amount in excess of that permitted by section 642.21 and section 537.5105.

7. A judgment in garnishment issued pursuant to this section shall be enforceable against a garnishee only to the extent of the defendant's wages actually in the possession of the garnishee, and shall not be enforceable against any property, claims or other rights of the garnishee.

8. A person garnisheed pursuant to this section shall be subject to the provisions of this chapter not inconsistent with this section.

[R60, §3196; C73, §2976; C97, §3936; C24, 27, 31, 35, 39, §**12159;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.2; 81 Acts, ch 200, §1]

92 Acts, ch 1195, §209; 97 Acts, ch 175, §240; 2008 Acts, ch 1187, §127; 2020 Acts, ch 1064, §25, 28; 2020 Acts, ch 1118, §73, 74; 2023 Acts, ch 19, §1286

Referred to in §96.3

642.3 Fund in court.

Where the property to be attached is a fund in court, the execution of a writ of attachment shall be by leaving with the clerk of the court a copy thereof, with notice, specifying the fund.

[R60, §3197; C73, §2977; C97, §3937; C24, 27, 31, 35, 39, §**12160;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.3]

642.4 Death of garnishee.

If the garnishee dies after the garnishee has been summoned by garnishment and pending the litigation, the proceedings may be revived by or against the garnishee's heirs or legal representatives.

[R60, §3198; C73, §2978; C97, §3938; C24, 27, 31, 35, 39, §**12161;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.4]

642.5 Sheriff may take answers.

1. When the plaintiff, in writing, directs the sheriff to take the answer of the garnishee, the sheriff shall put to the garnishee the following questions:

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[1] Are you in any manner indebted to the defendant in this suit, or do you owe the defendant money or property which is not yet due? If so, state the particulars.

[2] Have you in your possession or under your control any property, rights, or credits of the said defendants? If so, what is the value of the same? State all particulars.

[3] Do you know of any debts owing the said defendant, whether due or not due, or any property, rights, or credits belonging to the defendant and now in the possession or under the control of others? If so, state the particulars.

[4] Do you compensate the defendant in this suit for any personal services whether denominated as wages, salary, commission, bonus or otherwise, including periodic payments pursuant to a pension or retirement program? If so, state the amount of the compensation reasonably anticipated to be paid defendant during the calendar year.

2. The sheriff shall serve to the garnishee the notice of garnishment in the same manner as an original notice by personal service, certified mail service, first class mail, or electronic means. The recipient of the garnishment notice may return service in the same manner as the notice was received. The garnishee shall submit answers within twenty-one days of service.

3. The sheriff conducting the garnishment shall also notify the sheriff of the county where the action is being enforced.

4. The sheriff shall file the answers to the examination within seven business days of receiving the answers.

[C51, §1864, 1865; R60, §3200, 3201; C73, §2980; C97, §3939; C24, 27, 31, 35, 39, §**12162;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.5]

84 Acts, ch 1239, §9; 2011 Acts, ch 25, §76; 2015 Acts, ch 79, §2; 2021 Acts, ch 153, §1

Referred to in §642.2, 642.14A, 642.21

642.6 Garnishee required to appear.

If the garnishee refuses to answer fully and unequivocally all the foregoing interrogatories, the garnishee shall be notified to appear and answer as above provided, and the garnishee may be so required in any event, if the plaintiff so notifies the garnishee.

[C51, §1866; R60, §3202; C73, §2981; C97, §3940; C24, 27, 31, 35, 39, §**12163;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.6]

642.7 Examination in court.

The questions propounded to the garnishee in court may be such as are above prescribed to be asked by the sheriff, and such others as the court may think proper.

[C51, §1867; R60, §3203; C73, §2982; C97, §3941; C24, 27, 31, 35, 39, §**12164;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.7]

642.8 Witness fees.

Where the garnishee is required to appear at court, unless the garnishee has refused to answer as contemplated above, the garnishee is entitled to the pay and mileage of a witness, and may, in like manner, require advance payment before any liability shall arise for nonattendance.

[C51, §1868; R60, §3204; C73, §2983; C97, §3942; C24, 27, 31, 35, 39, §**12165;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.8]

Witness fees and mileage, §622.69 – 622.75

642.9 Failure to appear or answer — cause shown.

If, duly summoned, and the garnishee's fees tendered when demanded, the garnishee fails to appear and answer the interrogatories propounded to the garnishee without sufficient excuse, the garnishee shall be presumed to be indebted to the defendant to the full amount of

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the plaintiff's demand, but for a mere failure to appear no judgment shall be rendered against the garnishee until the garnishee has had an opportunity to show cause against the same.

[C51, §1869, 1870; R60, §3205, 3206; C73, §2984, 2985; C97, §3943; C24, 27, 31, 35, 39, §**12166;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.9]

642.10 Paying or delivering.

A garnishee may, at any time after answer, be exonerated from further responsibility by paying over to the sheriff the amount owing by the garnishee to the defendant, and placing at the sheriff's disposal the property of the defendant, or so much of said debts and property as is equal to the value of the property to be attached.

[C51, §1871; R60, §3207; C73, §2986; C97, §3944; C24, 27, 31, 35, 39, §**12167;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.10]

642.11 Answer controverted.

When the garnishee has answered the interrogatories propounded to the garnishee, the plaintiff may controvert them by pleading thereto, and an issue may be joined, which shall be tried in the usual manner, upon which trial such answer of the garnishee shall be competent testimony.

[C51, §1872; R60, §3208; C73, §2987; C97, §3945; C24, 27, 31, 35, 39, §**12168;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.11]

642.12 Notice of controverting pleadings.

No judgment shall be rendered against a garnishee on a pleading which controverts the garnishee's answer until notice of the filing of the controverting pleading and of the time and place of trial thereon is served on the garnishee for such time and in such manner as the court or judge shall order. A garnishee who has been so notified shall not be entitled to notice of the filing of amendments or of trial thereon.

[C27, 31, 35, §12168-b1; C39, §**12168.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.12]

642.13 Judgment against garnishee.

If in any of the above methods it is made to appear that the garnishee was indebted to the defendant, or had any of the defendant's property in the garnishee's hands, at the time of being served with the notice of garnishment, the garnishee will be liable to the plaintiff, in case judgment is finally recovered by the plaintiff, to the full amount thereof, or to the amount of such indebtedness or property held by the garnishee, and the plaintiff may have a judgment against the garnishee for the amount of money due from the garnishee to the defendant in the main action, or for the delivery to the sheriff of any money or property in the garnishee's hands belonging to the defendant in the main action within a time to be fixed by the court, and for the value of the same, as fixed in said judgment, if not delivered within the time thus fixed, unless before such judgment is entered the garnishee has delivered to the sheriff such money or property. Property so delivered shall thereafter be treated as if levied upon under the writ of attachment in the usual manner.

[C51, §1871, 1873; R60, §3207, 3209; C73, §2986, 2988; C97, §3946; C24, 27, 31, 35, 39, §**12169;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.13]

642.14 Notice of garnishment proceedings.

Judgment against the garnishee shall not be entered until notice as required by section 642.14A or 642.14B has been served upon the defendant in the main action.

[C51, §1861; R60, §3195; C73, §2975; C97, §3947; S13, §3947; C24, 27, 31, 35, 39, §**12170;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.14]

84 Acts, ch 1239, §10; 88 Acts, ch 1076, §1; 2014 Acts, ch 1090, §1; 2015 Acts, ch 79, §3

Referred to in §642.2

642.14A Notice to defendant — nonemployer garnishees.

1. If the garnishment is to property other than earnings an employer owes a defendant, the judgment creditor shall serve upon a debtor who is a natural person not later than

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seven business days after the sheriff's filing of a garnishee's answers pursuant to section 642.5, subsection 4, which show that the garnishee is indebted to the defendant, a notice of garnishment and levy notifying the defendant of the information required in subsection 3.

2. The notice required by this section shall be served by personal service or restricted certified mail and first class mail to the last known address of the defendant. Service shall not be made by a party to the action or an attorney for a party to the action. Service may be made by taking acknowledgment of service from the defendant. Proof of such service shall be filed with the court.

3. The notice required by this section shall:

a. Inform the defendant that judgment has been entered in the main action and the defendant's funds or other property is subject to execution under the judgment.

b. Inform the defendant that the defendant has the right to claim funds or other property exempt from execution or garnishment and a right to request and have a timely hearing before a judge to claim such exemptions.

c. Inform the defendant that if the defendant does not file a motion or other appropriate pleading to claim funds or other property exempt from execution or garnishment under state or federal law, the defendant may lose any such rights and the funds or other property may be applied to the judgment against the defendant.

d. Inform the defendant that state and federal laws may place limits on the amount of earnings that may be garnished annually and per pay period and limits on other funds and property that may be garnished or levied against.

e. Contain the full text of section 630.3A.

f. State that the defendant may wish to consult a lawyer for advice as to the meaning of the notice.

g. Inform the defendant that any garnishment for fines imposed on a defendant in a criminal case is subject to section 909.6, including the provision that any law which exempts a person's personal property from any lien or legal process is not applicable for such garnishment.

4. An additional court filing fee shall not be assessed for proceedings under this section.

2014 Acts, ch 1090, §2; 2015 Acts, ch 79, §4
Referred to in §642.14, 642.14B

642.14B Notice to defendant — employer garnishees.

If the garnishment is to earnings an employer owes a defendant, the employer shall deliver the notice of garnishment to the defendant with the remainder of or in lieu of the defendant's earnings. The garnishee shall state in answer to the sheriff's examination whether or not service of the notice of garnishment was delivered to the defendant. The notice required by this section shall contain the information required by section 642.14A, subsection 3, and shall be delivered by personal service, mail, or electronic means.

2015 Acts, ch 79, §5
Referred to in §642.14

642.15 Pleading by defendant — discharge of garnishee.

The defendant in the main action may, by a suitable pleading filed in the garnishment proceedings, set up facts showing that the debt or the property with which it is sought to charge the garnishee is exempt from execution, or for any other reason is not liable for plaintiff's claim, and if issue thereon be joined by the plaintiff, it shall be tried with the issues as to the garnishee's liability. If such debt or property, or any part thereof, is found to be thus exempt or not liable, the garnishee shall be discharged as to that part which is exempt or not liable.

[C97, §3948; S13, §3948; C24, 27, 31, 35, 39, §**12171;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.15]

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642.16 When debt not due.

If the debt of the garnishee to the defendant is not due, execution shall be suspended until its maturity.

[R60, §3210; C73, §2989; C97, §3949; C24, 27, 31, 35, 39, §**12172;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.16]

642.17 Negotiable paper — indemnity.

The garnishee shall not be made liable on a debt due by negotiable paper other than negotiable documents of title, or securities as defined in uniform commercial code, section 554.8102, unless such paper is delivered, or the garnishee completely exonerated or indemnified from all liability thereon after the garnishee may have satisfied the judgment.

[R60, §3211; C73, §2990; C97, §3950; C24, 27, 31, 35, 39, §**12173;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.17]

642.18 Judgment conclusive.

The judgment in the garnishment action, condemning the property or debt in the hands of the garnishee to the satisfaction of the plaintiff's demand, is conclusive between the garnishee and defendant.

[R60, §3212; C73, §2991; C97, §3951; C24, 27, 31, 35, 39, §**12174;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.18]

642.19 Docket to show garnishments.

The docketing of the original case shall contain a statement of all the garnishments therein, and when judgment is rendered against a garnishee, the same shall distinctly refer to the original judgment.

[R60, §3213; C73, §2992; C97, §3952; C24, 27, 31, 35, 39, §**12175;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.19]

642.20 Appeal.

An appeal lies in all garnishment cases at the instance of the plaintiff, the defendant, the garnishee, or an intervenor claiming the money or property.

[R60, §3214; C73, §2993; C97, §3953; C24, 27, 31, 35, 39, §**12176;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.20]

642.21 Exemption from net earnings.

1. The disposable earnings of an individual are exempt from garnishment to the extent provided by the federal Consumer Credit Protection Act, Tit. III, 15 U.S.C. §1671 – 1677 (1982). The maximum amount of an employee's earnings which may be garnished during any one calendar year is two hundred fifty dollars for each judgment creditor, except as provided in chapter 252D and sections 598.22, 598.23, and 627.12, or when those earnings are reasonably expected to be in excess of twelve thousand dollars for that calendar year as determined from the answers taken by the sheriff or by the court pursuant to section 642.5, subsection 1, question number four. When the employee's earnings are reasonably expected to be more than twelve thousand dollars, the maximum amount of those earnings which may be garnished during a calendar year for each creditor is as follows:

a. Employees with expected earnings of twelve thousand dollars or more, but less than sixteen thousand dollars, not more than four hundred dollars may be garnished.

b. Employees with expected earnings of sixteen thousand dollars or more, but less than twenty-four thousand dollars, not more than eight hundred dollars may be garnished.

c. Employees with expected earnings of twenty-four thousand dollars or more, but less than thirty-five thousand dollars, not more than one thousand five hundred dollars may be garnished.

d. Employees with expected earnings of thirty-five thousand dollars or more, but less than fifty thousand dollars, not more than two thousand dollars may be garnished.

e. Employees with expected earnings of fifty thousand dollars or more, not more than ten percent of an employee's expected earnings.

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2. No employer shall:

a. Withhold from the earnings of an individual an amount greater than that provided by law.

b. Dispose of garnished wages in any manner other than ordered by a court of law.

c. Discharge an individual by reason of the individual's earnings having been subject to garnishment for indebtedness.

d. Be held liable for an amount not earned at the time of the service of notice of garnishment or for the costs of a garnishment action.

3. For the purpose of this section:

a. The term *"earnings"* means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program.

b. The term *"disposable earnings"* means that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld.

[C51, §1901; R60, §3307; C73, §3074; C97, §4011; C24, 27, 31, 35, 39, §**11763;** C46, 50, 54, 58, 62, 66, 71, §627.10; C73, 75, 77, 79, 81, §642.21]

84 Acts, ch 1239, §11; 85 Acts, ch 178, §14; 2011 Acts, ch 25, §77; 2018 Acts, ch 1041, §111

Referred to in §537.5105, 537.5106, 537.5201, 627.6, 630.3A, 642.2, 642.22

642.22 Validity of garnishment notice — duty to monitor account.

1. A notice of garnishment served upon a garnishee is effective without serving another notice until the earliest of the following:

a. The annual maximum permitted to be garnished under section 642.21 has been withheld.

b. The writ of execution expires.

c. The judgment is satisfied.

d. The garnishment is released by the sheriff at the request of the plaintiff or the plaintiff's attorney.

2. A supervised financial organization, as defined in section 537.1301, subsection 45, which is garnished for an account of a defendant, after paying the sheriff any amounts then in the account, shall monitor the account for any additional amounts at least monthly while the garnishment notice is effective.

3. Expiration of the execution does not affect a garnishee's duties and liabilities respecting property already withheld pursuant to the garnishment.

84 Acts, ch 1239, §12; 85 Acts, ch 93, §1; 86 Acts, ch 1238, §26; 87 Acts, ch 98, §7; 2001 Acts, ch 92, §2

Referred to in §627.6

642.23 Support disbursements by the clerk.

Notwithstanding the one-hundred-twenty-day period in section 626.16 for the return of an execution in garnishment for the payment of a support obligation, the sheriff shall promptly deposit any amounts collected with the clerk of the district court, and the clerk shall disburse the amounts, after subtracting applicable fees, within two working days of the filing of an order condemning funds as follows:

1. To the person entitled to the support payments when the clerk of the district court is the official entity responsible for the receipt and disbursement of support payments pursuant to section 252B.14.

2. To the collection services center when the collection services center is the official entity responsible for the receipt and disbursement of support payments pursuant to section 252B.14.

85 Acts, ch 178, §15; 93 Acts, ch 79, §53; 2006 Acts, ch 1081, §2; 2006 Acts, ch 1129, §12

642.24 Garnishments — support payment priority.

The court shall include in any order for garnishment a requirement that any amount garnisheed for the payment of a support obligation, whether or not the amount represents a current or delinquent support obligation, shall first be paid out of the garnisheed funds,

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after subtracting applicable fees related to the issuance of the specific garnishment, before any amounts garnisheed for other purposes are paid out of the garnisheed funds.

90 Acts, ch 1050, §1

642.25 Sheriff not an agent.

The sheriff's actions under this chapter, including service of notice, shall not be construed to be that of an agent of any person or party in the proceedings.

2015 Acts, ch 79, §6

CHAPTER 643

REPLEVIN

Referred to in §331.653

Small claims jurisdiction; §631.1

643.1 Where brought — petition.
643.2 Ordinary proceedings — joinder or counterclaim.
643.3 Process on Sunday.
643.4 New parties.
643.5 Writ issued.
643.6 Filing — purpose of bond.
643.7 Bond.
643.8 Wrongful removal — service.
643.9 Following property — duplicate writs.
643.10 Execution of writ.
643.11 Defendant examined.
643.12 Delivery bond.
643.13 Release — return of bond.
643.14 Inspection — appraisement.
643.15 Return of writ.
643.16 Assessment of value and damages — right of possession.
643.17 Judgment.
643.18 Execution.
643.19 Plaintiff's option.
643.20 Judgment on bond.
643.21 Concealment.
643.22 Exemption.

643.1 Where brought — petition.

An action of replevin may be brought in any county in which the property or some part thereof is situated. The petition must be verified and must state:

1. A particular description of the property claimed.
2. Its actual value, and, where there are several articles, the actual value of each.
3. The facts constituting the plaintiff's right to the present possession thereof, and the extent of the plaintiff's interest in the property, whether it be full or qualified ownership.
4. That it was neither taken on the order or judgment of a court against the plaintiff, nor under an execution or attachment against the plaintiff or against the property; but if it was taken by either of these modes, then it must state the facts constituting an exemption from seizure by such process.
5. The facts constituting the alleged cause of detention thereof, according to the plaintiff's best belief.
6. The amount of damages which the affiant believes the plaintiff ought to recover for the detention thereof.

[C51, §1703, 1994, 1995; R60, §3553; C73, §3225; C97, §4163; C24, 27, 31, 35, 39, §**12177;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §643.1]

643.2 Ordinary proceedings — joinder or counterclaim.

The action shall be by ordinary proceedings, but there shall be no joinder of any cause of action not of the same kind, nor shall there be allowed any counterclaim.

[R60, §4175; C73, §3226; C97, §4164; C24, 27, 31, 35, 39, §**12178;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §643.2]

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643.3 Process on Sunday.

If the plaintiff alleges in the petition that the plaintiff will lose the property unless process issues on Sunday, the order may be issued and served on that day.

[C73, §3227; C97, §4165; C24, 27, 31, 35, 39, §**12179;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §643.3]

Analogous or related provisions, §626.6, 639.5, and 667.3

643.4 New parties.

If a third person claims the property or any part thereof, the plaintiff may amend and bring the third person in as a codefendant, or the defendant may obtain the substitution by the proper mode, or the claimant may intervene by the process of intervention.

[C51, §1684, 1999; R60, §3561; C73, §3228; C97, §4166; C24, 27, 31, 35, 39, §**12180;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §643.4]

Interpleader, R.C.P. 1.251 – 1.257
Intervention, R.C.P. 1.407

643.5 Writ issued.

Upon direction of the court after notice and opportunity for such hearing as it may prescribe, the clerk shall issue a writ under the clerk's hand, and the seal of the court, directed to the proper officer, requiring the officer to take the property therein described and deliver it to the plaintiff.

[C51, §1997; R60, §3555; C73, §3230; C97, §4168; C24, 27, 31, 35, 39, §**12183;** C46, 50, 54, 58, 62, 66, 71, 73, §643.7; C75, 77, 79, 81, §643.5]

643.6 Filing — purpose of bond.

A bond shall be filed with the clerk, and be for the use of any person injured by the proceeding.

[C51, §1996; R60, §3554; C73, §3229; C97, §4167; C24, 27, 31, 35, 39, §**12182;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §643.6]

643.7 Bond.

When the plaintiff desires the immediate delivery of the property, the plaintiff shall execute a bond to the defendant, with sureties to be approved by the clerk, in a penalty at least equal to twice the value of the property sought to be taken, conditioned that the plaintiff will appear in court on or before the day fixed in the original notice, and prosecute the action to judgment, and return the property, if a return is awarded, and pay all costs and damages that may be adjudged against the plaintiff.

[C51, §1996; R60, §3554; C73, §3229; C97, §4167; C24, 27, 31, 35, 39, §**12181;** C46, 50, 54, 58, 62, 66, 71, 73, §643.5; C75, 77, 79, 81, §643.7]

Referred to in §602.8102(109)

643.8 Wrongful removal — service.

If the petition shows that the property has been wrongfully removed into another county from the one in which the action is commenced, the writ may issue from the county whence the property was wrongfully taken, and may be served in any county where it may be found.

[C73, §3230; C97, §4168; C24, 27, 31, 35, 39, §**12184;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §643.8]

Analogous provision, §639.21

643.9 Following property — duplicate writs.

When any of the property is removed to another county after the commencement of the action, the officer to whom the writ is issued may follow the same and execute the writ in any county of the state where the property is found. For the purpose of following the property, duplicate writs may be issued, if necessary, and served as the original.

[R60, §3556; C73, §3231; C97, §4169; C24, 27, 31, 35, 39, §**12185;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §643.9]

Analogous provision, §639.21

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643.10 Execution of writ.

The officer must forthwith execute the writ by taking possession of the property therein described, if it is found in the possession of the defendant or the defendant's agent, or of any other person who obtained possession thereof from the defendant, directly or indirectly, after the writ was placed in the officer's hands, for which purpose the officer may break open any dwelling house or other enclosure, having first demanded entrance and exhibited the officer's authority, if demanded.

[C51, §1998; R60, §3557; C73, §3232; C97, §4170; C24, 27, 31, 35, 39, §**12186;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §643.10]

643.11 Defendant examined.

When it appears by affidavit that the property claimed has been disposed of or concealed so that the writ cannot be executed, the court upon verified petition therefor, may compel the attendance of the defendant or other person claiming or concealing the property, and examine the person on oath as to the situation of the property, and punish a willful obstruction or hindrance or disobedience of the order of the court in this respect as in case of contempt.

[R60, §3558; C73, §3233; C97, §4171; C24, 27, 31, 35, 39, §**12187;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §643.11]

Contempts, chapter 665

643.12 Delivery bond.

The officer, having taken the property or any part thereof, shall forthwith deliver the same to the plaintiff, unless, before the actual delivery to the plaintiff, the defendant executes a bond to the plaintiff, with sureties to be approved by the clerk or officer, conditioned that the defendant will appear in and defend the action, and deliver the property to the plaintiff, if the plaintiff recovers judgment therefor, in as good condition as it was when the action was commenced, and that the defendant will pay all costs and damages that may be adjudged against the defendant for the taking or detention of the property.

[R60, §3560; C73, §3234, 3235; C97, §4172; C24, 27, 31, 35, 39, §**12188;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §643.12]

Referred to in §602.8102(109)
Similar provisions, §639.42, 639.45, 667.7

643.13 Release — return of bond.

Said bond shall be delivered to the officer, who shall return the property to the defendant, append the bond to the writ, return it therewith to the officer issuing it, and refer thereto in the sheriff's return on the writ.

[R60, §3559; C73, §3237; C97, §4172; C24, 27, 31, 35, 39, §**12189;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §643.13]

643.14 Inspection — appraisement.

When the property is so retained by the defendant, the defendant shall permit the officer and plaintiff to inspect the same, and, if the plaintiff so requests, the officer shall cause it to be examined and appraised by two sworn appraisers chosen by the parties to the action, or, in their default, by the officer personally, in the manner provided for other cases of appraisement, and in case they cannot agree the officer shall select a third, and an appraisement agreed to by two of them shall be sufficient, and the officer shall return their appraisement with the writ.

[C73, §3236; C97, §4173; C24, 27, 31, 35, 39, §**12190;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §643.14]

643.15 Return of writ.

The officer must return the writ within sixty days after its issuance or at an earlier time if the court shall order, and shall state fully what the officer has done thereunder. If the officer has taken any property, the officer shall describe the same particularly.

[R60, §3559; C73, §3237; C97, §4174; C24, 27, 31, 35, 39, §**12191;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §643.15]

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643.16 Assessment of value and damages — right of possession.

The jury must assess the value of the property and the damages for the taking or detention thereof, whenever by their verdict there will be a judgment for the recovery or the return of the property, and, when required so to do by either party, must find the value of each article, and find which is entitled to the possession, designating the party's right therein, and the value of such right.

[R60, §3082; C73, §3238; C97, §4175; C24, 27, 31, 35, 39, §**12192;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §643.16]

643.17 Judgment.

The judgment shall determine which party is entitled to the possession of the property, and shall designate the party's right therein, and if such party have not the possession thereof, shall also determine the value of the right of such party, which right shall be absolute as to an adverse party, and shall also award such damages to either party as the party may be entitled to for the illegal detention thereof. If the judgment be against the plaintiff for the money value of the property, it shall also be against the sureties on the plaintiff's bond.

[C51, §2000, 2001; R60, §3554, 3562, 3567; C73, §3229, 3239; C97, §4176; C24, 27, 31, 35, 39, §**12193;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §643.17]

643.18 Execution.

The execution shall require the officer to deliver the possession of the property, particularly describing it, to the party entitled thereto, and may at the same time require the officer to satisfy any costs, damages, or rents and profits, with interest, recovered by the same judgment, out of the property of the party against whom it was rendered, subject to execution, and the value of the property for which judgment was recovered to be specified therein if a delivery thereof cannot be had, and shall in that respect be deemed an execution against property.

[R60, §3253; C73, §3240; C97, §4177; C24, 27, 31, 35, 39, §**12194;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §643.18]

643.19 Plaintiff's option.

If the party found to be entitled to the property be not already in possession thereof by delivery under the provisions of this chapter or otherwise, the party may at the party's option have an execution for the delivery of the specific property, or for the value thereof as determined by the jury, and if any article of the property cannot be obtained on execution, the party may take the remainder, with the value of the missing articles.

[R60, §3563, 3568; C73, §3241; C97, §4178; C24, 27, 31, 35, 39, §**12195;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §643.19]

643.20 Judgment on bond.

When property for which a bond has been given as hereinbefore provided is not forthcoming to answer the judgment, and the party entitled thereto so elects, a judgment may be entered against the principal and sureties in the bond for its value.

[C73, §3242; C97, §4179; C24, 27, 31, 35, 39, §**12196;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §643.20]

643.21 Concealment.

When it appears by the return of the officer or by the affidavit of the plaintiff that any specific property which has been adjudged to belong to one party has been concealed or removed by the other, the court may require the concealer or remover to attend and be examined on oath respecting such matter, and may enforce its order in this respect as in case of contempt.

[R60, §3564; C73, §3243; C97, §4180; C24, 27, 31, 35, 39, §**12197;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §643.21]

Contempts, chapter 665

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643.22 Exemption.

A money judgment rendered under the provisions of this chapter for property exempt from execution shall also be to the same extent exempt from execution, and from all setoff or diminution by any person, which exemption may, at the election of the party in interest, be stated in the judgment.

[R60, §4176; C73, §3244; C97, §4181; C24, 27, 31, 35, 39, §**12198;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §643.22]

CHAPTER 644

RESERVED

CHAPTER 645

RECOVERY OF MERCHANDISE OR DAMAGES

645.1 Definitions.
645.2 Actions for merchandise or damages.
645.3 Liability.

645.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Mercantile establishment"* includes any place where merchandise is displayed, held, or offered for sale, either retail or wholesale.

2. *"Merchandise"* includes any object, ware, good, commodity, or other similar item displayed or offered for sale.

3. *"Owner"* means an owner of a mercantile establishment and includes a designated representative of the owner.

89 Acts, ch 99, §1; 97 Acts, ch 97, §1

645.2 Actions for merchandise or damages.

1. An action for recovery of merchandise or the purchase price, damages, and costs may be brought by an owner pursuant to this chapter in any court of competent jurisdiction, including a court of small claims if the claim does not exceed jurisdictional limits.

2. A conviction under chapter 714 is not required as a condition precedent to the maintenance of an action pursuant to this chapter.

89 Acts, ch 99, §2; 2021 Acts, ch 76, §150

645.3 Liability.

1. A person who knowingly and without claim of right wrongfully appropriates, takes possession of, or alters the price indicia of merchandise of a mercantile establishment without the consent of the owner and with the intent to convert the merchandise to the person's own use without having paid the full purchase price for it, is liable for:

a. The return of the merchandise or the purchase price of the merchandise, provided that the merchandise is not evidence in a criminal proceeding under chapter 714.

b. Actual damages for any decrease in value of the merchandise returned.

c. The greater of fifty dollars or actual costs, not to exceed two hundred dollars, incurred by the owner in recovering the merchandise or damages pursuant to this chapter.

2. Damages awarded under this section shall be reduced by any amount received by the owner pursuant to court ordered restitution under chapter 232A or 910.

3. The parent or parents of an unemancipated minor child under the age of eighteen years

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are liable for any judgment awarded against the child pursuant to subsection 1 in accordance with, and subject to the limits established in, section 613.16.

89 Acts, ch 99, §3

CHAPTER 646

RECOVERY OF REAL PROPERTY

Referred to in §29A.101

646.1 Ordinary proceedings — joinder — counterclaim.
646.2 Parties.
646.3 Title.
646.4 Tenant in common.
646.5 Service on agent.
646.6 Petition.
646.7 Abstract of title.
646.8 Unwritten muniments of title — unrecorded conveyances.
646.9 Evidence — abstract amended.
646.10 Answer.
646.11 Landlord substituted.
646.12 Possession.
646.13 Purchase pending suit.
646.14 Order to enter and survey.
646.15 Service.
646.16 Verdict — special.
646.17 General verdict.
646.18 Judgment for damages.
646.19 Use and occupation.
646.20 Improvements set off.
646.21 Wanton aggression.
646.22 Tenant — extent of liability.
646.23 Growing crops — bond.
646.24 Writ of possession.
646.25 Judgment for rent accruing.

646.1 Ordinary proceedings — joinder — counterclaim.

Actions for the recovery of real property shall be by ordinary proceedings, and there shall be no joinder and no counterclaim therein, except of like proceedings, and as provided in this chapter.

[R60, §4177; C73, §3245; C97, §4182; C24, 27, 31, 35, 39, §**12230;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §646.1]

646.2 Parties.

Any person having a valid subsisting interest in real property, and a right to the immediate possession thereof, may recover the same by action against any person acting as owner, landlord, or tenant of the property claimed.

[C51, §2002; R60, §3569; C73, §3246; C97, §4183; C24, 27, 31, 35, 39, §**12231;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §646.2]

646.3 Title.

The plaintiff must recover on the strength of the plaintiff's own title.

[C51, §2020; R60, §3591; C73, §3247; C97, §4184; C24, 27, 31, 35, 39, §**12232;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §646.3]

646.4 Tenant in common.

In an action by a tenant in common or joint tenant of real property against the cotenant, the plaintiff must show, in addition to the plaintiff's evidence of right, that the defendant either denied the plaintiff's right, or did some act amounting to such denial.

[C51, §2027; R60, §3605; C73, §3248; C97, §4185; C24, 27, 31, 35, 39, §**12233;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §646.4]

646.5 Service on agent.

When the defendant is a nonresident having an agent of record for the property in the state, service may be made upon such agent in the same manner and with the like effect as though made on the principal.

[C51, §2004; R60, §3572; C73, §3249; C97, §4186; C24, 27, 31, 35, 39, §**12234;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §646.5]

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646.6 Petition.

The petition may state generally that the plaintiff is entitled to the possession of the premises, particularly describing them, also the quantity of the plaintiff's estate and the extent of the plaintiff's interest therein, and that the defendant unlawfully keeps the plaintiff out of possession, and the damages, if any, which the plaintiff claims for withholding the same; but if the plaintiff claims other damages than the rents and profits, the plaintiff shall state the facts constituting the cause thereof.

[R60, §3570; C73, §3250; C97, §4187; C24, 27, 31, 35, 39, §**12235;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §646.6]

646.7 Abstract of title.

The plaintiff shall attach to the petition, and the defendant to the answer, if the party claims title, an abstract of the title relied on, showing from and through whom such title was obtained, together with a statement showing the page and book where the same appears of record.

[C73, §3251; C97, §4188; C24, 27, 31, 35, 39, §**12236;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §646.7]

Abstracts, §354.11, 558.11, 651.13

646.8 Unwritten muniments of title — unrecorded conveyances.

If such title, or any portion thereof, is not in writing, or does not appear of record, such fact shall be stated in the abstract, and either party shall furnish the adverse party with a copy of any unrecorded conveyance, or furnish a satisfactory reason for not so doing within a reasonable time after demand therefor.

[C73, §3251; C97, §4188; C24, 27, 31, 35, 39, §**12237;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §646.8]

646.9 Evidence — abstract amended.

No written evidence of title shall be introduced on the trial unless it has been sufficiently referred to in such abstract, which, on motion, may be made more specific, or may be amended by the party setting it out.

[C73, §3251; C97, §4188; C24, 27, 31, 35, 39, §**12238;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §646.9]

646.10 Answer.

The answer of the defendant, and each if more than one, must set forth what part of the land the defendant claims and what interest the defendant claims therein generally, and if as mere tenant, the name and residence of the landlord.

[C51, §2005; R60, §3573; C73, §3252; C97, §4189; C24, 27, 31, 35, 39, §**12239;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §646.10]

646.11 Landlord substituted.

When it appears that the defendant is only a tenant, the landlord may be substituted by the service upon the landlord of original notice, or by the landlord's voluntary appearance, in which case the judgment shall be conclusive against the landlord.

[C51, §2003; R60, §3571, 3589; C73, §3253; C97, §4190; C24, 27, 31, 35, 39, §**12240;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §646.11]

646.12 Possession.

When the defendant makes defense it is not necessary to prove the defendant in possession of the premises.

[C51, §2007; R60, §3575; C73, §3254; C97, §4191; C24, 27, 31, 35, 39, §**12241;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §646.12]

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646.13 Purchase pending suit.

Any person acquiring title to land or any interest therein, after commencement of an action under this chapter to recover the same, shall take subject to notice of and without prejudice to the rights of the parties to such action.

[R60, §3578; C73, §3255; C97, §4192; C24, 27, 31, 35, 39, §**12242;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §646.13]

646.14 Order to enter and survey.

The court on motion, and after notice to the opposite party, may for cause shown grant an order allowing the party applying therefor to enter upon the land in controversy and make survey thereof for the purposes of the action.

[C51, §2021; R60, §3592; C73, §3256; C97, §4193; C24, 27, 31, 35, 39, §**12243;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §646.14]

646.15 Service.

The order must describe the property, and a copy thereof must be served upon the owner or person having the occupancy and control of the land.

[C51, §2022; R60, §3593; C73, §3257; C97, §4194; C24, 27, 31, 35, 39, §**12244;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §646.15]

646.16 Verdict — special.

The verdict may specify the extent and quantity of the plaintiff's estate and the premises to which the plaintiff is entitled, with reasonable certainty, by metes and bounds and other sufficient description, according to the facts as proved.

[R60, §3594; C73, §3258; C97, §4195; C24, 27, 31, 35, 39, §**12245;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §646.16]

646.17 General verdict.

A general verdict in favor of the plaintiff, without such specifications, entitles the plaintiff to the quantity of interest or estate in the premises as set forth and described in the petition.

[R60, §3595; C73, §3259; C97, §4196; C24, 27, 31, 35, 39, §**12246;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §646.17]

646.18 Judgment for damages.

If the interest of the plaintiff expires before the time in which the plaintiff could be put in possession, the plaintiff can obtain a judgment for damages only.

[C51, §2010; R60, §3579; C73, §3260; C97, §4197; C24, 27, 31, 35, 39, §**12247;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §646.18]

646.19 Use and occupation.

The plaintiff cannot recover for the use and occupation of the premises for more than five years prior to the commencement of the action.

[C51, §2008; R60, §3576; C73, §3261; C97, §4198; C24, 27, 31, 35, 39, §**12248;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §646.19]

646.20 Improvements set off.

When the plaintiff is entitled to damages for withholding or using or injuring the plaintiff's property, the defendant may set off the value of any permanent improvements made thereon to the extent of the damages, unless the defendant prefers to take advantage of the law for the benefit of occupying claimants.

[C51, §2023; R60, §3596; C73, §3262; C97, §4199; C24, 27, 31, 35, 39, §**12249;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §646.20]

Occupying claimants, chapter 560

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646.21 Wanton aggression.

In case of wanton aggression on the part of the defendant, the jury may award exemplary damages.

[C51, §2024; R60, §3597; C73, §3263; C97, §4200; C24, 27, 31, 35, 39, §**12250;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §646.21]

646.22 Tenant — extent of liability.

A tenant in possession in good faith, under a lease or license from another, is not liable beyond the rent in arrear at the time of suit brought for the recovery of land, and that which may afterward accrue during the continuance of the tenant's possession.

[R60, §3598; C73, §3264; C97, §4201; C24, 27, 31, 35, 39, §**12251;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §646.22]

646.23 Growing crops — bond.

If the defendant avers that the defendant has a crop sowed, planted, or growing on the premises, the jury, finding for the plaintiff, and also finding that fact, shall further find the value of the premises from the date of the trial until the first day of January next succeeding, and no execution for possession shall be issued until that time, if the defendant executes, with surety to be approved by the clerk, a bond in double such sum to the plaintiff, conditioned to pay at said date the sum so assessed, which shall be part of the record, and shall have the force and effect of a judgment, and if not paid at maturity the clerk, on the application of the plaintiff, shall issue execution thereon against all the obligors.

[R60, §3599; C73, §3265; C97, §4202; C24, 27, 31, 35, 39, §**12252;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §646.23]

Referred to in §602.8102(111)

646.24 Writ of possession.

When the plaintiff shows that the plaintiff is entitled to the immediate possession of the premises, judgment shall be entered and an execution issued accordingly.

[C51, §2009; R60, §3577; C73, §3266; C97, §4203; C24, 27, 31, 35, 39, §**12253;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §646.24]

646.25 Judgment for rent accruing.

The plaintiff may have judgment for the rent or rental value of the premises which accrues after judgment and before delivery of possession, by motion in the court in which the judgment was rendered, ten days' notice thereof in writing being given, unless judgment is stayed by appeal and bond given to suspend the judgment, in which case the motion may be made after the affirmance thereof.

[R60, §3600; C73, §3267; C97, §4204; C24, 27, 31, 35, 39, §**12254;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §646.25]

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CHAPTER 647

RESTORATION OF LOST RECORDS

647.1	Action in rem.	647.4	Filing of restored records — effect.
647.2	Proceedings.		
647.3	Proof required.	647.5	Costs of restoration — how paid.

647.1 Action in rem.

1. Whenever the public records in the office of any county official in this state have been or shall hereafter be lost or destroyed in any material part, the said county on relation of said public officer or the owner of any real estate affected thereby, may bring an action in rem in equity in the district court of the state in and for the county in which said real estate is situated against all known and unknown persons, firms, or corporations that might have any interest

in said real estate affected by said record, to have said lost or destroyed records restored in whole or in part.

2. Any number of parcels of land may be included in the same suit; and whenever said action is brought by the owner, the public official in whose office said lost or destroyed public records are required by law to be kept shall be made a defendant therein.

[S13, §4227-a; C24, 27, 31, 35, 39, §**12258;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §647.1]

2021 Acts, ch 76, §150

647.2 Proceedings.

1. The petition, notice, and decree in said action to restore any lost or destroyed records, and all proceedings in said suit, so far as the same relate to unknown defendants, shall conform to the statutes of this state applicable to actions against unknown defendants and unknown claimants; and all known defendants shall be served with notice in the time and manner now provided by law; and whenever said action is brought by the owner of said real estate, all clouds upon said title and defects therein and all adverse claims thereto may be adjudicated in the same suit and title quieted therein.

2. The provisions of rule of civil procedure 1.1011 shall be applicable to defendants served with original notice in such action by publication.

[S13, §4227-b; C24, 27, 31, 35, 39, §**12259;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §647.2]

2021 Acts, ch 76, §150

Unknown defendants, §617.7

647.3 Proof required.

No judgment or decree restoring any lost or destroyed record in such action shall be entered by default, but the court must require proof of the facts alleged in reference thereto and the court shall make such finding of facts and decree as may be sustained by the evidence and may order such lost or destroyed record to be prepared by said public official as completely as the circumstances and proof will permit, and said record when so prepared shall be approved by the court and its approval endorsed thereon by the clerk.

[S13, §4227-c; C24, 27, 31, 35, 39, §**12260;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §647.3]

Referred to in §602.8102(112)

647.4 Filing of restored records — effect.

All public records restored as provided by this chapter shall be filed, bound, and indexed the same as original records are required to be, and shall have the same force and effect as the original records before their loss or destruction.

[S13, §4227-d; C24, 27, 31, 35, 39, §**12261;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §647.4]

647.5 Costs of restoration — how paid.

Whenever any public record is restored, as provided in this chapter, all court costs and necessary expenses of restoring the same shall be paid by the county to which said records belong, whether said action is commenced or prosecuted by a county official or by the owner of any real estate authorized to maintain such action.

[SS15, §4227-e; C24, 27, 31, 35, 39, §**12262;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §647.5]

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CHAPTER 648

FORCIBLE ENTRY AND DETAINER

Referred to in §29A.101, 555B.7, 555C.1, 555C.2, 562A.27A, 562B.17A, 562B.25, 562B.25A, 562B.27, 602.6405, 631.4, 631.5

648.1	Grounds.	648.16	Priority of assignment.
648.1A	Nonprofit transitional housing exempted.	648.17	Remedy not exclusive.
648.2	By legal representatives.	648.18	Possession — bar.
648.3	Notice to quit.	648.19	No joinder or counterclaim — exception.
648.4	Notice terminating tenancy.	648.20	Order for removal.
648.5	Venue — service of original notice — hearing.	648.21	Reserved.
648.6	Notice to lienholders.	648.22	Judgment — execution — costs.
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648.9	Change of venue.	648.22B	Cases where mobile or manufactured home is the subject of a foreclosure action.
648.10	Service by publication. Repealed by 2010 Acts, ch 1017, §10, 11.	648.23	Restitution.
648.11	through 648.14 Reserved.		
648.15	How title tried.		

648.1 Grounds.

A summary remedy for forcible entry and detainer is allowable:

1. Where the defendant has by force, intimidation, fraud, or stealth entered upon the prior actual possession of another in real property, and detains the same.
2. Where the lessee holds over after the termination of the lease.
3. Where the lessee holds contrary to the terms of the lease.
4. Where the defendant continues in possession after a sale by foreclosure of a mortgage, or on execution, unless the defendant claims by a title paramount to the lien by virtue of which the sale was made, or by title derived from the purchaser at the sale; in either of which cases such title shall be clearly and concisely set forth in the defendant's pleading.
5. For the nonpayment of rent, when due.
6. When the defendant or defendants remain in possession after the issuance of a valid tax deed.

[C51, §2362, 2363; R60, §3952, 3953; C73, §3611, 3612; C97, §4208; C24, 27, 31, 35, 39, §**12263;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §648.1]

2004 Acts, ch 1101, §87

Referred to in §562A.26, 631.1, 648.3

648.1A Nonprofit transitional housing exempted.

This chapter shall not apply to occupancy in housing owned by a nonprofit organization whose purpose is to provide transitional housing for persons released from drug or alcohol treatment facilities or to provide housing for homeless persons. Absent an applicable provision in a lease, contract, or other agreement, a person who unlawfully remains on the premises of such housing may be subject to criminal trespass penalties pursuant to section 716.8.

2003 Acts, ch 154, §3

648.2 By legal representatives.

The legal representative of a person who, if alive, might have been plaintiff may bring this action after the person's death.

[C51, §2364; R60, §3954; C73, §3613; C97, §4209; C24, 27, 31, 35, 39, §**12264;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §648.2]

648.3 Notice to quit.

1. Before action can be brought under any ground specified in section 648.1, except section 648.1, subsection 1, three days' notice to quit must be given to the defendant in writing. However, a landlord who has given a tenant three days' notice to pay rent and has terminated the tenancy as provided in section 562A.27, subsection 2, or section 562B.25,

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subsection 2, if the tenant is renting the manufactured or mobile home or the land from the landlord, may commence the action without giving a three-day notice to quit.

2. A notice to quit required under subsection 1 shall be served on the defendant according to one or more of the following methods:

a. Delivery evidenced by an acknowledgment of delivery that is signed and dated by a resident of the premises who is at least eighteen years of age. Delivery under this paragraph shall be deemed to provide notice to the defendant.

b. Personal service pursuant to rule of civil procedure 1.305, Iowa court rules, for the personal service of original notice.

c. Posting on the primary entrance door of the premises and mailing by both regular mail and certified mail, as defined in section 618.15, to the address of the premises or to the defendant's last known address, if different from the address of the premises. A notice posted according to this paragraph shall be posted within the applicable time period for serving notice and shall include the date the notice was posted.

3. A notice to quit served by mail under this section is deemed completed four days after the notice is deposited in the mail and postmarked for delivery, whether or not the recipient signs a receipt for the notice.

[C51, §2365; R60, §3955; C73, §3614; C97, §4210; C24, 27, 31, 35, 39, §**12265;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §648.3; 81 Acts, ch 183, §2]

84 Acts, ch 1054, §1; 2001 Acts, ch 153, §15; 2001 Acts, ch 176, §80; 2010 Acts, ch 1017, §8, 11; 2013 Acts, ch 30, §165

Referred to in §562A.27A, 562A.29A, 562B.25A, 562B.27A
Owner, landlord and tenant provisions, chapters 562, 562A, 562B

648.4 Notice terminating tenancy.

When the tenancy is at will and the action is based on the ground of the nonpayment of rent when due, no notice of the termination of the tenancy other than the three-day notice need be given before beginning the action.

[C24, 27, 31, 35, 39, §**12266;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §648.4]

Farm tenancies, §562.5 – 562.8
See also §562.4, chapters 562A, 562B

648.5 Venue — service of original notice — hearing.

1. *a.* An action for forcible entry and detainer shall be brought in a county where all or part of the premises is located. Such an action shall be tried as an equitable action. Upon receipt of the petition, the court shall set a date, time, and place for hearing. The court shall set the date of hearing no later than eight days from the filing date, except that the court shall set a later hearing date no later than fifteen days from the date of filing if the plaintiff requests or consents to the later date of hearing.

b. The requirement regarding the setting of the initial hearing in paragraph *"a"* is not a jurisdictional requirement and does not affect the court's subject matter jurisdiction to hear the action for forcible entry and detainer.

2. Original notice shall be served upon a defendant by one or more of the following methods:

a. Delivery evidenced by an acknowledgment of service that is signed and dated by a resident of the premises who is at least eighteen years of age. Delivery under this paragraph shall be deemed to provide notice to all tenants or residents of the premises. Service of original notice under this paragraph is invalid if the acknowledgment of service is signed and dated less than three days prior to the hearing.

b. Personal service pursuant to rule of civil procedure 1.305, Iowa court rules, for the personal service of original notice. Service of original notice under this paragraph shall not occur less than three days prior to the hearing.

c. If service cannot be made following two attempts using a method specified under paragraph *"a"* or *"b"*, by posting on the primary entrance door of the premises and mailing by both regular mail and certified mail, as defined in section 618.15, to the address of the premises or to the defendant's last known address, if different from the address of the premises. An original notice posted according to this paragraph shall be posted not less than

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three days prior to the hearing and shall include the date the original notice was posted. Service of original notice by mailing shall occur not less than three days prior to the hearing.

3. Service of original notice by mail is deemed completed four days after the notice is deposited in the mail and postmarked for delivery, whether or not the recipient signs a receipt for the original notice. In computing the time for completion of service, the first day shall be excluded and the final day shall be included regardless of whether the fourth day is a Saturday, Sunday, or federal holiday.

4. If service of original notice is made by posting and mailing under subsection 2, paragraph "*c*", the plaintiff shall, at or before the time of the hearing, file one or more affidavits describing the time and manner in which the notice was posted and mailed. The plaintiff shall attach copies of the documents that were mailed and posted to the affidavits.

5. The notice requirements of this section shall be deemed to have been satisfied if the defendant or the defendant's attorney appears at the hearing. If the hearing will be held fewer than three days after service of the original notice or if notice is deemed satisfied pursuant to this subsection, the court shall inform the defendant that the defendant has the right to a continuance and shall grant a continuance at the defendant's request to allow the defendant to prepare for the hearing or to retain an attorney.

6. A default judgment shall not be entered against a defendant if original notice has not been served on the defendant as required in this section. If the original notice cannot be served within the time periods required in this section, the court may set a new hearing date and time.

7. At the hearing, except for actions commenced as a small claim action under chapter 631, the court shall determine whether a genuine issue of material fact exists in the action. If the court determines that a genuine issue of material fact exists, an evidentiary hearing on the petition shall be held and the court shall continue the hearing to a future date and issue all appropriate orders relating to discovery and trial preparation.

[C51, §2367; R60, §3957; C73, §3616; C97, §4211; C24, 27, 31, 35, 39, §**12267;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §648.5]

86 Acts, ch 1130, §1; 95 Acts, ch 125, §14; 2004 Acts, ch 1101, §88; 2010 Acts, ch 1017, §9, 11; 2017 Acts, ch 95, §1; 2022 Acts, ch 1070, §19

Referred to in §648.19

648.6 Notice to lienholders.

In cases covered by chapter 562B, a plaintiff shall send a copy of the petition, prior to the date set for hearing, by regular, certified, or restricted certified mail to the county treasurer and to each lienholder whose name and address are of record in the office of the county treasurer of the county where the mobile home or manufactured home is located.

98 Acts, ch 1107, §31; 2003 Acts, ch 154, §4

Referred to in §648.22A

648.7 and 648.8 Reserved.

648.9 Change of venue.

In any such action a change of place of trial may be had as in other cases.

[C51, §2367; R60, §3957; C73, §3616; C97, §4212; C24, 27, 31, 35, 39, §**12270;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §648.9]

648.10 Service by publication. Repealed by 2010 Acts, ch 1017, §10, 11.

648.11 through 648.14 Reserved.

648.15 How title tried.

When title is put in issue, the cause shall be tried by equitable proceedings.

[C97, §4216; C24, 27, 31, 35, 39, §**12276;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §648.15]

Referred to in §648.17

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648.16 Priority of assignment.

Such actions shall be accorded reasonable priority for assignment to assure their prompt disposition. No continuance shall be granted for the purpose of taking testimony in writing.

[C97, §4216; C24, 27, 31, 35, 39, §**12277;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §648.16]

Referred to in §648.17

648.17 Remedy not exclusive.

Nothing contained in sections 648.15 and 648.16 shall prevent a party from suing for trespass or from testing the right of property in any other manner.

[C51, §2371; R60, §3961; C73, §3620; C97, §4216; C24, 27, 31, 35, 39, §**12278;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §648.17]

648.18 Possession — bar.

Thirty days' peaceable possession with the knowledge of the plaintiff after the cause of action accrues is a bar to this proceeding.

[C51, §2372; R60, §3962; C73, §3621; C97, §4217; C24, 27, 31, 35, 39, §**12279;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §648.18]

Referred to in §648.22A, 648.22B

648.19 No joinder or counterclaim — exception.

1. An action under this chapter shall not be filed in connection with any other action, with the exception of a claim for rent or recovery as provided in section 555B.3, 562A.24, 562A.32, 562B.17A, 562B.22, 562B.25, or 562B.27, nor shall it be made the subject of counterclaim.

2. When filed with an action for rent or recovery as provided in section 555B.3, 562A.24, 562A.32, 562B.22, 562B.25, or 562B.27, notice of hearing as provided in section 648.5 is sufficient.

3. An action under this chapter that is filed in connection with another action in accordance with this section shall be treated only as a joint filing of separate cases assigned separate case numbers, but with a single filing fee. The court shall not merge the causes of action. The court shall consider the jointly filed cases separately and shall consider each case according to the rules applicable to that type of case.

[C51, §2373; R60, §3963; C73, §3622; C97, §4218; C24, 27, 31, 35, 39, §**12280;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §648.19]

86 Acts, ch 1130, §3; 88 Acts, ch 1138, §17; 93 Acts, ch 154, §22; 2000 Acts, ch 1210, §1; 2022 Acts, ch 1070, §14

Referred to in §562B.30

648.20 Order for removal.

The order for removal can be executed only in the daytime.

[C51, §2374; R60, §3964; C73, §3623; C97, §4219; C24, 27, 31, 35, 39, §**12281;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §648.20]

648.21 Reserved.

648.22 Judgment — execution — costs.

If the defendant is found guilty, judgment shall be entered that the defendant be removed from the premises, and that the plaintiff be put in possession of the premises, and an execution for the defendant's removal within three days from the judgment shall issue accordingly, to which shall be added a clause commanding the officer to collect the costs as in ordinary cases.

[C51, §2370; R60, §3960; C73, §3619; C97, §4221; C24, 27, 31, 35, 39, §**12283;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §648.22]

86 Acts, ch 1130, §4; 95 Acts, ch 125, §15

Referred to in §648.22A

648.22A Executions involving mobile homes and manufactured homes.

1. In cases covered by chapter 562B, prior to the expiration of three days from the date the

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judgment is entered pursuant to section 648.22, the plaintiff or defendant may elect to leave a mobile home or manufactured home and its contents in the manufactured home community or mobile home park for up to sixty days after the date of the judgment provided all of the following occur:

a. The plaintiff consents and the plaintiff has complied with the provisions of section 648.6.

b. The party making the election files a written notice of such election with the court and sends a copy of the notice of election with a copy of the judgment to the sheriff, the other party at the other party's last known address, each record lienholder, and the county treasurer in the same manner as in section 648.6.

c. All utilities to the mobile home or manufactured home are disconnected prior to expiration of three days from the filing of the election. Payment of any reasonable costs incurred in disconnecting utilities and protecting the home from damage is the responsibility of the defendant.

2. During the sixty-day period the defendant may have reasonable access to the home site to show the home to prospective purchasers, prepare the home for removal, remove any personal property, or remove the home, provided that the defendant gives the plaintiff at least twenty-four hours' notice prior to each exercise of the defendant's right of access. The plaintiff may also have reasonable access to the home site to disconnect utilities and to show the home to prospective purchasers sent by the defendant. The plaintiff shall not have the right to sell the home during the sixty-day period unless the defendant enters into a written agreement for the plaintiff to sell the home.

3. During the sixty-day period the defendant shall not occupy the home or be present on the premises between the hours of seven p.m. and seven a.m. A violation of this subsection shall be punishable as contempt.

4. If the plaintiff or defendant finds a purchaser of the home, who is a prospective tenant of the manufactured home community or mobile home park, the provisions of section 562B.19, subsection 3, paragraph *"c"*, shall apply.

5. If, within the sixty-day period, the home is not sold to an approved purchaser or removed from the manufactured home community or mobile home park, the plaintiff may sell or dispose of the home in accordance with the provisions of section 555B.9 without an order for disposal, or chapter 555C, and may do so free and clear of all liens, claims, or encumbrances of third parties except any tax lien, at which time all of the following shall occur:

a. The proceeds from the sale shall first be applied to any judgments against the defendant obtained by the plaintiff, any unpaid rent or additional costs incurred by plaintiff, and reasonable attorney fees. Any remaining proceeds shall next be applied to any tax lien with the remainder to be held in accordance with section 555B.9, subsection 3, paragraph *"d"*.

b. Any money judgment against the defendant and in favor of the plaintiff relating to the previous tenancy shall be deemed satisfied, except those arising from independent torts.

c. If plaintiff elects to retain the home pursuant to section 555B.9, the county treasurer, upon receipt of a fee equal to the fee specified in section 321.42 for replacement of certificates of title for motor vehicles, and upon receipt of an affidavit submitted by the plaintiff verifying that the home was not sold to an approved purchaser or removed within the time specified in this subsection, shall issue to the plaintiff a new title for the home.

6. A purchaser of the home shall be liable for any unpaid sums due the plaintiff, sheriff, or county treasurer. For the purposes of this section, *"purchaser"* includes a lienholder or other claimant acquiring title to the home in whole or in part by reason of a lien or other claim.

7. Nothing in this section shall prevent the defendant from removing the mobile home or manufactured home prior to the expiration of three days after entry of judgment, after which time a mobile home or manufactured home shall not be removed without the prior payment to the plaintiff of all sums owing at the time of entry of judgment, interest accrued on such sums as provided by law, and per diem rent for that portion of the sixty-day period which has expired prior to removal, and payment of any taxes due on the home which are not abated pursuant to subsection 5.

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8. In any case where this section has become operative, section 648.18 does not apply.

9. This section does not preclude the exercise of a lienholder's rights under section 648.22B.

98 Acts, ch 1107, §32; 2001 Acts, ch 153, §16; 2003 Acts, ch 154, §5

648.22B Cases where mobile or manufactured home is the subject of a foreclosure action.

1. When a mobile or manufactured home located in a manufactured home community or mobile home park is the subject of an action by a lienholder to foreclose a lienhold interest, the plaintiff may advance all moneys due and owing to the landlord and enter into an agreement with the court to pay to the landlord before delinquency all rent, reasonable upkeep, and other reasonable charges thereafter accruing on the home and space that it occupies, in which case any writ of execution on a judgment under this chapter will be stayed until the home is sold in place as provided by law or removed from the manufactured home community or mobile home park at the plaintiff's expense.

2. When the conditions of subsection 1 have been satisfied, the clerk of court shall so notify the sheriff of the county in which the mobile or manufactured home is located.

3. The landlord shall have standing to intervene in the foreclosure proceedings or to file a separate action to compel compliance with the lienholder's undertaking pursuant to subsection 1 and shall be entitled to recover costs and attorney fees incurred.

4. All expenditures made by a lienholder pursuant to subsection 1 shall be recoverable from the lien debtor in the foreclosure proceedings as protective disbursements whether or not provision is made for such recovery in the documentation of the subject lien.

5. In any case where this section has become operative, the provisions of section 648.18 shall not apply.

2000 Acts, ch 1210, §2; 2001 Acts, ch 153, §16

Referred to in §648.22A

648.23 Restitution.

The court, on the trial of an appeal, may issue an execution for removal or restitution, as the case may require.

[C51, §2376; R60, §3966; C73, §3624; C97, §4222; C24, 27, 31, 35, 39, §**12284;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §648.23]

CHAPTER 649

QUIETING TITLE

649.1	Who may bring action.	649.5	Demand for quitclaim — attorney fees.
649.2	Petition.	649.6	Equitable proceedings.
649.3	Notice.	649.7	Deeds — recitals — rebuttable and conclusive presumptions.
649.4	Disclaimer — costs.	649.8	Construction of Act.

649.1 Who may bring action.

An action to determine and quiet the title of real property may be brought by anyone, whether in or out of possession, having or claiming an interest therein, against any person claiming title thereto, though not in possession.

[C51, §2025; R60, §3601; C73, §3273; C97, §4223; C24, 27, 31, 35, 39, §**12285;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §649.1]

649.2 Petition.

The petition therefor must be under oath, setting forth the nature and extent of the petitioner's estate, and describing the premises as accurately as may be, and that the

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petitioner is credibly informed and believes the defendant makes or may make some claims adverse to the petitioner, and praying for the establishment of the plaintiff's estate, and that the defendant be barred and forever estopped from having or claiming any right or title to the premises adverse to the plaintiff.

[R60, §3602; C73, §3274; C97, §4224; C24, 27, 31, 35, 39, §**12286;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §649.2]

649.3 Notice.

The notice in such action shall accurately describe the property, and, in general terms, the nature and extent of the plaintiff's claim, and shall be served as in other cases.

[C73, §3274; C97, §4224; C24, 27, 31, 35, 39, §**12287;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §649.3]

649.4 Disclaimer — costs.

If the defendant appears and disclaims all right and title adverse to the plaintiff, the defendant shall recover the defendant's costs. In all other cases the costs shall be in the discretion of the court.

[R60, §3603; C73, §3275; C97, §4225; C24, 27, 31, 35, 39, §**12288;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §649.4]

649.5 Demand for quitclaim — attorney fees.

1. Before bringing suit to quiet a title to real estate, a party may make a written request to the person holding an apparent adverse interest or right in the property asking that such person, and that person's spouse if any, execute, have acknowledged, and deliver a quitclaim deed to the property to such requesting party.

2. The written request described in subsection 1 shall include a draft quitclaim deed to the property, the street address of the property, a brief explanation of how the apparent adverse interest or right arose, if known, and why the party believes the interest or right is not a valid claim against title, a copy of this section, a self-addressed stamped envelope, and fifty dollars to cover the expense of the execution, acknowledgment, and delivery of the deed.

3. If the person holding an apparent adverse interest or right in the property fails to comply within twenty days of receiving the written request, the filing of a disclaimer of interest or right shall not avoid the costs in an action afterwards brought, and the court may assess, in addition to the ordinary costs of court, a reasonable attorney fee for the requesting party's attorney.

[C97, §4226; C24, 27, 31, 35, 39, §**12289;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §649.5]

86 Acts, ch 1237, §37; 2017 Acts, ch 147, §1

649.6 Equitable proceedings.

In all other respects, the action contemplated in this chapter shall be conducted as other actions by equitable proceedings, so far as the same may be applicable, with the modifications prescribed.

[C51, §2026; R60, §3604; C73, §3276; C97, §4227; C24, 27, 31, 35, 39, §**12290;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §649.6]

649.7 Deeds — recitals — rebuttable and conclusive presumptions.

In the proof of title to real estate derived from deeds or other conveyances affecting real estate, executed prior to January 1, 1905, where it appears from recitals therein that such deeds or other conveyances have been executed in pursuance to a contract assigned by the original vendee or the vendee's assignee to the grantee in such deeds or other conveyances, the recitals thereof shall be presumptive evidence of the truth of said recitals, and of the fact of said assignment, and that such assignment was made in good faith for a valuable consideration, and no action shall be maintained by such original vendee, assignee, or any person or persons holding by, through, or under such vendee or assignee, against the grantee in said deed or other conveyance, and the grantee's grantees in the record chain of title, and

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said recitals shall be conclusive evidence of the fact of such assignment and that it was made in good faith and for a valuable consideration.

[C24, 27, 31, 35, 39, §**12291;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §649.7]

Referred to in §649.8

649.8 Construction of Act.

Section 649.7 shall not be construed to remove the bar of any other statute of limitations.

[C24, 27, 31, 35, 39, §**12292;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §649.8]

CHAPTER 650

DISPUTED CORNERS AND BOUNDARIES

Referred to in §355.4

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650.2 County as party.
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650.13 Decree conclusive.
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650.1 When allowed.

When one or more owners of land, the corners and boundaries of which are lost, destroyed, or in dispute, desire to have the same established, they may bring an action in the district court of the county where such lost, destroyed, or disputed corners or boundaries, or part thereof, are situated, against the owners of the other tracts which will be affected by the determination or establishment thereof, to have such corners or boundaries ascertained and permanently established.

[C97, §4228; C24, 27, 31, 35, 39, §**12293;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §650.1]

650.2 County as party.

If any public road is likely to be affected thereby, the proper county shall be made defendant.

[C97, §4228; C24, 27, 31, 35, 39, §**12294;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §650.2]

650.3 Notice.

Notice of such action shall be given as in other cases, and if the defendants or any of them are nonresidents of the state, or unknown, they may be served by publication as is provided by law.

[C97, §4229; C24, 27, 31, 35, 39, §**12295;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §650.3]

650.4 Nature of action.

The action shall be a special one.

[C97, §4230; C24, 27, 31, 35, 39, §**12296;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §650.4]

650.5 Petition.

The only necessary pleading therein shall be the petition of plaintiff describing the land involved, and, so far as may be, the interest of the respective parties, and asking that certain corners and boundaries therein described, as accurately as may be, shall be established.

[C97, §4230; C24, 27, 31, 35, 39, §**12297;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §650.5]

650.6 Specific issues — acquiescence.

Either the plaintiff or defendant may, by proper plea, put in issue the fact that certain alleged boundaries or corners are the true ones, or that such have been recognized and acquiesced

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in by the parties or their grantors for a period of ten consecutive years, which issue may be tried before commission is appointed, in the discretion of the court.

[C97, §4230; C24, 27, 31, 35, 39, §**12298;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §650.6]

650.7 Commission.

The court in which the action is brought shall appoint a commission of one or more disinterested licensed professional land surveyors, who shall, at a date and place fixed by the court in the order of appointment, proceed to locate the lost, destroyed, or disputed corners and boundaries.

[C97, §4231; C24, 27, 31, 35, 39, §**12299;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §650.7]
2012 Acts, ch 1009, §34

650.8 Oath — assistants.

The commissioners so appointed shall subscribe and file with the clerk, within ten days from the date of their appointment, an oath for the faithful and impartial discharge of their duties, and shall have the power to appoint necessary assistants.

[C97, §4232; C24, 27, 31, 35, 39, §**12300;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §650.8]

650.9 Hearing.

At the time and in the manner specified in the order of court, the commission shall proceed to locate said boundaries and corners, and for that purpose may take the testimony of witnesses as to where the true boundaries and corners are located.

[C97, §4233; C24, 27, 31, 35, 39, §**12301;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §650.9]

650.10 Finding as to acquiescence.

If that issue is presented, the commission shall also take testimony as to whether the boundaries and corners alleged to have been recognized and acquiesced in for ten years or more have in fact been recognized and acquiesced in, and, if it finds affirmatively on such issue, shall incorporate the same into the report to the court.

[C97, §4233; C24, 27, 31, 35, 39, §**12302;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §650.10]

650.11 Adjournments — report.

The proceedings may be adjourned by the commission from time to time as may be necessary, but the survey and location of the corners and boundaries must be completed and the report thereof filed with the clerk of the court within sixty days after its appointment, unless there are good and sufficient reasons for delay.

[C97, §4234; C24, 27, 31, 35, 39, §**12303;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §650.11]

650.12 Exceptions — hearing in court.

Within twenty days after such report is filed, any party interested may file exceptions thereto and the court shall hear and determine them, hearing evidence in addition to that reported by the commission, if necessary, and may approve or modify such report, or again refer the matter to the same or another commission for further report.

[C97, §4235; C24, 27, 31, 35, 39, §**12304;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §650.12]

650.13 Decree conclusive.

The corners and boundaries finally established by the court in such proceeding, or on appeal therefrom, shall be binding upon the parties as the corners or boundaries which had been lost, destroyed, or in dispute.

[C97, §4236; C24, 27, 31, 35, 39, §**12305;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §650.13]

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650.14 Boundaries by acquiescence established.

If it is found that the boundaries and corners alleged to have been recognized and acquiesced in for ten years have been so recognized and acquiesced in, such recognized boundaries and corners shall be permanently established.

[C97, §4236; C24, 27, 31, 35, 39, §**12306;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §650.14]

650.15 Appeal.

There shall be no appeal in such proceeding, except from final judgment of the court, taken in the time and manner that other appeals are, and heard as in an action by ordinary proceedings.

[C97, §4237; C24, 27, 31, 35, 39, §**12307;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §650.15]

650.16 Costs.

The costs in the proceeding shall be assessed as the court deems just, and shall be a lien on the land or interest therein owned by the party or parties against whom they are assessed, so far as such land is involved in the proceeding.

[C97, §4238; C24, 27, 31, 35, 39, §**12308;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §650.16]

86 Acts, ch 1237, §38

650.17 Boundaries by agreement.

Any lost or disputed corner or boundary may be determined by written agreement of all parties thereby affected, signed and acknowledged by each as required for conveyances of real estate, clearly designating the same, and accompanied by a plat thereof, which shall be recorded as an instrument affecting real estate, and shall be binding upon their heirs, successors, and assigns.

[C97, §4239; C24, 27, 31, 35, 39, §**12309;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §650.17]

Acknowledgment, §558.20 et seq.

CHAPTER 651

PARTITION

Referred to in §499B.13

Iowa court rules concerning partition of real and personal property, R.C.P. 1.1201 – 1.1228, rescinded effective July 1, 2018, by the Iowa Supreme Court's Order filed May 21, 2018
Former chapter 651 repealed by 2018 Acts, ch 1108, §33

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SUBCHAPTER I

DEFINITIONS

651.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Ascendant"* means an individual who precedes another individual in lineage in the direct line of ascent from the other individual.

2. *"Collateral"* means an individual who is related to another individual under the law of intestate succession of this state but who is not the other individual's ascendant or descendant.

3. *"Cotenant"* means a person holding title to real property under tenancy in common ownership.

4. *"Descendant"* means an individual who follows another individual in lineage in the direct line of descent from the other individual.

5. *"Heirs property"* means real property held in tenancy in common that satisfies all of the following requirements as of the date of the filing of a partition action:

a. There is not a recorded agreement that binds all of the cotenants that governs the partition of the property.

b. One or more of the cotenants acquired title from a living or deceased relative.

c. Any of the following apply:

(1) Twenty percent or more of the interests are held by cotenants who are relatives.

(2) Twenty percent or more of the interests are held by an individual who acquired title from a living or deceased relative.

(3) Twenty percent or more of the cotenants are relatives.

6. *"Owelty"* means an equitable remedy in a partition action used to equalize the value of the property a party receives through the payment of a sum of money from a recipient of a higher value property to the recipient of a lower value property.

7. *"Partition by sale"* means a court-ordered sale of property subject to partition.

8. *"Partition in kind"* means a court-ordered division of property subject to partition into physically distinct and separately titled parcels.

9. *"Record"* means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

10. *"Relative"* means an ascendant, descendant, or collateral or an individual otherwise related to another individual by blood, marriage, adoption, or other law of this state.

2018 Acts, ch 1108, §1

Former §651.1 repealed by 2018 Acts, ch 1108, §33

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SUBCHAPTER II

GENERAL PROVISIONS

Referred to in §651.27, 651.32

651.2 Action for partition of property.

Property shall be partitioned by equitable proceedings. A property subject to partition shall be partitioned by sale and the proceeds from the sale divided by the owners of the property unless one or more of the property owners files a request for partition in kind and the court determines partition in kind is equitable and practicable.

2018 Acts, ch 1108, §2
Former §651.2 repealed by 2018 Acts, ch 1108, §33

651.3 Partition of real estate pending probate or administration of estate.

If an entire interest in real estate is owned by a decedent on whose estate administration or probate is pending a partition action shall not be brought until four months after the second publication of the notice of the appointment of the personal representative. A partition action shall not be brought at any time while an application for authority to sell such real estate is pending in a probate proceeding.

2018 Acts, ch 1108, §3
Former §651.3 repealed by 2018 Acts, ch 1108, §33

651.4 Petition for partition of property.

A petition for partition of property shall describe the property and the plaintiff's interest in the property. The petition shall name all indispensable parties pursuant to section 651.5 and state the nature and extent of each interest or lien as far as each interest or lien is known by the plaintiff.

2018 Acts, ch 1108, §4
Former §651.4 repealed by 2018 Acts, ch 1108, §33

651.5 Parties to petition for partition of property.

1. A petition for partition of property shall include as parties all persons indispensable to the partition including an owner of an undivided interest and a holder of a lien on all or part of the property.

2. A petition for partition of property may include as parties a person having an actual, apparent, claimed, or contingent interest in the property.

3. The court shall have jurisdiction over an unborn person's contingent or prospective vested interest as a cotenant of real property in a partition proceeding. The court shall appoint a guardian ad litem for such unborn person pursuant to the rules of civil procedure. The partition in kind or partition by sale of the real property pursuant to a court decree shall have the same force and effect as to all such unborn persons, or persons claiming by, through, or under the unborn person, as though the unborn person were in being when the decree was entered and the real property or proceeds of the unborn person's interest shall be subject to the order of the court until the right fully vests.

2018 Acts, ch 1108, §5
Referred to in §651.4
Former §651.5 repealed by 2018 Acts, ch 1108, §33

651.6 Answer to partition petition.

A defendant's answer to a partition petition shall state the amount and nature of the defendant's interest. A defendant may deny the interest of a plaintiff and by supplemental pleading, if necessary, may deny the interest of any other defendant.

2018 Acts, ch 1108, §6
Former §651.6 repealed by 2018 Acts, ch 1108, §33

651.7 Joinder and counterclaim.

A party may perfect or quiet title to property that is subject to a partition petition or request adjudication of a right of a party as to any matter originating from or connected to

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the property, including a lien between any parties. Except as permitted by this section, a joinder of any other claim to a partition petition shall not be permitted. A counterclaim to a partition petition shall not be permitted.

2018 Acts, ch 1108, §7

651.8 Partition of personal property subject to lien.

Personal property that is subject to a lien on the whole or any part of the property shall only be partitioned by sale.

2018 Acts, ch 1108, §8

651.9 Partition of real and personal property in same action.

Real and personal property owned by the same person may be partitioned in the same action. A referee appointed by the court may act as to both the real and the personal property.

2018 Acts, ch 1108, §9

651.10 Jurisdiction of property partitioned in kind or of proceeds from partition by sale.

Property that has been partitioned in kind or the proceeds from a property that has been partitioned by sale shall be subject to the order of the court until the disposition of the rights in the property become fully vested.

2018 Acts, ch 1108, §10

651.11 Property partitioned by sale and partitioned in kind in same action.

If all parts of a property cannot be partitioned in kind, parts of the property may be partitioned in kind and other parts of the property may be partitioned by sale as provided in this chapter.

2018 Acts, ch 1108, §11

651.12 Initial court decree and appointment of referee.

The court shall file an initial decree establishing the shares and interests of all owners in a property subject to a partition petition. One referee shall be appointed in the decree unless all owners of the property agree upon a larger number of referees. The decree shall order an appraisal or estimation of the valuation of the property and may direct either a public or private sale of the property. Unless all owners of the property agree to an alternative method for conducting the appraisal or of estimating the valuation of the property, the decree shall appoint three disinterested persons with knowledge of property valuation to appraise the property. The decree shall direct the referee to file a report with the court setting forth the referee's recommendations for completing the partition of the property. All other contested issues related to the partition petition, including liens, may be determined by the initial decree or by a supplemental decree or decrees.

2018 Acts, ch 1108, §12

Referred to in §651.28

651.13 Abstract, plats, and surveys.

The court may order the filing of a complete abstract covering real property involved in a partition action. The court may order a party to the partition action to produce any abstract in the party's possession or control. The court may order a plaintiff to obtain an abstract if a complete abstract is unavailable. The expense for such abstract shall be taxed as costs. The abstract shall be available to the court or any party to the partition action during the partition proceedings. The court may also order a plaintiff to obtain a plat or survey and the expense for such shall be taxed as costs.

2018 Acts, ch 1108, §13

651.14 Adjudication of liens on property subject to partition.

The court shall decide the nature, extent, priority, or validity of a party's lien not previously determined and any other issues as the court directs. The referee appointed by the court shall provide notice of the court hearing to decide such matters to the interested parties. Adjudication of liens shall precede a partition in kind. A partition by sale and the

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distribution of proceeds from such sale to any party not affected by a lien may proceed prior to adjudication of liens on the property.

2018 Acts, ch 1108, §14

651.15 Referee possession of property and court preservation of property.

The court may order a referee to lease or to take possession of a property subject to partition. The court may issue an injunction to preserve a property subject to partition or issue an order providing for the care and custody of such property. Any expenses incurred under this section as allowed by the court shall be taxed as costs.

2018 Acts, ch 1108, §15

651.16 Procedure for partition in kind.

1. A court-appointed referee authorized to partition a property in kind shall qualify by taking an oath. A bond shall not be required.

2. The referee shall designate each proposed parcel of the partitioned property by visible monuments. If allowed by the court, the referee may employ a surveyor or assistants to aid the referee and the expenses for such shall be taxed as costs.

3. For good reasons shown the court may order a referee making a partition in kind to allot a particular parcel or a particular article of personal property to a specific party.

4. The referee shall file a report with the court that details the referee's proposed division of the property subject to partition in kind. The report shall describe with reasonable particularity the respective shares and the specific property allotted to each property owner. If real property is part of the partition, a plat shall be filed with the report. The referee may recommend owelty payments as part of the referee's recommendation for the partition in kind. The court shall promptly set a time and place for a hearing on the referee's report. The referee shall give notice of such hearing to all interested parties as ordered by the court.

5. After the hearing the court may approve, modify, or disapprove the referee's report, or order the property partitioned by sale. If the court approves partition in kind subject to owelty payments as recommended by the referee, the court shall order that the partition in kind shall not be completed until all owelty payments have been made. If all owelty payments are not made as ordered, the court shall make further orders as appropriate. On approving a partition in kind after all owelty payments have been made, the court shall file a decree that includes all of the following:

a. Describes the property partitioned in kind in its entirety.

b. Describes each partitioned parcel or article of personal property allotted to each property owner.

c. Enters judgment against each property owner for each property owner's apportioned costs. Such costs shall be a lien on each owner's respective allotted parcel or article and for which special execution may issue on demand of any interested person.

6. Upon completion of a partition in kind of real property pursuant to a court decree, the clerk of court shall file a certified copy of the decree with the county recorder and provide a copy to the county auditor of each county where any of the partitioned property is located. The county auditor shall record a transfer in the deed records and index each parcel as a conveyance with the name of the owner of each parcel as the grantee and the names of all other parties to the partition petition as grantors. The costs of making and recording the certified copy of the decree shall be taxed as costs in the case.

2018 Acts, ch 1108, §16

Referred to in §651.17, 651.22

651.17 Referee's report to court of inability to make partition in kind.

A referee shall file a report with the court if the referee is not able to make a partition in kind on a property subject to partition. Upon receipt of the report, the court shall take the following actions:

1. If the partition involves personal property, the court shall order a sale of the personal property without further notice.

2. If the partition involves real property, the court shall set a hearing as provided under

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section 651.16. After such hearing the court may order a sale or other disposition of the real property, as the court deems appropriate.

2018 Acts, ch 1108, §17

651.18 Procedure for partition by sale.

1. A referee appointed by the court to partition property by sale shall qualify by taking an oath. A bond shall not be required before the referee conveys real property unless the referee is required to do any of the following:

a. Sell personal property.

b. Take possession of real property.

c. Receive a payment on the sale before conveyance of the real property.

2. Before conveying real property, the referee shall give bond in the amount of one hundred twenty-five percent of the total sale price of the real property, payable to the parties entitled to the proceeds from the sale, and conditioned on the faithful discharge of the referee's duties.

3. The referee shall file a report with the court that provides all of the following:

a. A recommendation for the appropriate public or private sale process to offer the property for sale, including but not limited to a public auction or private listing.

b. A copy of any appraisal for the property to be partitioned if required by the court.

4. The court shall promptly set a time and place for a hearing on the referee's report. The referee shall provide notice of the hearing to all interested parties.

5. After the hearing the court may approve, modify, or disapprove the referee's report. If the court orders the property to be partitioned by sale, the referee shall offer the property for sale pursuant to the court order.

6. The referee shall give notice of the time and place of a public sale of the property by two separate publications, at least six days apart, in a newspaper of general circulation in the county where the public sale of the property is to be held. The last publication shall be at least seven days prior to a public sale of real estate and at least four days prior to a public sale of personal property. If authorized by the court, the referee may advertise the sale beyond the required notice and may employ an auctioneer or assistant to assist the referee with the sale of the property. If allowed by the court, the expense of such shall be taxed as costs.

7. The referee shall report all proposed sales to the court. The court shall promptly set a time and place for a hearing and the referee shall give notice to all interested parties. Notice of the hearing shall also be given to any party who files a request with the clerk of court, with the party's name and the address where notice is to be sent, before the referee's report is approved by the court. The clerk shall docket the request and transmit a copy to the referee.

8. After the hearing the court may approve or disapprove the sale of the property. The court may expressly order a private sale of the property for less than the appraised value of the property.

9. Real property shall not be conveyed to a buyer until a partition by sale is approved by court order. Real property shall not be conveyed to a buyer until the sale price for such property has been paid in full.

10. If the court disapproves the partition by sale of a property, all moneys paid or securities given shall be returned to the persons entitled to such.

11. The court may require a party entitled to sale proceeds from a property partitioned by sale to give satisfactory security to refund any proceeds received, with interest, before such party receives proceeds arising from the sale in the event the court later rules such party is not entitled to the proceeds.

2018 Acts, ch 1108, §18

651.19 Validity of referee's deed.

Upon court approval of a sale of property to be partitioned by sale, the referee shall file a referee's deed that shall be recorded in the county where the real estate is located. The recorded referee's deed shall be valid against all subsequent purchasers and against all persons who are parties to the partition by sale proceeding.

2018 Acts, ch 1108, §19

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651.20 Partition by sale — liens on property.

Personal property shall be partitioned by sale free of all liens. Real property shall be partitioned by sale free of all liens except liens held against the entire real property.

2018 Acts, ch 1108, §20

651.21 Proceeds of property partitioned by sale.

1. After a property has been partitioned by sale, a party, including a holder of a lien from which the property has been freed by the sale, shall have the same rights or interests in the proceeds as the party had in the property sold, subject to a prior charge for costs.

2. The court shall appoint a trustee, or order other suitable provisions, for the proceeds of a share held for life or years in the remainder. The ascertained share of any absent owner shall be retained, or the proceeds invested for the owner's benefit, under an order of the court.

2018 Acts, ch 1108, §21

651.22 Costs of partition action.

All costs related to a partition action shall be advanced by the plaintiff with such costs paid by all parties to the action proportionately to each party's respective interest. A cost created by a contest arising from the partition action shall be taxed against the losing contestant unless otherwise ordered by the court. If partition is in kind, costs shall be adjudged and may be collected as provided in section 651.16, subsection 5. If partition is by sale, the costs shall be paid from the proceeds and deducted from the shares of the parties against whom the costs are taxed. Such remedies for collecting costs shall be cumulative of other remedies.

2018 Acts, ch 1108, §22

651.23 Plaintiff's attorney fees.

1. On partition of real property, but not of personal property, the court shall order a reasonable fee in favor of the plaintiff's attorney. The fee shall be taxed as costs.

2. If the plaintiff is the losing contestant in a contest arising from any partition action, any of the plaintiff's attorney fees relating to such contest shall not be taxed as costs.

2018 Acts, ch 1108, §23

651.24 Other fees taxed as costs.

Appraisers, referees, and attorneys appointed by a referee with court approval shall receive reasonable compensation as approved by the court and such compensation shall be part of the costs.

2018 Acts, ch 1108, §24

651.25 Referee's final report.

Unless waived in writing by all interested parties, the court shall fix a time and a place for a hearing on the referee's final report. The referee shall give notice of the hearing to all interested parties.

2018 Acts, ch 1108, §25

651.26 Payment of proceeds less than ten thousand dollars to minor.

If a minor for whom no conservator has been appointed is entitled to proceeds from a partition of property by sale in an amount not exceeding ten thousand dollars, the court may order the proceeds paid to the minor's parent, guardian, or an adult with whom the minor resides, for the use of the minor. After such person files a written receipt for the proceeds with the court, the referee shall be discharged of all liability for the proceeds.

2018 Acts, ch 1108, §26

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SUBCHAPTER III

SPECIAL PROVISIONS FOR PARTITION OF HEIRS PROPERTY

651.27 Applicability of special provisions of heirs property.

If a cotenant requests a partition in kind in an action to partition heirs property, the partition action shall proceed under the special provisions for partition of heirs property under this subchapter. The provisions of this subchapter shall control in the event of a conflict with a provision of subchapter II.

2018 Acts, ch 1108, §27

651.28 Initial decree.

1. If the court determines that a property subject to a partition action is heirs property, and a cotenant requests a partition in kind of such property, the court shall file an initial decree pursuant to section 651.12 ordering the partition action to proceed under this subchapter. The court shall appoint a referee and direct the referee to obtain an appraisal as provided in section 651.12. The referee shall file the appraisal with the court.

2. Within ten calendar days after the referee files the appraisal with the court, the court shall send notice to the referee and to each party to the partition action. The notice shall provide all of the following information:

a. The appraised fair market value of the heirs property.

b. The address of the clerk's office where the appraisal is available for review.

c. Advise that a party may file an objection to the appraisal with the court no later than thirty calendar days after the date of notice by the court. An objection must state the grounds for the objection.

3. No sooner than thirty calendar days after the date of notice by the court and regardless of whether an objection to the appraisal is filed, the court shall conduct a hearing to determine the fair market value of the heirs property. The court shall set a time and place for the hearing and give notice to the referee and all parties to the partition action. At the hearing, in addition to the court-ordered appraisal, the court may consider any other evidence offered by the referee or by a party to the partition action.

4. After the hearing the court shall file an order that determines the fair market value of the heirs property and provide notice of the determination to the referee and all parties to the partition action.

2018 Acts, ch 1108, §28

Referred to in §651.29

651.29 Cotenant buyout.

1. If a cotenant requests partition by sale of the heirs property after receiving notice of the court's determination of the fair market value of the heirs property pursuant to section 651.28, the court shall send notice to all parties advising of all of the following:

a. That a cotenant, except a cotenant that has requested partition by sale of the heirs property, may elect to buy all of the interests of a cotenant that has requested partition by sale of the heirs property.

b. That a cotenant, except a cotenant that has requested partition by sale of the heirs property, shall give notice to the court no later than forty-five days after the date the court sends notice pursuant to section 651.28, subsection 4, of such cotenant's election to buy all of the interests of a cotenant that has requested partition by sale of the heirs property.

2. The sale price for the interest of a cotenant that has requested a partition by sale of the heirs property shall be the value of the entire heirs property as determined by the court under section 651.28, multiplied by such cotenant's fractional ownership of the entire heirs property.

3. If more than forty-five days have passed since the date the court sent notice pursuant to section 651.28, subsection 4, all of the following shall apply:

a. If only one cotenant elects to buy all of the interests of a cotenant that has requested

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partition by sale of the heirs property, the court shall provide notice of such to all interested parties.

b. If more than one cotenant elects to buy all of the interests of a cotenant that has requested partition by sale of the heirs property, the court shall allocate the right to buy such interests among the electing cotenants based on each electing cotenant's existing fractional ownership of the entire heirs property divided by the total existing fractional ownership of all cotenants electing to buy such interests. The court shall send notice to all interested parties of the calculation used to determine the interest that can be purchased by each electing cotenant and the price to be paid for such interest by each electing cotenant.

c. If no cotenant elects to buy all of the interests of a cotenant that has requested partition by sale of the heirs property, the court shall send notice to all interested parties and resolve the partition action pursuant to section 651.30.

4. If the court sends notice to the parties pursuant to subsection 3, paragraph "*a*" or "*b*", the court shall set a date no sooner than sixty calendar days after the date that such notice is sent by which the electing cotenants shall pay their apportioned price to the court. The court shall give notice of such date to all interested parties. After such date has passed, all of the following shall apply:

a. If all electing cotenants have timely paid their apportioned price to the court, the court shall issue an order reallocating all of the interests of the cotenants in the partitioned heirs property and disburse the amounts held by the court to the persons entitled to such disbursements.

b. If none of the electing cotenants has timely paid their apportioned price to the court, the court shall resolve the heirs partition action under section 651.30 as if the interest of the cotenant that has requested partition by sale of the heirs property has not been purchased.

c. If one or more but not all of the electing cotenants fail to timely pay their apportioned price to the court, the court on motion shall give notice to the electing cotenants that have timely paid their apportioned price of the interest remaining and the price for which the remaining interest may be purchased.

5. Not later than twenty calendar days after the court gives notice pursuant to subsection 4, paragraph "*c*", a noticed cotenant may elect to purchase all of the remaining interest by paying the entire price for the remaining interest to the court. After the twenty-calendar-day period has expired, all of the following shall apply:

a. If only one cotenant has paid the entire price for the remaining interest in the partitioned heirs property, the court shall issue an order reallocating the remaining interest to that cotenant. The court shall promptly issue an order reallocating the interests of all the cotenants and disburse the amounts held by the court to the persons entitled to such disbursements.

b. If none of the cotenants have paid the entire price for the remaining interest in the heirs property, the court shall resolve the partition action under section 651.30 as if the interest of the cotenant that had requested partition by sale of the heirs property has not been purchased.

c. If more than one cotenant has paid the entire price for the remaining interest in the heirs property, the court shall reapportion the remaining interest among such cotenants based on each cotenant's original fractional ownership of the entire heirs property divided by the total original fractional ownership of all cotenants that paid the entire price for the remaining interest. The court shall promptly issue an order reallocating all cotenants' interests, disburse the amounts held by the court to the persons entitled to such disbursements, and promptly refund any excess payments held by the court to the appropriate persons.

6. Not later than forty-five days after the court sends notice to the parties pursuant to subsection 1, a cotenant entitled to buy an interest under this section may request that the court authorize the sale, as part of the pending action, of the interests of any cotenant named as a defendant and served with original notice who did not appear in the action. If the court receives a timely request, the court, after a hearing, may deny the request or authorize the requested additional sale on such terms as the court determines are fair and reasonable, subject to all of the following limitations:

a. A sale authorized under this subsection shall occur only after the purchase price for all

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interests subject to sale under this section has been paid to the court and such interests have been reallocated among the cotenants as provided in this section.

b. The purchase price for the interest of a nonappearing cotenant shall be based on the court's determination of the value of such interest under this section.

7. This section shall not be construed to prohibit a cotenant from entering into an agreement with another cotenant to change ownership of their respective interests in the heirs property.

2018 Acts, ch 1108, §29; 2018 Acts, ch 1172, §34
Referred to in §651.30

651.30 Alternatives to partition in kind.

At the conclusion of a cotenant buyout as provided in section 651.29, the court shall order the heirs property to be partitioned in kind unless the court, after consideration of all factors pursuant to section 651.31, finds that partition in kind will result in great prejudice to the cotenants as a group. In considering whether to order the heirs property to be partitioned in kind, the court shall approve a request by two or more cotenants to aggregate their individual interests in the heirs property.

2018 Acts, ch 1108, §30
Referred to in §651.29

651.31 Factors court to consider in determining if partition in kind will result in great prejudice.

1. The court shall consider all of the following factors in determining if partition in kind of heirs property will result in great prejudice to the cotenants of such property as a group:

a. Whether the heirs property can be practicably divided among the cotenants.

b. Whether a partition in kind will apportion the heirs property in such a way that the aggregate fair market value of the parcels resulting from the division will be materially less than the value of the heirs property if the heirs property is sold as a whole, taking into account the condition under which a court-ordered sale likely will occur.

c. Evidence of the collective duration of ownership or possession of the heirs property by a cotenant and one or more predecessors in title or predecessors in possession to the cotenant who are or were relatives of the cotenant or each other.

d. A cotenant's sentimental attachment to the heirs property, including any attachment arising due to the heirs property having ancestral or other unique or special value to the cotenant.

e. The lawful use being made of the heirs property by a cotenant and the degree to which the cotenant will be harmed if the cotenant cannot continue the same use of the heirs property.

f. The degree to which a cotenant has contributed the cotenant's pro rata share of the property taxes, insurance, and other expenses associated with maintaining ownership of the heirs property, or has contributed to the physical improvement, maintenance, or upkeep of the heirs property.

g. Tax consequences.

h. Any other factors the court deems relevant.

2. The court shall weigh the totality of all relevant factors and circumstances and not consider any one factor in subsection 1 to be dispositive.

2018 Acts, ch 1108, §31
Referred to in §651.30

651.32 Subchapter II procedures to govern.

1. If the court orders the heirs property partitioned in kind, the proceedings shall be governed by the procedures set forth in subchapter II that are applicable to a partition in kind.

2. If the court orders the heirs property partitioned by sale, the proceedings shall be governed by the procedures set forth in subchapter II applicable to a partition by sale.

2018 Acts, ch 1108, §32

UNOFFICIAL VERSION: NOT FOR PUBLIC RELEASE

CHAPTER 652

UNIFORM PUBLIC EXPRESSION PROTECTION ACT

652.1 Title.
652.2 Scope.
652.3 Special motion for expedited relief.
652.4 Stay.
652.5 Hearing.
652.6 Proof.
652.7 Dismissal of cause of action in whole or part.
652.8 Ruling.
652.9 Appeal.
652.10 Costs, attorney fees, and expenses.
652.11 Construction.
652.12 Uniformity of application and construction.

652.1 Title.

This chapter may be cited as the *"Uniform Public Expression Protection Act"*.

2025 Acts, ch 93, §1, 13

Section applies to a civil action filed on or after July 1, 2025; 2025 Acts, ch 93, §13

652.2 Scope.

1. As used in this section:

a. "Goods or services" does not include the creation, dissemination, exhibition, or advertisement or similar promotion of a dramatic, literary, musical, political, journalistic, or artistic work.

b. "Governmental unit" means a public corporation or government or governmental subdivision, agency, or instrumentality.

2. Except as otherwise provided in subsection 3, this chapter applies to a cause of action asserted in a civil action against a person based on any of the following of the person:

a. Communication in a legislative, executive, judicial, administrative, or other governmental proceeding.

b. Communication on an issue under consideration or review in a legislative, executive, judicial, administrative, or other governmental proceeding.

c. Exercise of the right of freedom of speech or of the press, the right to assemble or petition, or the right of association, guaranteed by the Constitution of the United States or the Constitution of the State of Iowa, on a matter of public concern.

3. This chapter does not apply to any of the following causes of action asserted:

a. Against a governmental unit or an employee or agent of a governmental unit acting or purporting to act in an official capacity.

b. By a governmental unit or an employee or agent of a governmental unit acting in an official capacity to enforce a law to protect against an imminent threat to public health or safety.

c. Against a person primarily engaged in the business of selling or leasing goods or services if the cause of action arises out of a communication related to the person's sale or lease of the goods or services.

2025 Acts, ch 93, §2, 13

Referred to in §652.7

Section applies to a civil action filed on or after July 1, 2025; 2025 Acts, ch 93, §13

652.3 Special motion for expedited relief.

Not later than sixty days after a party is served with a petition, crossclaim, counterclaim, third-party claim, or other pleading that asserts a cause of action to which this chapter applies, or at a later time on a showing of good cause, the party may file a special motion for expedited relief to dismiss the cause of action or part of the cause of action.

2025 Acts, ch 93, §3, 13

Referred to in §652.4, 652.5, 652.6, 652.7, 652.8, 652.9, 652.10

Section applies to a civil action filed on or after July 1, 2025; 2025 Acts, ch 93, §13

652.4 Stay.

1. Except as otherwise provided in subsections 4 through 7, on the filing of a motion under section 652.3, all of the following apply:

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a. All other proceedings between the moving party and responding party, including discovery and a pending hearing or motion, are stayed.

b. On motion by the moving party, the court may stay a hearing or motion involving another party, or discovery by another party, if the hearing or ruling on the motion would adjudicate, or the discovery would relate to, an issue material to the motion under section 652.3.

2. A stay under subsection 1 remains in effect until entry of an order ruling on the motion under section 652.3 and expiration of the time under section 652.9 for the moving party to appeal the order.

3. Except as otherwise provided in subsections 5, 6, and 7, if a party appeals from an order ruling on a motion under section 652.3, all proceedings between all parties in the action are stayed. The stay remains in effect until the conclusion of the appeal.

4. During a stay under subsection 1, the court may allow limited discovery if a party shows that specific information is necessary to establish whether a party has satisfied or failed to satisfy a burden under section 652.7, subsection 1, and the information is not reasonably available unless discovery is allowed.

5. A motion under section 652.10 for costs, attorney fees, and expenses is not subject to a stay under this section.

6. A stay under this section does not affect a party's ability to voluntarily dismiss a cause of action or part of a cause of action or move to sever a cause of action.

7. During a stay under this section, the court for good cause may hear and rule on all of the following:

a. A motion unrelated to the motion under section 652.3.

b. A motion seeking a special or preliminary injunction to protect against an imminent threat to public health or safety.

2025 Acts, ch 93, §4, 13
Referred to in §652.5
Section applies to a civil action filed on or after July 1, 2025; 2025 Acts, ch 93, §13

652.5 Hearing.

1. The court shall hear a motion under section 652.3 not later than sixty days after filing of the motion, unless the court orders a later hearing for any of the following:

a. To allow discovery under section 652.4, subsection 4.

b. For other good cause.

2. If the court orders a later hearing under subsection 1, paragraph *"a"*, the court shall hear the motion under section 652.3 not later than sixty days after the court order allowing the discovery, unless the court orders a later hearing under subsection 1, paragraph *"b"*.

2025 Acts, ch 93, §5, 13
Referred to in §652.8
Section applies to a civil action filed on or after July 1, 2025; 2025 Acts, ch 93, §13

652.6 Proof.

In ruling on a motion under section 652.3, the court shall consider the pleadings, the motion, any reply or response to the motion, and any evidence that could be considered in ruling on a motion for summary judgment under rule of civil procedure 1.981.

2025 Acts, ch 93, §6, 13
Section applies to a civil action filed on or after July 1, 2025; 2025 Acts, ch 93, §13

652.7 Dismissal of cause of action in whole or part.

1. In ruling on a motion under section 652.3, the court shall dismiss with prejudice a cause of action, or part of a cause of action, if all of the following are true:

a. The moving party establishes under section 652.2, subsection 2, that this chapter applies.

b. The responding party fails to establish under section 652.2, subsection 3, that this chapter does not apply.

c. Any of the following are true:

(1) The responding party fails to establish a prima facie case as to each essential element of the cause of action.

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(2) The moving party establishes that any of the following:

(a) The responding party failed to state a cause of action upon which relief can be granted.

(b) There is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law on the action or part of an action.

2. A voluntary dismissal without prejudice of a responding party's cause of action, or part of a cause of action, that is the subject of a motion under section 652.3 does not affect a moving party's right to obtain a ruling on the motion and seek costs, attorney fees, and expenses under section 652.10.

3. A voluntary dismissal with prejudice of a responding party's cause of action, or part of a cause of action, that is the subject of a motion under section 652.3 establishes for the purpose of section 652.10 that the moving party prevailed on the motion.

2025 Acts, ch 93, §7, 13
Referred to in §652.4
Section applies to a civil action filed on or after July 1, 2025; 2025 Acts, ch 93, §13

652.8 Ruling.

The court shall rule on a motion under section 652.3 not later than sixty days after a hearing under section 652.5.

2025 Acts, ch 93, §8, 13
Section applies to a civil action filed on or after July 1, 2025; 2025 Acts, ch 93, §13

652.9 Appeal.

A moving party may appeal as a matter of right from an order denying, in whole or in part, a motion under section 652.3. The appeal must be filed not later than thirty days after entry of the order.

2025 Acts, ch 93, §9, 13
Referred to in §652.4
Section applies to a civil action filed on or after July 1, 2025; 2025 Acts, ch 93, §13

652.10 Costs, attorney fees, and expenses.

On a motion under section 652.3, the court shall award court costs, reasonable attorney fees, and reasonable litigation expenses related to the motion in the following circumstances:

1. To the moving party if the moving party prevails on the motion.

2. To the responding party if the responding party prevails on the motion and the court finds that the motion was frivolous or filed solely with intent to delay the proceeding.

2025 Acts, ch 93, §10, 13
Referred to in §652.4, 652.7
Section applies to a civil action filed on or after July 1, 2025; 2025 Acts, ch 93, §13

652.11 Construction.

This chapter shall be broadly construed and applied to protect the exercise of the right of freedom of speech and of the press, the right to assemble and petition, and the right of association, guaranteed by the Constitution of the United States or the Constitution of the State of Iowa.

2025 Acts, ch 93, §11, 13
Section applies to a civil action filed on or after July 1, 2025; 2025 Acts, ch 93, §13

652.12 Uniformity of application and construction.

In applying and construing this chapter, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

2025 Acts, ch 93, §12, 13
Section applies to a civil action filed on or after July 1, 2025; 2025 Acts, ch 93, §13

CHAPTER 653

RESERVED

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CHAPTER 654

FORECLOSURE OF REAL ESTATE MORTGAGES

Referred to in §8.45, 15E.204, 15E.207, 252B.6A, 455B.172, 455B.751, 558A.1, 602.8105, 615.1, 615.3, 654A.1, 654A.6, 654A.8, 655A.8, 809A.12

Limitations on judgments, see chapter 615

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SUBCHAPTER I

GENERAL PROVISIONS

654.1 Equitable proceedings.

Except as provided in section 654.18, a deed of trust or mortgage of real estate shall not be foreclosed in any other manner than by action in court by equitable proceedings.

[C51, §2083, 2096; R60, §3660, 3673, 4179; C73, §3319; C97, §4287; C24, 27, 31, 35, 39, §**12372;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §654.1]

85 Acts, ch 252, §45

654.1A Maintenance of mortgagor protections — discontinuation of occupation.

For purposes of sections 615.1, 615.3, 628.28, 654.2D, 654.20, 654.21, and 654.26, property shall be deemed the residence of and occupied by the mortgagor where occupation has ceased because of the effects of natural disaster, injury to the property not willfully caused by the

mortgagor, or the mortgagor's national guard duty or federal active duty as those terms are defined in section 29A.1.

2009 Acts, ch 51, §4, 17; 2012 Acts, ch 1072, §39

654.2 Deeds of trust.

Deeds of trust of real property may be executed as securities for the performance of contracts, and shall be considered as, and foreclosed like, mortgages.

[C51, §2096; R60, §3673; C73, §3318; C97, §4284; C24, 27, 31, 35, 39, §**12373;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §654.2]

654.2A Agricultural land — notice, right to cure default.

1. A creditor shall not initiate an action pursuant to this chapter to foreclose on a deed of trust or mortgage on agricultural land, as defined in section 9H.1, until the creditor has complied with this section.

2. A creditor who believes in good faith that a borrower on a deed of trust or mortgage on agricultural land is in default may give the borrower notice of the alleged default, and, if the borrower has a right to cure the default, shall give the borrower the notice of right to cure provided in section 654.2B. The notice is deemed received if sent by certified mail to the borrower.

3. The borrower has a right to cure the default unless the creditor has given the borrower a proper notice of right to cure with respect to two prior defaults on the obligation secured by the deed of trust or mortgage, or the borrower has voluntarily surrendered possession of the agricultural land and the creditor has accepted it in full satisfaction of any debt owing on the obligation in default. The borrower does not have a right to cure the default if the creditor has given the borrower a proper notice of right to cure with respect to a prior default within twelve months prior to the alleged default.

4. If the borrower has a right to cure a default:

a. A creditor shall not accelerate the maturity of the unpaid balance of the obligation, demand or otherwise take possession of the land, other than by accepting a voluntary surrender of it, or otherwise attempt to enforce the obligation until forty-five days after a proper notice of right to cure is given. The time period for a request for mediation pursuant to chapter 654A shall run concurrently with the period for the notice to cure under this section.

b. Until the expiration of forty-five days after notice is given, the borrower may cure the default by tendering either the amount of all unpaid installments due at the time of tender, without acceleration, plus a delinquency charge of the scheduled annual interest rate plus five percent per annum for the period between the giving of the notice of right to cure and the tender, or the amount stated in the notice of right to cure, whichever is less, or by tendering any performance necessary to cure a default other than nonpayment of amounts due, which is described in the notice of right to cure.

5. The act of curing a default restores to the borrower the borrower's rights under the obligation and the deed of trust or mortgage, except as provided in subsection 3.

6. This section does not prohibit a borrower from voluntarily surrendering possession of the agricultural land, and does not prohibit the creditor from enforcing the creditor's interest in the land at any time after compliance with this section.

86 Acts, ch 1214, §10

Referred to in §654.2D, 654.4B, 654A.6

Legislative findings; 86 Acts, ch 1214, §1

654.2B Requirements of notice of right to cure.

The notice of right to cure shall be in writing and shall conspicuously state the name, address, and telephone number of the creditor or other person to which payment is to be made, a brief identification of the obligation secured by the deed of trust or mortgage and of the borrower's right to cure the default, a statement of the nature of the right to cure the default, a statement of the nature of the alleged default, a statement of the total payment, including an itemization of any delinquency or deferral charges, or other performance necessary to cure the alleged default, and the exact date by which the amount must be paid

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or performance tendered and a statement that if the borrower does not cure the alleged default the creditor or a person acting on behalf of the creditor is entitled to proceed with initiating a foreclosure action or procedure. The failure of the notice of right to cure to comply with one or more provisions of this section is not a defense or claim in any action pursuant to this chapter and does not invalidate any procedure pursuant to chapter 655A, unless the person asserting the defense, claim, or invalidity proves that the person was substantially prejudiced by such failure.

86 Acts, ch 1214, §11; 87 Acts, ch 142, §13; 91 Acts, ch 46, §1
Referred to in §654.2A, 654.2D
Legislative findings; 86 Acts, ch 1214, §1

654.2C Mediation notice — foreclosure on agricultural property.

A person shall not initiate a proceeding under this chapter to foreclose a deed of trust or mortgage on agricultural property, as defined in section 654A.1, which is subject to chapter 654A and which is subject to a debt of twenty thousand dollars or more under the deed of trust or mortgage unless the person receives a mediation release under section 654A.11, or unless the court determines after notice and hearing that the time delay required for the mediation would cause the person to suffer irreparable harm. Title to land that is agricultural property is not affected by the failure of any creditor to receive a mediation release, regardless of its validity.

86 Acts, ch 1214, §12; 87 Acts, ch 73, §1
Legislative findings; 86 Acts, ch 1214, §1

654.2D Nonagricultural land — notice, right to cure default.

1. Except as provided in section 654.2A, a creditor shall comply with this section before initiating an action pursuant to this chapter or initiating the procedure established pursuant to chapter 655A to foreclose on a deed of trust or mortgage.

2. A creditor who believes in good faith that a borrower on a deed of trust or mortgage on a homestead is in default shall give the borrower a notice of right to cure as provided in section 654.2B. A creditor gives the notice when the creditor delivers the notice to the consumer or mails the notice to the borrower's residence as defined in section 537.1201, subsection 4.

3. The borrower has a right to cure the default within thirty days from the date the creditor gives the notice.

4. *a.* The creditor shall not accelerate the maturity of the unpaid balance of the obligation, demand or otherwise take possession of the land, otherwise than by accepting a voluntary surrender of it, or otherwise attempt to enforce the obligation until thirty days after a proper notice of right to cure is given.

b. Until the expiration of thirty days after notice is given, the borrower may cure the default by tendering either the amount of all unpaid installments due at the time of tender, without acceleration, or the amount stated in the notice of right to cure, whichever is less, or by tendering any other performance necessary to cure a default which is described in the notice of right to cure.

5. The act of curing a default restores to the borrower the borrower's rights under the obligation and the deed of trust or mortgage.

6. This section does not prohibit the creditor from enforcing the creditor's interest in the land at any time after the creditor has complied with this section and the borrower did not cure the alleged default.

7. A borrower has a right to cure the default unless the creditor has given the borrower a proper notice of right to cure with respect to a prior default which occurred within three hundred sixty-five days of the present default.

8. This section does not apply if the creditor is an individual or individuals, or if the mortgaged property is property other than a one-family or two-family dwelling which is the residence of the mortgagor.

9. An affidavit signed by an officer of the creditor that the creditor has complied with this section is deemed to be conclusive evidence of compliance by all persons other than the creditor and the mortgagor.

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10. As used in this section, *"creditor"* includes a person acting on behalf of a creditor.

87 Acts, ch 142, §14; 91 Acts, ch 46, §2
Referred to in §654.1A, 654.4B, 657A.3, 714E.1

654.3 Venue.

An action for the foreclosure of a mortgage of real property, or for the sale thereof under an encumbrance or charge thereon, shall be brought in the county in which the property to be affected, or some part thereof, is situated.

[C73, §2578; C97, §3493; C24, 27, 31, 35, 39, §**12374;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §654.3]

654.4 Separate suits on note and mortgage.

If separate actions are brought in the same county on the bond or note, and on the mortgage given to secure it, the plaintiff must elect which to prosecute. The other will be discontinued at the plaintiff's cost.

[C51, §2086; R60, §3663; C73, §3320; C97, §4288; C24, 27, 31, 35, 39, §**12375;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §654.4]
Action on certain judgments prohibited, chapter 615
Related provision, §611.5

654.4A Service of process — in rem relief.

In addition to any other form of service authorized by law, where in rem relief is the only relief requested in a foreclosure action or nonjudicial foreclosure under section 654.18 or chapter 655A against either a party or a person to be served with a notice pursuant to section 654.15B, all of the following shall apply:

1. If the person to be served is a judgment creditor, service may be made by certified mail, with proof of delivery, to the judgment creditor's registered agent or to the judgment creditor at the judgment creditor's principal place of business in the state where the business is organized, as indicated by the records in the office of the secretary of state, or to the judgment creditor at the last address indicated in the case in which the judgment was entered.

2. Upon affidavit that service cannot be made on a judgment creditor either pursuant to subsection 1 or by personal service in this state, service may be made by certified mail, with proof of delivery, on the judgment creditor's attorney of record if that attorney is a practicing attorney in this state, along with a copy of this section, and a payment of ten dollars. The attorney shall forward the notice by ordinary mail to the judgment creditor's last known address but the attorney shall have no further duties under this section with respect to the notice.

3. An attorney who agrees to accept service on behalf of a judgment creditor may charge a reasonable fee, not to exceed ten dollars, for accepting service.

4. If a person, other than a governmental taxing unit, is an interested person with respect to a decedent's estate in probate, the person may be named generally as a person interested in the decedent's estate and service of process shall be made by personal service or certified mail, along with proof of delivery, on the attorney for the personal representative. If the estate is probated in this state and a person has requested notice pursuant to section 633.42, the mortgagee shall also serve that person or the person's attorney by ordinary mail at the address specified in the request for notice. A person so served may intervene as a named defendant as a matter of right.

5. If a defendant, other than a governmental taxing unit, is a person whose identity is not reasonably ascertainable, and the person has an interest in a decedent's estate not probated in this state, such person may be named generally as a person with an interest in the decedent's estate and service of process shall be made by publication unless the mortgagee has actual notice that the decedent's estate is probated in another state. A person so served may intervene as a named defendant as a matter of right.

2009 Acts, ch 51, §5, 17; 2012 Acts, ch 1053, §2
Referred to in §614.21, 624.23, 654.18, 655A.4, 656.3, 657A.2

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654.4B Acceleration of indebtedness — notice of mortgage mediation assistance.

1. Prior to commencing a foreclosure on the accelerated balance of a mortgage loan and after termination of any applicable cure period, including but not limited to those provided in section 654.2A or 654.2D, a creditor shall give the borrower a fourteen-day demand for payment of the accelerated balance to qualify for an award of attorney fees under section 625.25 on the accelerated balance.

2. Prior to filing a petition under this chapter on a one-family or two-family dwelling that is the residence of the owner, the creditor shall inform the owner of the availability of counseling and mediation on a form as the attorney general may prescribe. The notice required by this section shall be mailed by ordinary mail to the owner along with the notice of acceleration or other initial communication from the attorney representing the creditor in the action, and shall also be served on the owner with the original notice and petition seeking foreclosure. If, following application by the owner or on its own motion, the court finds that the notice was not served on the owner as required by this subsection and that the owner desires counseling or mediation, the court shall grant to the owner a delay of the sheriff's sale or, in the event the sheriff's sale has occurred and the mortgagee or its affiliate was the winning bidder at the sheriff's sale, a delay of the recording of the sheriff's deed. In either case, the delay shall not exceed sixty days. If the affidavit of service for the original notice in the court file indicates that the notice required by this subsection was served on the owner, there shall be a rebuttable presumption that the notice was served as required by this subsection. The court may grant an application for a delay pursuant to this subsection ex parte only if the court file does not show service of the notice on the owner along with the original notice. Objection to the failure of the mortgagee to serve the notice is barred unless an application under this subsection is timely filed and is granted before the date of the sale or recording, respectively. If the court delays the sheriff's sale, the new sale date and time shall be announced orally by the sheriff at the time previously scheduled for sale, and the mortgagee need not republish and serve notice of the rescheduled sale.

2009 Acts, ch 51, §6, 16, 17; 2011 Acts, ch 134, §17, 29; 2012 Acts, ch 1134, §17, 21; 2013 Acts, ch 139, §54

Referred to in §657A.3

654.5 Judgment — sale and redemption.

1. When a mortgage or deed of trust is foreclosed, the court shall do all of the following:

a. Render judgment for the entire amount found to be due.

b. Direct the mortgaged property, or so much thereof as is necessary, to be sold to satisfy the judgment, with interest and costs.

c. Determine issues of title raised in the pleadings to establish the rights and priorities of the parties and persons served with notice pursuant to section 654.15B in the property subject to foreclosure as may be reasonably necessary to allow a purchaser at a sheriff's sale to obtain clear title.

2. A special execution shall issue under such conditions as the decree may prescribe, and the sale under the special execution is subject to redemption as in cases of sale under general execution unless the plaintiff has elected foreclosure without redemption under section 654.20.

3. The clerk shall provide a copy of the decree by ordinary or electronic mail to all parties in the foreclosure proceeding and all persons served with notices under section 654.15B.

[C51, §2084; R60, §3661; C73, §3321; C97, §4289; C24, 27, 31, 35, 39, §**12376;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §654.5]

87 Acts, ch 142, §2; 2009 Acts, ch 51, §7, 17

Redemption, chapter 628

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654.6 Deficiency — general execution.

If the mortgaged property does not sell for an amount which is sufficient to satisfy the execution, a general execution may be issued against the mortgagor, unless the parties have stipulated otherwise.

[C51, §2085; R60, §3662; C73, §3322; C97, §4290; C24, 27, 31, 35, 39, §**12377;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §654.6]

86 Acts, ch 1216, §3, 14; 2011 Acts, ch 34, §143

Referred to in §627.6, 654.25, 654.26

Execution on certain judgments prohibited, see §615.1

654.7 Overplus.

If there is an overplus remaining after satisfying the mortgage and costs, and if there is no other lien upon the property, such overplus shall be paid to the mortgagor.

[C51, §2089; R60, §3666; C73, §3324; C97, §4291; C24, 27, 31, 35, 39, §**12378;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §654.7]

654.8 Junior encumbrancer entitled to assignment.

At any time prior to the sale, a person having a lien on the property which is junior to the mortgage will be entitled to an assignment of all the interest of the holder of the mortgage, by paying the holder the amount secured, with interest and costs, together with the amount of any other liens of the same holder which are paramount to the person's. The person may then proceed with the foreclosure, or discontinue it, at the person's option.

[C51, §2088; R60, §3665; C73, §3323; C97, §4292; C24, 27, 31, 35, 39, §**12379;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §654.8]

Referred to in §654.17A

654.9 Payment of other liens — rebate of interest.

If there are any other liens on the property sold, or other payments secured by the same mortgage, they shall be paid off in their order. If the money secured by any such lien is not yet due, a rebate of interest, to be fixed by the court must be made by the holder, or the holder's lien on such property will be postponed to those of a junior date, and if there are none such, the balance shall be paid to the mortgagor.

[C51, §2090; R60, §3667; C73, §3325; C97, §4293; C24, 27, 31, 35, 39, §**12380;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §654.9]

654.9A Release of superior liens by bond.

At any time prior to the court's decree, the plaintiff, or a person guaranteeing title of the plaintiff's mortgage, may post a bond with sureties to be approved by the clerk and apply to the court to release the claim against the property of any person claiming a lien superior to that of the plaintiff in the property subject to foreclosure. The bond shall be in an amount not less than twice the amount of the claim, and notice of the bond and the court's order of release shall be served on the claimant. Unless the claimant has appeared in the foreclosure action, the service shall be by personal service. Unless the claimant files an action on the bond within twelve months from service of the notice, the claimant shall be barred from any further remedy. In a successful action on the bond, the court may award the claimant reasonable attorney fees. A guarantor filing such a bond shall be subrogated to any defenses which the plaintiff may have against the adverse claimant, including but not limited to a defense of lack of equity in the mortgaged property to secure the adverse claim in its proper priority.

2006 Acts, ch 1132, §7, 16

654.10 Amount sold.

As far as practicable, the property sold must be only sufficient to satisfy the mortgage foreclosed.

[C51, §2091; R60, §3668; C73, §3326; C97, §4294; C24, 27, 31, 35, 39, §**12381;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §654.10]

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654.11 Foreclosure of title bond.

In cases where the vendor of real estate has given a bond or other writing to convey the same on payment of the purchase money, and such money or any part thereof remains unpaid after the day fixed for payment, whether time is or is not of the essence of the contract, the vendor may file a petition asking the court to require the purchaser to perform the purchaser's contract, or to foreclose and sell the purchaser's interest in the property.

[C51, §2094; R60, §3671; C73, §3329; C97, §4297; C24, 27, 31, 35, 39, §**12382;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §654.11]

654.12 Vendee deemed mortgagor.

The vendee shall in such cases, for the purpose of the foreclosure, be treated as a mortgagor of the property purchased, and the vendee's rights may be foreclosed in a similar manner.

[C51, §2095; R60, §3672; C73, §3330; C97, §4298; C24, 27, 31, 35, 39, §**12383;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §654.12]

654.12A Priority of advances under mortgages.

1. Subject to section 572.18, if a prior recorded mortgage contains the notice prescribed in this section and identifies the maximum credit available to the borrower, then loans and advances made under the mortgage, up to the maximum amount of credit together with interest thereon, are senior to indebtedness to other creditors under subsequently recorded mortgages and other subsequently recorded or filed liens even though the holder of the prior recorded mortgage has actual notice of indebtedness under a subsequently recorded mortgage or other subsequently recorded or filed lien. So long as credit is available to the borrower, payment of the outstanding mortgage balance to zero shall not extinguish the prior recorded mortgage if it contains the notice prescribed by this section. The notice prescribed by this section for the prior recorded mortgage is as follows:

> NOTICE: This mortgage secures credit in the amount of ..... Loans and advances up to this amount, together with interest, are senior to indebtedness to other creditors under subsequently recorded or filed mortgages and liens.

2. However, the priority of a prior recorded mortgage under this section does not apply to loans or advances made after receipt of notice of foreclosure or action to enforce a subsequently recorded mortgage or other subsequently recorded or filed lien.

84 Acts, ch 1272, §2; 90 Acts, ch 1001, §1; 2013 Acts, ch 30, §194

Referred to in §535.10

654.12B Priority of recorded purchase money mortgage lien.

1. The lien created by a recorded purchase money mortgage shall have priority over and is senior to preexisting judgments against the purchaser and any other right, title, interest, or lien arising either directly or indirectly by, through, or under the purchaser. A mortgage is a purchase money mortgage to the extent it is either:

a. Taken or retained by the seller of the real estate to secure all or part of its price, including all costs in connection with the purchase.

b. Taken by a lender who, by making an advance or incurring an obligation, provides funds to enable the purchaser to acquire rights in the real estate, including all costs in connection with the purchase, if the funds are in fact so used. Except when it is a refinancing of an existing purchase money mortgage between the same lender and purchaser and no new funds are advanced, a mortgage given to secure funds which are used to pay off another mortgage is not a purchase money mortgage.

2. If more than one purchase money mortgage exists, the first mortgage to be recorded has priority. In order to be entitled to the rights provided by this section, the mortgage must contain a recital that it is a purchase money mortgage. However, failure to include the recital in the mortgage shall not prevent a mortgage otherwise qualifying as a purchase money mortgage from being a purchase money mortgage for purposes other than this section. The

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rights in this section are in addition to, and the obligations are not in derogation of, all rights provided by common law.

95 Acts, ch 175, §2; 96 Acts, ch 1137, §1, 2; 2013 Acts, ch 30, §261
Referred to in §561.13

654.13 Pledge of rents — priority.

Whenever any real estate is encumbered by two or more real estate mortgages which in addition to the lien upon the real estate grant to the mortgagee the right to subject the rents, profits, avails, or income from said real estate to the payment of the debt secured by such mortgage, the priority of the respective mortgagees under the provisions of their mortgages affecting the rents, profits, avails, or incomes from the said real estate shall, as between such mortgagees, be in the same order as the priority of the lien of their respective mortgages on the real estate.

[C35, §12383-e1; C39, §**12383.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §654.13]
2015 Acts, ch 30, §188

654.14 Preference in receivership — application of rents.

1. In an action to foreclose a real estate mortgage, if a receiver is appointed to take charge of the real estate, preference shall be given to the owner or person in actual possession, subject to approval of the court, in leasing the mortgaged premises. If the real estate is agricultural land used for farming, as defined in section 9H.1, the owner or person in actual possession shall be appointed as receiver without bond, provided that all parties agree to the appointment. The rents, profits, avails, and income derived from the real estate shall be applied as follows:

a. To the cost of receivership.

b. To the payment of taxes due or becoming due during said receivership.

c. To pay the insurance on buildings on the premises or such other benefits to the real estate, or both, as may be ordered by the court.

d. The balance shall be paid and distributed as determined by the court.

2. If the owner or person in actual possession of agricultural land as defined in section 9H.1 is not afforded a right of first refusal in leasing the mortgaged premises by the receiver, the owner or person in actual possession has a cause of action against the receiver to recover either actual damages or a one thousand dollar penalty, and costs, including reasonable attorney fees. The receiver shall deliver notice of an offer made to the receiver to the owner or person in actual possession or the attorney of the owner or person in actual possession, which contains the terms of the offer and the name and address of the person making the offer. The delivery shall be made personally with receipt returned or by certified or registered mail, with the proper postage on the envelope, addressed to the owner or person in actual possession or the attorney of the owner or person in actual possession. An offer shall be deemed to have been refused if the owner or person in actual possession or the attorney of the owner or person in actual possession does not respond within ten days following the date that the notice is mailed.

[C35, §12383-e2; C39, §**12383.2;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §654.14]
86 Acts, ch 1214, §13; 87 Acts, ch 142, §3; 2013 Acts, ch 90, §181; 2015 Acts, ch 30, §189

654.15 Continuance — moratorium.

1. *a.* In all actions for the foreclosure of real estate mortgages, deeds of trust of real property, and contracts for the purchase of real estate, when the owner enters an appearance and files an answer admitting some indebtedness and breach of the terms of the designated instrument, which admissions cannot be withdrawn or denied after a continuance is granted, the owner may apply for a continuance of the foreclosure action if the default or inability of the owner to pay or perform is mainly due or brought about by reason of drought, flood, heat, hail, storm, or other climatic conditions or by reason of the infestation of pests which affect the land in controversy. The application must be in writing and filed at or before final decree. Upon the filing of the application the court shall set a day for hearing on the application and provide by order for notice to be given to the plaintiff of the time fixed for the hearing.

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If the court finds that the application is made in good faith and is supported by competent evidence showing that default in payment or inability to pay is due to drought, flood, heat, hail, storm, or other climatic conditions or due to infestation of pests, the court may continue the foreclosure proceeding as follows:

(1) If the default or breach of terms of the written instrument on which the action is based occurs on or before the first day of March of any year by reason of any of the causes specified in this subsection, causing the loss and failure of crops on the land involved in the previous year, the continuance shall end on the first day of March of the succeeding year.

(2) If the default or breach of terms of the written instrument occurs after the first day of March, but during that crop year and that year's crop fails by reason of any of the causes set out in this subsection, the continuance shall end on the first day of March of the second succeeding year.

(3) Only one continuance shall be granted, except upon a showing of extraordinary circumstances in which event the court may grant a second continuance for a further period as the court deems just and equitable, not to exceed one year.

(4) The order shall provide for the appointment of a receiver to take charge of the property and to rent the property. The owner or person in possession shall be given preference in the occupancy of the property. The receiver, who may be the owner or person in possession, shall collect the rents and income and distribute the proceeds as follows:

(a) For the payment of the costs of receivership.

(b) For the payment of taxes due or becoming due during the period of receivership.

(c) For the payment of insurance on the buildings on the premises.

(d) The remaining balance shall be paid to the owner of the written instrument upon which the foreclosure is based, to be credited on the instrument.

b. An owner of a small business may apply for a continuance as provided in this subsection if the real estate subject to foreclosure is used for the small business. The court may continue the foreclosure proceeding if the court finds that the application is made in good faith and is supported by competent evidence showing that the default in payment or inability to pay is due to the economic condition of the customers of the small business, because the customers of the small business have been significantly economically distressed as a result of drought, flood, heat, hail, storm, or other climatic conditions or due to infestation of pests. The length of the continuance shall be determined by the court, but shall not exceed two years.

2. In all actions for the foreclosure of real estate mortgages, deeds of trust of real estate, and contracts for the purchase of real estate, an owner of real estate may apply for a moratorium as provided in this subsection if the governor declares a state of economic emergency. The governor shall state in the declaration the types of real estate eligible for a moratorium continuance, which may include real estate used for farming; designated types of real estate not used for farming, including real estate used for small business; or all real estate. Only property of a type specified in the declaration which is subject to a mortgage, deed of trust, or contract for purchase entered into before the date of the declaration is eligible for a moratorium. In an action for the foreclosure of a mortgage, deed of trust, or contract for purchase of real estate eligible for a moratorium, the owner may apply for a continuation of the foreclosure if the owner has entered an appearance and filed an answer admitting some indebtedness and breach of the terms of the designated instrument. The admissions cannot be withdrawn or denied after a continuance is granted. Applications for continuance made pursuant to this subsection must be filed within one year of the governor's declaration of economic emergency. Upon the filing of an application as provided in this subsection, the court shall set a date for hearing and provide by order for notice to the parties of the time for the hearing. If the court finds that the application is made in good faith and the owner is unable to pay or perform, the court may continue the foreclosure proceeding as follows:

a. If the application is made in regard to real estate used for farming, the continuance shall terminate two years from the date of the order. If the application is made in regard to real estate not used for farming, the continuance shall terminate one year from the date of the order.

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b. Only one continuance shall be granted the applicant for each written instrument or contract under each declaration.

c. The court shall appoint a receiver to take charge of the property and to rent the property. The applicant shall be given preference in the occupancy of the property. The receiver, who may be the applicant, shall collect the rents and income and distribute the proceeds as follows:

(1) For the payment of the costs of receivership, including the required interest on the written instrument and the costs of operation.

(2) For the payment of taxes due or becoming due during the period of receivership.

(3) For the payment of insurance deemed necessary by the court including but not limited to insurance on the buildings on the premises and liability insurance.

(4) The remaining balance shall be paid to the owner of the written instrument upon which the foreclosure was based, to be credited against the principal due on the written instrument.

d. A continuance granted under this subsection may be terminated if the court finds, after notice and hearing, all of the following:

(1) The party seeking foreclosure has made reasonable efforts in good faith to work with the applicant to restructure the debt obligations of the applicant.

(2) The party seeking foreclosure has made reasonable efforts in good faith to work with the applicant to utilize state and federal programs designed and implemented to provide debtor relief options. For the purposes of subparagraph (1) and this subparagraph, the determination of reasonableness shall take into account the financial condition of the party seeking foreclosure, and the financial strength and the long-term financial survivorship potential of the applicant.

(3) The applicant has failed to pay interest due on the written instrument.

[C39, §**12383.3;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §654.15]

85 Acts, ch 250, §1, 2; 86 Acts, ch 1216, §7 – 9; 87 Acts, ch 115, §80; 2007 Acts, ch 54, §43; 2013 Acts, ch 30, §261

654.15A Notice of sale to junior creditors.

A junior creditor may file and serve on the judgment creditor a request for notice of the sheriff's sale. Such request for notice shall include a facsimile number or electronic mail address where the creditor shall be notified of the sale. At least ten days prior to the date of sale, the attorney for the junior creditor shall file proof of service of such request for notice. Upon motion filed within thirty days of the sale, the court may set aside a sale in which a junior creditor who requests notice is damaged by the failure of the sheriff or the judgment creditor to give notice pursuant to this section.

2006 Acts, ch 1132, §8, 16; 2007 Acts, ch 126, §105

654.15B Right to intervene — notice.

A lender may serve a judgment creditor in a foreclosure action with notice in substantially the following form advising the creditor that the property that is the subject of the foreclosure action shall be foreclosed and describing the creditor's interest in the action and that unless such creditor intervenes in the foreclosure action such creditor shall lose the creditor's interest in the mortgaged property. Unless the creditor intervenes within thirty days of the service of notice, the court may adjudicate the creditor's rights against the property as if the creditor had been added as a defendant and default had been entered against the defendant. If a creditor cannot be located for personal service, the plaintiff may, at any time prior to sixty days before the date of trial, amend the petition as a matter of right to add the creditor as a defendant for service by publication as provided by rule. The notice prescribed by this section is as follows:

NOTICE OF PENDING FORECLOSURE

To: (Name and address of creditor)

Date: (Enter date)

(Name of foreclosing party) has filed a foreclosure of mortgage against the property of (titleholder) located at (street address of property) which is legally described as (legal description). This

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foreclosure was filed as (Plaintiff v. Defendant), Case # (.....), in the Iowa District Court for (.....) County and is intended to foreclose a mortgage dated (date of mortgage) and recorded on (date of recording) in the (county recorder's office). You have an apparent interest in the property because of an apparent judgment lien in (short caption of case, case number, court where judgment entered, and judgment date). If you desire to protect this interest, you have the right to intervene in the foreclosure action within thirty days of the service of notice by filing an intervention with the clerk of court in (.....) County. Unless you intervene in the foreclosure, the foreclosure may eliminate any interest you have in the property but will not otherwise affect your rights. If you have any questions about this notice, contact your attorney. Whether or not you intervene, the foreclosure may have certain tax consequences to you about which you should consult your tax advisor.

.....

Name, address, and telephone number of attorney representing (name of foreclosing party).

2006 Acts, ch 1132, §9, 16; 2009 Acts, ch 51, §8, 17
Referred to in §654.4A, 654.5, 654.17A

654.16 Separate redemption of homestead.

1. If a sheriff's sale is ordered on agricultural land used for farming, as defined in section 16.58, the mortgagor may, by a date set by the court but not later than ten days before the sale, designate to the court the portion of the land which the mortgagor claims as a homestead. The homestead may be any contiguous portion of forty acres or less of the real estate subject to the sheriff's sale. The homestead shall contain the residence of the mortgagor and shall be as compact as practicable.

2. If a homestead is designated, the court shall determine the fair market value of the designated homestead before the sheriff's sale. The court may consult with the county appraisers appointed pursuant to section 450.24 for deaths occurring before January 1, 2025, or with one or more independent appraisers, to determine the fair market value of the designated homestead.

3. The mortgagor may redeem the designated homestead by tendering the lesser of either any amount separately bid for the designated homestead at the sheriff's sale pursuant to procedures set forth in chapter 628, or the fair market value, as determined pursuant to this section, of the designated homestead at any time within one year from the date of the sheriff's sale, pursuant to the procedures set forth in chapter 628.

86 Acts, ch 1216, §2; 87 Acts, ch 142, §4, 5; 90 Acts, ch 1245, §2; 2014 Acts, ch 1080, §95, 98; 2025 Acts, ch 148, §52 – 54

2025 amendment to subsection 2 applies retroactively to January 1, 2025, to the estates of decedents dying on or after January 1, 2025; 2025 Acts, ch 148, §54

654.16A Right of first refusal following recording of sheriff's deed to agricultural land.

1. Not later than the time a sheriff's deed to agricultural land used for farming, as defined in section 16.58, is recorded, the grantee recording the sheriff's deed shall notify the mortgagor of the mortgagor's right of first refusal. The grantee shall record the sheriff's deed within one year and sixty days from the date of the sheriff's sale. A copy of this section, titled "Notice of Right of First Refusal" is sufficient notice.

2. If, after a sheriff's deed is recorded, the grantee proposes to sell or otherwise dispose of the agricultural land, in a transaction other than a public auction, the grantee shall first offer the mortgagor the opportunity to repurchase the agricultural land on the same terms and at the same price that the grantee proposes to sell or dispose of the agricultural land. If the grantee seeks to sell or otherwise dispose of the agricultural land by public auction, the mortgagor must be given sixty days' notice of all of the following:

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a. The date, time, place, and procedures of the auction sale.

b. Any minimum terms or limitations imposed upon the auction.

3. The grantee is not required to offer the mortgagor financing for the purchase of the agricultural land.

4. The mortgagor has ten business days after being given notice of the terms and price of the proposed sale or disposition, other than a public auction, in which to exercise the right to repurchase the agricultural land by submitting a binding offer to the grantee on the same terms as the proposed sale or other disposition, with closing to occur within thirty days after the offer unless otherwise agreed by the grantee. After the expiration of either the period for offer or the period for closing, without submission of an offer or a closing occurring, the grantee may sell or otherwise dispose of the agricultural land to any other person on the terms upon which it was offered to the mortgagor.

5. Notice of the mortgagor's right of first refusal, a proposed sale, auction, or other disposition, or the submission of a binding offer by the mortgagor, is considered given on the date that notice or offer is personally served on the other party or on the date that notice or offer is mailed to the other party's last known address by registered or certified mail, return receipt requested. The right of first refusal provided in this section is not assignable, but may be exercised by the mortgagor's successor in interest, receiver, personal representative, executor, or heir only in case of bankruptcy, receivership, or death of the mortgagor.

90 Acts, ch 1245, §3; 2014 Acts, ch 1080, §96, 98

Referred to in §455B.172, 558A.1

654.17 Rescission of foreclosure.

1. At any time prior to the recording of the sheriff's deed, and before the mortgagee's rights become unenforceable by operation of the statute of limitations, the judgment creditor, or the judgment creditor who is the successful bidder at the sheriff's sale, may rescind the foreclosure action by filing a notice of rescission with the clerk of court in the county in which the property is located along with a filing fee of fifty dollars. In addition, if the original loan documents are contained in the court file, the mortgagee shall pay a fee of twenty-five dollars to the clerk of the district court. Upon the payment of the fee, the clerk shall make copies of the original loan documents for the court file, and return the original loan documents to the mortgagee.

2. Upon the filing of the notice of rescission, the mortgage loan shall be enforceable according to the original terms of the mortgage loan and the rights of all persons with an interest in the property may be enforced as if the foreclosure had not been filed. Except as otherwise provided in this section, the filing of a rescission shall operate as a setting aside of the decree of foreclosure and a dismissal of the foreclosure without prejudice, with costs assessed against the plaintiff. However, any findings of fact or law shall be preclusive for purposes of any future action unless the court, upon hearing, rules otherwise and the mortgagee shall be permanently barred from a deficiency judgment if the judgment rescinded was subject to the provisions of section 615.1. The mortgagee may charge the mortgagor for the costs, including reasonable attorney fees, of foreclosure and rescission if agreed to in writing by the mortgagor.

2006 Acts, ch 1132, §10, 16; 2007 Acts, ch 71, §5; 2007 Acts, ch 126, §106; 2009 Acts, ch 51, §9, 17; 2017 Acts, ch 54, §76

654.17A Sale free of liens.

At any time during the pendency of the foreclosure, the plaintiff may apply to the court for an order approving an offer for a commercially reasonable sale of the property free of the claims of the parties to the action and other persons served with notice pursuant to section 654.15B. A copy of the offer shall be attached to the application and the application shall contain a written consent to the proposed sale by all equitable titleholders who have not abandoned the property. The court may grant the motion unless a party in interest objects in writing during such time as the court may prescribe. A person filing an objection with a claim junior to the plaintiff shall either apply for assignment of senior claims pursuant to section 654.8, otherwise provide adequate protection to senior creditors, or establish that a sheriff's

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sale is substantially more likely than the proposed sale to provide the creditor with more favorable satisfaction of its lien. Pending resolution of the rights of the parties and persons served with notice pursuant to section 654.15B, the court shall place the net proceeds of the sale in escrow after payment of reasonable closing costs. The rights of such persons to the escrowed funds shall be determined in the same manner as their rights to the property that was sold.

2006 Acts, ch 1132, §11, 16

654.17B Divestment of junior liens pursuant to loan modification — repeal. Repealed by its own terms; 2009 Acts, ch 51, §10.

654.17C Military foreclosure protection — notice.

1. Except as provided under chapter 29A, or the federal Servicemembers Civil Relief Act of 2003, 50 U.S.C. app. 532 and 533, a creditor shall not initiate a proceeding to enforce an obligation payable under its terms in installments under a contract for the purchase of real estate, or secured by a mortgage or other instrument in the nature of a mortgage upon real estate, against a borrower, or a borrower's dependents, who is a member of the national guard or a member of the reserve or regular component of the armed forces of the United States in active duty service. Enforcement of an obligation shall not be permitted under the following circumstances:

a. The borrower is a member of the national guard and has been afforded protection under the Iowa national guard civil relief provisions contained in chapter 29A, subchapter VI. A creditor who enforces an obligation in violation of chapter 29A, subchapter VI, is subject to applicable penalty provisions contained in sections 29A.102 and 29A.103.

b. The borrower is a member of the reserve or regular component of the armed forces of the United States in active duty service and has been afforded protection under the federal Servicemembers Civil Relief Act of 2003, 50 U.S.C. app. 532 and 533. A creditor who enforces an obligation in violation of the federal Act is subject to applicable penalty provisions contained in the federal Act.

2. The department of veterans affairs and the department of insurance and financial services shall coordinate to develop a procedure to inform or notify members of the national guard, reserve, or regular component of the armed forces of the United States, and financial institutions as defined in section 12C.1, of the protections referenced in subsection 1. The notification procedure shall include, at a minimum, posting the information on an official internet site maintained by each department.

2009 Acts, ch 166, §3; 2024 Acts, ch 1043, §104

SUBCHAPTER II

ALTERNATIVE PROCEDURES

654.18 Alternative nonjudicial voluntary foreclosure procedure.

1. Upon the mutual written agreement of the mortgagor and mortgagee, a real estate mortgage may be foreclosed pursuant to this section by doing all of the following:

a. The mortgagor shall convey to the mortgagee all interest in the real property subject to the mortgage.

b. The mortgagee shall accept the mortgagor's conveyance and waive any rights to a deficiency or other claim against the mortgagor arising from the mortgage.

c. The mortgagee shall have immediate access to the real property for the purposes of maintaining and protecting the property.

d. The mortgagor and mortgagee shall file a jointly executed document with the county recorder in the county where the real property is located stating that the mortgagor and mortgagee have elected to follow the alternative voluntary foreclosure procedures pursuant to this section.

e. (1) The mortgagee shall send by certified mail a notice of the election to all junior

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lienholders as of the date of the conveyance under paragraph *"a"*, stating that the junior lienholders have thirty days from the date of mailing to exercise any rights of redemption. The notice may also be given in the manner prescribed in section 656.3 in which case the junior lienholders have thirty days from the completion of publication to exercise the rights of redemption.

(2) In addition to any other form of service authorized by law, service of process in an alternative nonjudicial voluntary foreclosure procedure filed pursuant to this section where in rem relief is the only relief requested shall be served in the manner provided in section 654.4A.

f. At the time the mortgagor signs the written agreement pursuant to this subsection, the mortgagee shall furnish the mortgagor a completed form in duplicate, captioned "Disclosure and Notice of Cancellation". The form shall be attached to the written agreement, shall be in ten point boldface type and shall be in the following form:

DISCLOSURE AND NOTICE
OF CANCELLATION

.....
(enter date of transaction)

Under a forced foreclosure Iowa law requires that you have the right to reclaim your property within one year of the date of the foreclosure and that you may continue to occupy your property during that time. If you agree to a voluntary foreclosure under this procedure you will be giving up your right to reclaim or occupy your property.

Under a forced foreclosure, if your mortgage lender does not receive enough money to cover what you owe when the property is sold, you will still be required to pay the difference. If your mortgage lender receives more money than you owe, the difference must be paid to you. If you agree to a voluntary foreclosure under this procedure you will not have to pay the amount of your debt not covered by the sale of your property but you also will not be paid any extra money, if any, over the amount you owe. NOTE: There may be other advantages and disadvantages, including an effect on your income tax liability, to you depending on whether you agree or do not agree to a voluntary foreclosure. If you have any questions or doubts, you are advised to discuss them with your mortgage lender or an attorney.

You may cancel this transaction, without penalty or obligation, within five business days from the above date.

This transaction is entirely voluntary. You cannot be required to sign the attached foreclosure agreement.

This voluntary foreclosure agreement will become final unless you sign and deliver or mail this notice of cancellation to ..... (name of mortgagee) before midnight of ..... (enter proper date).

I HEREBY CANCEL THIS TRANSACTION.

....
DATE SIGNATURE

2. A junior lienholder may redeem the real property pursuant to section 628.29. If a junior lienholder fails to redeem its lien as provided in subsection 1, its lien shall be removed from the property.

3. Until the completion of foreclosure pursuant to this section, the mortgagee shall hold the real property subject to liens of record at the time of the conveyance by the mortgagor. However, the lien of the mortgagee shall remain prior to liens which were junior to the mortgage at the time of conveyance by the mortgagor to the mortgagee and may be foreclosed as provided otherwise by law.

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4. A mortgagee who agrees to a foreclosure pursuant to this section shall not report to a credit bureau that the mortgagor is delinquent on the mortgage. However, the mortgagee may report that this foreclosure procedure was used.

85 Acts, ch 252, §46; 2012 Acts, ch 1053, §3
Referred to in §455B.751, 628.29, 654.1, 654.4A

654.19 Deed in lieu of foreclosure — agricultural land.

In lieu of a foreclosure action in court due to default on a recorded mortgage or deed of trust of real property, if the subject property is agricultural land used for farming, as defined in section 9H.1, the mortgagee and mortgagor may enter into an agreement in which the mortgagor agrees to transfer the agricultural land to the mortgagee in satisfaction of all or part of the mortgage obligation as agreed upon by the parties. The agreement may grant the mortgagor a right to purchase the agricultural land for a period not to exceed five years, and may entitle the mortgagor to lease the agricultural land. The agreement shall be recorded with the deed transferring title to the mortgagee. A transfer of title and agreement pursuant to this section does not constitute an equitable mortgage.

85 Acts, ch 252, §47
Referred to in §455B.751, 615.4

654.20 Foreclosure without redemption — nonagricultural land.

1. If the mortgaged property is not used for an agricultural purpose as defined in section 535.13, the plaintiff in an action to foreclose a real estate mortgage may include in the petition an election for foreclosure without redemption. The election is effective only if the first page of the petition contains the following notice in capital letters of the same type or print size as the rest of the petition:

NOTICE

THE PLAINTIFF HAS ELECTED FORECLOSURE WITHOUT REDEMPTION. THIS MEANS THAT THE SALE OF THE MORTGAGED PROPERTY WILL OCCUR PROMPTLY AFTER ENTRY OF JUDGMENT UNLESS YOU FILE WITH THE COURT A WRITTEN DEMAND TO DELAY THE SALE. IF YOU FILE A WRITTEN DEMAND, THE SALE WILL BE DELAYED UNTIL SIX MONTHS (or THREE MONTHS if the petition includes a waiver of deficiency judgment) FROM ENTRY OF JUDGMENT IF THE MORTGAGED PROPERTY IS YOUR RESIDENCE AND IS A ONE-FAMILY OR TWO-FAMILY DWELLING OR UNTIL TWO MONTHS FROM ENTRY OF JUDGMENT IF THE MORTGAGED PROPERTY IS NOT YOUR RESIDENCE OR IS YOUR RESIDENCE BUT NOT A ONE-FAMILY OR TWO-FAMILY DWELLING. YOU WILL HAVE NO RIGHT OF REDEMPTION AFTER THE SALE. THE PURCHASER AT THE SALE WILL BE ENTITLED TO IMMEDIATE POSSESSION OF THE MORTGAGED PROPERTY. YOU MAY PURCHASE AT THE SALE.

2. If the plaintiff has not included in the petition a waiver of deficiency judgment, then the notice shall include the following:

IF YOU DO NOT FILE A WRITTEN DEMAND TO DELAY THE SALE AND IF THE MORTGAGED PROPERTY IS YOUR RESIDENCE AND IS A ONE-FAMILY OR TWO-FAMILY DWELLING, THEN A DEFICIENCY JUDGMENT WILL NOT BE ENTERED AGAINST YOU. IF YOU DO FILE A WRITTEN DEMAND TO DELAY THE SALE, THEN A DEFICIENCY JUDGMENT MAY BE ENTERED AGAINST YOU IF THE PROCEEDS FROM THE SALE OF THE MORTGAGED PROPERTY ARE INSUFFICIENT TO SATISFY THE AMOUNT OF THE MORTGAGE DEBT AND COSTS.

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IF THE MORTGAGED PROPERTY IS NOT YOUR RESIDENCE OR IS NOT A ONE-FAMILY OR TWO-FAMILY DWELLING, THEN A DEFICIENCY JUDGMENT MAY BE ENTERED AGAINST YOU WHETHER OR NOT YOU FILE A WRITTEN DEMAND TO DELAY THE SALE.

3. If the election for foreclosure without redemption is made, then sections 654.21 through 654.26 apply.

87 Acts, ch 142, §6; 2013 Acts, ch 30, §195; 2018 Acts, ch 1148, §4
Referred to in §455B.751, 628.1A, 654.1A, 654.5, 654.20A

654.20A Rights reserved.

A mortgage or deed of trust shall not contain the notice under section 654.20.

87 Acts, ch 142, §15

654.21 Demand for delay of sale.

At any time prior to entry of judgment, the mortgagor may file a demand for delay of sale. If the demand is filed, the sale shall be held promptly after the expiration of two months from entry of judgment. However, if the demand is filed and the mortgaged property is the residence of the mortgagor and is a one-family or two-family dwelling, the sale shall be held promptly after the expiration of six months, or three months if the petition includes a waiver of deficiency judgment, from entry of judgment. If the demand is filed, the mortgagor and mortgagee subsequently may file a stipulation that the sale may be held promptly after the stipulation is filed and that the mortgagee waives the right to entry of a deficiency judgment. If the stipulation is filed, the sale shall be held promptly after the filing. At any time prior to judgment, the mortgagor may pay the plaintiff the amount claimed in the petition and, if paid, the foreclosure action shall be dismissed. At any time after judgment and before the sale, the mortgagor may pay the plaintiff the amount of the judgment and, if paid, the judgment shall be satisfied of record and the sale shall not be held.

87 Acts, ch 142, §7; 2018 Acts, ch 1148, §5
Referred to in §654.1A, 654.20, 654.26

654.22 No demand for delay of sale.

If the mortgagor does not file a demand for delay of sale, the sale shall be held promptly after entry of judgment.

87 Acts, ch 142, §8
Referred to in §654.20

654.23 No redemption rights after sale.

The mortgagor has no right to redeem after sale. Junior lienholders have no right to redeem after sale. The mortgagee or a junior lienholder may purchase at the sale and, if so, acquire the same title as would any other purchaser other than the mortgagor. If the mortgagor at the sale bids an amount equal to the judgment, the property shall be sold to the mortgagor even though other persons may bid an amount which is more than the judgment. If the mortgagor purchases at the sale, the liens of junior lienholders shall not be extinguished. If a person other than the mortgagor purchases at the sale, the liens of junior lienholders are extinguished.

87 Acts, ch 142, §9; 2016 Acts, ch 1073, §177
Referred to in §654.20

654.24 Deed and possession.

The purchaser at the sale is entitled to an immediate deed and immediate possession.

87 Acts, ch 142, §10
Referred to in §654.20

654.25 Application of other statutes.

If the plaintiff has elected foreclosure without redemption, chapter 628 does not apply. A provision in a mortgage permitted by section 628.26 or 628.27 shall not be construed as an

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agreement by the mortgagee not to elect foreclosure without redemption. The election may be made in any petition filed on or after June 4, 1987. The election for foreclosure without redemption is not a waiver of the plaintiff's rights under section 654.6 except as provided in section 654.26.

87 Acts, ch 142, §11
Referred to in §654.20

654.26 No deficiency judgment in certain cases.

If the plaintiff has elected foreclosure without redemption, the plaintiff may include in the petition a waiver of deficiency judgment. If the plaintiff has elected foreclosure without redemption and does not include in the petition a waiver of deficiency judgment, if the mortgaged property is the residence of the mortgagor and is a one-family or two-family dwelling, and if the mortgagor does not file a demand for delay of sale under section 654.21, then the plaintiff shall not be entitled to the entry of a deficiency judgment under section 654.6.

87 Acts, ch 142, §12
Referred to in §654.1A, 654.20, 654.25

CHAPTER 654A

FARM MEDIATION — FARMER-CREDITOR DISPUTES

Referred to in §13.13, 13.15, 468.190, 654.2A, 654.2C

Legislative findings; 90 Acts, ch 1143, §1

654A.1 Definitions.
654A.2 and 654A.3 Repealed by 90 Acts, ch 1143, §30.
654A.4 Applicability of chapter.
654A.5 Voluntary mediation proceedings.
654A.6 Mandatory mediation proceedings.
654A.7 Financial analyst and legal assistance.
654A.8 Initial mediation meeting.
654A.9 Duties of mediator.
654A.10 Mediation period.
654A.11 Mediation release.
654A.12 Extension of deadlines.
654A.13 Confidentiality.
654A.14 and 654A.15 Repealed by 90 Acts, ch 1143, §30.
654A.16 Wetland designation.
654A.17 Repealed by 94 Acts, ch 1106, §1.

654A.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Agricultural property"* means agricultural land that is principally used for farming as defined in section 9H.1, and personal property that is used as security to finance a farm operation or used as part of a farm operation including equipment, crops, livestock, and proceeds of the security.

2. *"Coordinator"* means the farm assistance program coordinator provided in section 13.13.

3. *"Creditor"* means the holder of a mortgage on agricultural property, a vendor of a real estate contract for agricultural property, a person with a lien or security interest in agricultural property, or a judgment creditor with a judgment against a debtor with agricultural property.

4. *"Farm mediation service"* means the organization selected pursuant to section 13.13.

5. *"File"* means to deliver by the required date by certified mail or another method acknowledging receipt.

6. *"Mediation release"* means an agreement or statement signed by all parties or by less than all the parties and the mediator pursuant to section 654A.11.

7. *"Participate"* or *"participation"* means attending a mediation meeting, and discussing issues, stating a position regarding restructuring, and exchanging information, relating to any of the following: a debt against agricultural property which is real estate under chapter 654; a forfeiture of a contract to purchase agricultural property under chapter 656; a secured

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interest in agricultural property under chapter 554; or a garnishment, levy, execution, seizure, or attachment of agricultural property; all as referenced in section 654A.6.

86 Acts, ch 1214, §14; 90 Acts, ch 1143, §9, 10
Referred to in §654.2C, 654A.6, 656.8

654A.2 and 654A.3 Repealed by 90 Acts, ch 1143, §30. See §13.13.

654A.4 Applicability of chapter.

1. This chapter applies to all creditors of a borrower described under subsection 2 with a secured debt against the borrower of twenty thousand dollars or more.

2. This chapter applies to a borrower who is a natural person operating a farm or any corporation, trust, or limited partnership as defined in section 9H.1.

86 Acts, ch 1214, §17; 89 Acts, ch 108, §2

654A.5 Voluntary mediation proceedings.

A borrower who owns agricultural property or a creditor of that borrower may request mediation of the indebtedness by applying to the farm mediation service. The farm mediation service shall make voluntary mediation application forms available. The farm mediation service shall evaluate each request and may direct a mediator to meet with the borrower and creditor to assist in mediation.

86 Acts, ch 1214, §18

654A.6 Mandatory mediation proceedings.

1. *a.* A creditor subject to this chapter desiring to initiate a proceeding to enforce a debt against agricultural property which is real estate under chapter 654, to forfeit a contract to purchase agricultural property under chapter 656, to enforce a secured interest in agricultural property under chapter 554, or to otherwise garnish, levy on, execute on, seize, or attach agricultural property, shall file a request for mediation with the farm mediation service. The creditor shall not begin the proceeding subject to this chapter until the creditor receives a mediation release, or until the court determines after notice and hearing that the time delay required for the mediation would cause the creditor to suffer irreparable harm. Title to land that is agricultural property is not affected by the failure of any creditor to receive a mediation release regardless of its validity. The time period for the notice of right to cure provided in section 654.2A shall run concurrently with the time period for the mediation period provided in this section and section 654A.10.

b. The requirements of paragraph *"a"* are jurisdictional prerequisites to a creditor filing a civil action that initiates a proceeding subject to this chapter.

2. Upon the receipt of a request for mediation, the farm mediation service shall conduct an initial consultation with the borrower without charge. The borrower may waive mediation after the initial consultation.

3. Unless the borrower waives mediation, the borrower shall file a list containing at least the name and place of business for each creditor as defined in section 654A.1 or apply for an extension to file the list with the farm mediation service within twenty-one days of the service's receipt of a request for mediation.

86 Acts, ch 1214, §19; 87 Acts, ch 73, §2; 89 Acts, ch 108, §3; 2000 Acts, ch 1129, §1
Referred to in §654A.1

654A.7 Financial analyst and legal assistance.

1. After receiving a mediation request, the farm mediation service shall refer the borrower to a financial analyst associated with the Iowa state university extension service ASSIST program. The financial analyst shall assist the borrower in the preparation of information relative to the finances of the borrower for the initial mediation meeting.

2. After receiving the mediation request, the farm mediation service shall notify the borrower that legal assistance may be available without charge through the legal assistance for farmers program provided in chapter 13.

86 Acts, ch 1214, §20

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654A.8 Initial mediation meeting.

1. Unless the borrower waives mediation, within twenty-one days after receiving a mediation request the farm mediation service shall send a mediation meeting notice to the borrower and to all known creditors of the borrower setting a time and place for an initial mediation meeting between the borrower, the creditors, and a mediator directed by the farm mediation service to assist in mediation. An initial mediation meeting shall be held within twenty-one days of the issuance of the mediation meeting notice.

2. If a creditor subject to this chapter receives a mediation meeting notice under subsection 1, the creditor and the creditor's successors in interest may not continue proceedings to enforce a debt against agricultural property of the borrower under chapter 654, to forfeit a real estate contract for the purchase of agricultural property of the borrower under chapter 656, to enforce a secured interest in agricultural property under chapter 554, or to otherwise garnish, levy on, execute on, seize, or attach agricultural property. Time periods under and affecting those procedures stop running until the farm mediation service issues a mediation release to the creditor.

86 Acts, ch 1214, §21
Referred to in §654A.12

654A.9 Duties of mediator.

At the initial mediation meeting and subsequent meetings, the mediator shall:

1. Listen to the borrower and the creditors desiring to be heard.
2. Attempt to mediate between the borrower and the creditors.
3. Advise the borrower and the creditors as to the existence of available assistance programs.
4. Encourage the parties to adjust, refinance, or provide for payment of the debts.
5. Advise, counsel, and assist the borrower and creditors in attempting to arrive at an agreement for the future conduct of financial relations among them.

86 Acts, ch 1214, §22

654A.10 Mediation period.

The mediator may call mediation meetings during the mediation period, which is up to forty-two days after the farm mediation service received the mediation request. However, if all parties consent, mediation may continue after the end of the mediation period.

86 Acts, ch 1214, §23
Referred to in §654A.6, 654A.12

654A.11 Mediation release.

1. If an agreement is reached between the borrower and the creditors, the mediator shall draft a written mediation agreement, have it signed by the creditors, and submit the agreement to the farm mediation service.

2. The borrower and the creditors who are parties to the mediation agreement may enforce the mediation agreement as a legal contract. The agreement constitutes a mediation release.

3. *a.* If the borrower waives mediation, or if a mediation agreement is not reached, the borrower and the creditors may sign a statement prepared by the mediator that mediation was waived or that the parties did not reach an agreement. If any party does not sign the statement, the mediator shall sign the statement. The statement constitutes a mediation release.

b. The mediator shall issue a mediation release unless the creditor fails to personally attend and participate in all mediation meetings. The mediator shall issue a mediation release if the borrower waives or fails to personally attend and participate in all mediation meetings, regardless of participation by the creditor. However, if a creditor or borrower is not a natural person, the creditor or borrower must be represented by a natural person who is an officer, director, employee, or partner of the creditor or borrower. If a person acts in a fiduciary capacity for the creditor or borrower, the fiduciary may represent the creditor or borrower. If the creditor or borrower or eligible representative is not able to attend and participate as required in this paragraph due to physical infirmity, mental infirmity, or other

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exigent circumstances determined reasonable by the farm mediation service, the creditor or borrower must be represented by another natural person. Any representative of the creditor or borrower must be authorized to sign instruments provided by this chapter, including a mediation agreement or a statement prepared by the mediator that mediation was waived. This section does not require the creditor or borrower to reach an agreement, including restructuring a debt, in order to receive a mediation release.

4. The mediator shall promptly notify a creditor by certified mail of a denial to issue a mediation release and the reasons for the denial. The notice shall state that the creditor has seven days from the date that the notice is delivered to appeal the mediator's decision to the administrative head of the mediation service, pursuant to procedures adopted by the service. The notice shall state that the creditor may also request another mediation meeting. The action for judicial review shall be brought in equity, and the action shall be limited to whether, based on clear and convincing evidence, the decision of the administrative head is an abuse of discretion. The action may be brought either in the district court of Polk county or in the district court in which the farmer or creditor resides. Upon reversing the decision by the service, the court shall order that the service issue the mediation release.

86 Acts, ch 1214, §24; 89 Acts, ch 108, §4; 90 Acts, ch 1143, §11, 12; 98 Acts, ch 1122, §1
Referred to in §654.2C, 654A.1, 656.8

654A.12 Extension of deadlines.

Upon petition by the borrower and all known creditors, the farm mediation service may, for good cause, extend a deadline imposed by section 654A.8 or section 654A.10 for up to thirty days.

86 Acts, ch 1214, §25

654A.13 Confidentiality.

If mediation is conducted pursuant to this chapter, the confidentiality of all mediation communications is protected as provided in section 679C.108.

86 Acts, ch 1214, §26; 89 Acts, ch 108, §5; 90 Acts, ch 1143, §13, 14; 98 Acts, ch 1062, §11; 2005 Acts, ch 68, §4

654A.14 and 654A.15 Repealed by 90 Acts, ch 1143, §30.

654A.16 Wetland designation.

The farm mediation service shall provide for mediation between the department of natural resources and a landowner affected by the preliminary wetland designation provided in section 456B.12. The department shall cease actions relating to inventorying or designating affected land until a mediation release is issued by the farm mediation service. The mediation process shall be conducted according to rules adopted by the attorney general after consultation with the farm mediation service. The rules shall to the extent practical be based on mediation provided under this chapter for borrowers and lenders.

90 Acts, ch 1199, §9
Referred to in §456B.12

654A.17 Repealed by 94 Acts, ch 1106, §1.

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CHAPTER 654B

FARM MEDIATION — CARE AND FEEDING CONTRACTS — NUISANCES

Referred to in §13.13, 13.15, 352.11, 468.190, 657.10

Legislative findings; 90 Acts, ch 1143, §1

654B.1	Definitions.	654B.6	Reserved.
654B.2	Voluntary mediation proceedings.	654B.7	Mediation period.
654B.3	Mandatory mediation proceedings.	654B.8	Mediation release.
		654B.9	Extension of deadlines.
654B.4	Initial mediation meeting.	654B.10	Judicial review.
654B.5	Duties of the mediator — training program.	654B.11	Effect of mediation.
		654B.12	Repealed by 94 Acts, ch 1106, §1.

654B.1 Definitions.

1. *"Care and feeding contract"* means an agreement, either oral or written, between a farm resident and the owner of livestock, under which the farm resident agrees to act as a feeder by promising to care for and feed the livestock on the farm resident's premises.

2. *"Dispute"* means a controversy between a person who is a farm resident and another person, which arises from a claim eligible to be resolved in a civil proceeding in law or equity, if the claim relates to either of the following:

a. The performance of either person under a care and feeding contract, if both persons are parties to the contract.

b. An action of one person which is alleged to be a nuisance interfering with the enjoyment of the other person.

3. *"Farmland"* means agricultural land that is principally used for farming as defined in section 9H.1.

4. *"Farm mediation service"* means the organization selected pursuant to section 13.13.

5. *"Farm resident"* means a person holding an interest in farmland, in fee, under a real estate contract, or under a lease, if the person manages farming operations on the land. A farm resident includes a natural person, or any corporation, trust, or limited partnership as defined in section 9H.1.

6. *"Mediation release"* means an agreement or statement signed by all parties or by less than all the parties and the mediator pursuant to section 654B.8.

7. *"Nuisance"* means an action injurious to health, indecent, or offensive to the senses, or an obstruction to the free use of property, so as essentially to interfere with the comfortable enjoyment of life or property, including but not limited to nuisances defined in section 657.2, subsections 1 through 5, and 7.

8. *"Other party"* means any person having a dispute with a farm resident.

9. *"Participate"* or *"participation"* means attending a mediation meeting, and having knowledge about and discussing issues concerning a subject relating to a dispute.

90 Acts, ch 1143, §16

654B.2 Voluntary mediation proceedings.

A farm resident or other party may request mediation of a dispute by applying to the farm mediation service. The farm mediation service shall make voluntary mediation application forms available. The farm mediation service shall evaluate each request and may direct a mediator to meet with the farm resident and other party to assist in mediation.

90 Acts, ch 1143, §17

654B.3 Mandatory mediation proceedings.

1. *a.* A person who is a farm resident, or other party, desiring to initiate a civil proceeding to resolve a dispute, shall file a request for mediation with the farm mediation service. The person shall not begin the proceeding until the person receives a mediation release or until the court determines after notice and hearing that one of the following applies:

(1) The time delay required for the mediation would cause the person to suffer irreparable harm.

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(2) The dispute involves a claim which has been brought as a class action.

b. The requirements of paragraph *"a"* are jurisdictional prerequisites to a person filing a civil action that initiates a civil proceeding to resolve a dispute subject to this chapter.

2. Upon receipt of the request for mediation, the farm mediation service shall conduct an initial consultation with each party to the dispute privately and without charge. Mediation may be waived after the initial consultation, if the parties agree.

3. Unless mediation is waived by the parties to the dispute, the parties shall file with the farm mediation service information required by the service to conduct mediation.

90 Acts, ch 1143, §18; 2000 Acts, ch 1129, §2

654B.4 Initial mediation meeting.

1. Unless both parties to the dispute waive mediation, within twenty-one days after receiving a mediation request, the farm mediation service shall send a mediation meeting notice to all parties to the dispute setting a time and place for an initial mediation meeting between the parties and a mediator directed by the farm mediation service to assist in mediation. An initial mediation meeting shall be held within twenty-one days of the issuance of the mediation meeting notice.

2. If a person receives a mediation meeting notice under this section, the person shall not continue civil proceedings based on a claim relating to a dispute subject to this chapter, unless the court determines after notice and hearing that one of the following applies:

a. The time delay required for the mediation would cause the person to suffer irreparable harm.

b. The dispute involves a claim which has been brought as a class action.

3. At the meeting, a party participating in mediation may be accompanied by counsel or a consultant to assist the party in mediation.

90 Acts, ch 1143, §19; 98 Acts, ch 1122, §2
Referred to in §654B.9

654B.5 Duties of the mediator — training program.

1. The farm mediation service, with the assistance of knowledgeable persons, shall provide a program to train mediators to assist in the mediation of nuisance disputes.

2. At the initial mediation meeting and subsequent meetings, the mediator shall:

a. Listen to all involved parties.

b. Attempt to mediate between all involved parties.

c. Encourage compromise and workable solutions.

d. Advise, counsel, and assist the parties in attempting to arrive at an agreement for the future conduct of relations among them.

90 Acts, ch 1143, §20

654B.6 Reserved.

654B.7 Mediation period.

The mediator may call mediation meetings during the mediation period, which is up to forty-two days after the farm mediation service received the mediation request. However, if all parties consent, mediation may continue after the end of the mediation period.

90 Acts, ch 1143, §21
Referred to in §654B.9

654B.8 Mediation release.

1. If an agreement is reached between all parties, the mediator shall draft a written mediation agreement, have it signed by the parties, and submit the agreement to the farm mediation service.

2. *a.* The mediator shall issue a mediation release unless the other party desiring to initiate a civil proceeding to resolve the dispute fails to personally attend and participate in all mediation meetings. The mediator shall issue a mediation release if the farm resident waives or fails to personally attend and participate in all mediation meetings, regardless of participation by the other party. However, if the other party or the farm resident is not a

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natural person, the other party or farm resident must be represented by a natural person who is an officer, director, employee, or partner of the other party or farm resident. If a person acts in a fiduciary capacity for the other party or farm resident, the fiduciary may represent the other party or farm resident. If the other party or farm resident or eligible representative is not able to attend and participate as required in this paragraph due to physical infirmity, mental infirmity, or other exigent circumstances determined reasonable by the farm mediation service, the other party or farm resident must be represented by another natural person. Any representative of the other party or the farm resident must be authorized to sign instruments provided by this chapter, including a mediation agreement or a statement prepared by the mediator that mediation was waived. This section does not require a party to reach an agreement. This section does not require a person to change a position, alter an activity which is a subject of the dispute, or restructure a contract in order to receive a mediation release.

b. The mediator shall promptly notify a party by certified mail of a denial to issue a mediation release and the reasons for the denial. The notice shall state that the party has seven days from the date that the notice is delivered to appeal the mediator's decision, pursuant to procedures adopted by the service. After a final decision by the farm mediation service, the party may seek an action for judicial review pursuant to section 654B.10.

3. The parties to the mediation agreement may enforce the mediation agreement as a legal contract. The agreement constitutes a mediation release.

4. If the parties waive mediation, or if a mediation agreement is not reached, the parties may sign a statement prepared by the mediator that mediation was waived or that the parties did not reach an agreement. If any party does not sign the statement, the mediator shall sign the statement. The statement constitutes a mediation release.

90 Acts, ch 1143, §22; 90 Acts, ch 1199, §10; 98 Acts, ch 1122, §3
Referred to in §654B.1, 657.10

654B.9 Extension of deadlines.

Upon petition by all parties, the farm mediation service may, for good cause, extend a deadline imposed by section 654B.4 or section 654B.7 for up to thirty days.

90 Acts, ch 1143, §23

654B.10 Judicial review.

An action for judicial review shall be brought in equity, and the action shall be limited to whether, based on clear and convincing evidence, the decision by the administrative head of the mediation service is an abuse of discretion. The action may be brought in either the district court of Polk county or in the district court in which the affected farm resident resides. Upon reversing the decision by the service, the court shall order that the service issue a mediation release.

90 Acts, ch 1143, §24
Referred to in §654B.8

654B.11 Effect of mediation.

1. An interest in property, or rights and obligations under a contract are not affected by the failure of a person to obtain a mediation release regardless of its validity.

2. Time periods relating to a claim, including applicable statutes of limitations, shall be suspended upon filing a mediation request. Time periods affecting a claim in a civil proceeding shall be suspended upon filing a mediation request. The suspension shall terminate upon signing a mediation release.

90 Acts, ch 1143, §25; 2021 Acts, ch 76, §150

654B.12 Repealed by 94 Acts, ch 1106, §1.

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CHAPTER 654C

FARM MEDIATION — ANIMAL FEEDING OPERATION STRUCTURES

Referred to in §13.13, 13.15, 468.190

654C.1 Definitions.
654C.2 Mediation proceedings.
654C.3 Duties of the mediator.
654C.4 Mediation period.
654C.5 Mediation agreement.
654C.6 Extension of deadlines.
654C.7 Effect of mediation.

654C.1 Definitions.

As used in this chapter, unless otherwise required:

1. *"Animal feeding operation structure"* means the same as defined in section 459.102.
2. *"Dispute"* means a controversy between an owner and a neighbor, which arises from negotiations between the parties to establish an animal feeding operation structure within the separation distance.
3. *"Farm mediation service"* means the organization selected pursuant to section 13.13.
4. *"Neighbor"* means a person benefiting from a separation distance required pursuant to section 459.202 or 459.204, including a person owning a residence other than the owner of the animal feeding operation, a commercial enterprise, bona fide religious institution, educational institution, or a city, authorized to execute a waiver.
5. *"Owner"* means the owner of an animal feeding operation, as defined in section 459.102, which utilizes an animal feeding operation structure.
6. *"Participate"* or *"participation"* means attending a mediation meeting, and having knowledge about and discussing issues concerning a subject relating to a dispute.
7. *"Waiver"* means a waiver executed between an owner and a neighbor as provided in section 459.205.

95 Acts, ch 195, §27

654C.2 Mediation proceedings.

1. A person who is an owner or a neighbor may file a request for mediation with the farm mediation service. Upon receipt of the request for mediation, the farm mediation service shall conduct an initial consultation with each party to the dispute privately and without charge. Mediation shall be canceled after the initial consultation, unless both parties agree to proceed.
2. Both parties to the dispute shall file with the farm mediation service information required by the service to conduct mediation.
3. Unless mediation is canceled, within twenty-one days after receiving a mediation request, the farm mediation service shall send a mediation meeting notice to all parties to the dispute setting a time and place for an initial mediation meeting between the parties and a mediator directed by the farm mediation service to assist in mediation. An initial mediation meeting shall be held within twenty-one days of the issuance of the mediation meeting notice.

95 Acts, ch 195, §28
Referred to in §654C.6

654C.3 Duties of the mediator.

At the initial mediation meeting and subsequent meetings, the mediator shall:

1. Listen to all involved parties.
2. Attempt to mediate between all involved parties.
3. Encourage compromise and workable solutions.
4. Advise, counsel, and assist the parties in attempting to arrive at an agreement for the future conduct of relations among themselves.

95 Acts, ch 195, §29

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654C.4 Mediation period.

The mediator may call mediation meetings during the mediation period, which is up to forty-two days after the farm mediation service received the mediation request. However, if all parties consent, mediation may continue after the end of the mediation period.

95 Acts, ch 195, §30
Referred to in §654C.6

654C.5 Mediation agreement.

1. If an agreement is reached between all parties, the mediator shall draft a written mediation agreement, which shall be signed by the parties. The mediation agreement shall provide for a waiver which the mediator shall file in the office of the recorder of deeds of the county in which the benefited land is located, as provided in section 459.205. The mediator shall forward a mediation agreement to the farm mediation service.

2. The parties agreeing to mediation shall personally attend and participate in all mediation meetings. However, if a party is not a natural person, the party must be represented by a natural person who is an officer, director, employee, or partner of the party. If a person acts in a fiduciary capacity for a party, the fiduciary may represent the party. If the party or an eligible representative is not able to attend and participate as required in this subsection due to physical infirmity, mental infirmity, or other exigent circumstances determined reasonable by the farm mediation service, the party must be represented by another natural person. Any representative of a party must be authorized to sign instruments provided by this chapter, including a mediation agreement or a statement prepared by the mediator that mediation was waived. This section does not require a party to reach an agreement. This section does not require a person to change a position, alter an activity which is a subject of the dispute, alter an application for a permit for construction of an animal feeding operation, or restructure a contract.

3. The parties to the mediation agreement may enforce the mediation agreement as a legal contract.

4. If the parties do not agree to proceed with mediation, or if a mediation agreement is not reached, the parties may sign a statement prepared by the mediator that mediation proceedings were not conducted or concluded or that the parties did not reach an agreement.

95 Acts, ch 195, §31; 98 Acts, ch 1122, §4

654C.6 Extension of deadlines.

Upon petition by all parties, the farm mediation service may, for good cause, extend a deadline imposed by section 654C.2 or 654C.4 for up to thirty days.

95 Acts, ch 195, §32

654C.7 Effect of mediation.

An interest in property or rights and obligations under a contract are not affected by the failure of a person to obtain a mediation agreement.

95 Acts, ch 195, §33

CHAPTER 655

SATISFACTION OF MORTGAGES

655.1	Written instrument acknowledging satisfaction.	655.3	Penalty for failure to discharge.
655.2	Penalty — attorney fees. Repealed by 99 Acts, ch 54, §3.	655.4	Entry of foreclosure. Repealed by 2006 Acts, ch 1132, §15, 16.
		655.5	Instrument of satisfaction.
		655.6	Limitation of liability.

655.1 Written instrument acknowledging satisfaction.

When the amount due on a mortgage is paid off, the mortgagee, the mortgagee's personal representative or assignee, or those legally acting for the mortgagee, and in case of payment

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of a school fund mortgage the county auditor, within thirty days of payment in full, shall acknowledge satisfaction thereof by execution of an instrument of satisfaction which is in writing, refers to the mortgage, and is duly acknowledged and recorded. Notwithstanding the foregoing, if the mortgage secures a revolving line of credit, future advances, or other future obligations, the mortgagee is not required to file a satisfaction upon payment in full unless the mortgagor makes a written request to the mortgagee that the mortgage be released and, if such written request is made, the mortgagee shall file the release within thirty days after payment in full or such written request is made whichever occurs later.

[C51, §2093; R60, §3670; C73, §3327; C97, §4295; C24, 27, 31, 35, 39, §**12384;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §655.1]

2018 Acts, ch 1036, §2

Referred to in §331.502, 655.3

Duty of recorder, §558.45

655.2 Penalty — attorney fees. Repealed by 99 Acts, ch 54, §3.

655.3 Penalty for failure to discharge.

If a mortgagee, or a mortgagee's personal representative or assignee, upon full performance of the conditions of the mortgage, fails to discharge such mortgage as set forth in section 655.1, the mortgagee is liable to the mortgagor and the mortgagor's heirs or assigns, for all actual damages caused by such failure and a penalty of five hundred dollars, plus reasonable attorney fees. A claim for such damages may be asserted in an action for discharge of the mortgage.

99 Acts, ch 54, §2; 2018 Acts, ch 1036, §3

Referred to in §655.6

655.4 Entry of foreclosure. Repealed by 2006 Acts, ch 1132, §15, 16.

655.5 Instrument of satisfaction.

When the judgment is paid in full, the mortgagee shall file with the clerk a satisfaction of judgment which shall release the mortgage underlying the action. A mortgagee who fails to file a satisfaction within thirty days of receiving a written request shall be subject to reasonable damages and a penalty of five hundred dollars plus reasonable attorney fees incurred by the aggrieved party, to be recovered in an action for the satisfaction by the party aggrieved.

[C73, §3328; C97, §4296; C24, 27, 31, 35, 39, §**12388;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §655.5]

85 Acts, ch 159, §11; 90 Acts, ch 1081, §6; 2006 Acts, ch 1129, §14; 2006 Acts, ch 1132, §12, 16; 2007 Acts, ch 85, §1; 2018 Acts, ch 1036, §4

655.6 Limitation of liability.

A mortgagee is not liable under section 655.3 if all of the following apply:

1. The mortgagee established reasonable procedures to achieve compliance with its obligations under section 655.3.
2. The mortgagee complied with that procedure in good faith.
3. The mortgagee was unable to comply with its obligations because of circumstances beyond its control.

2018 Acts, ch 1036, §5; 2018 Acts, ch 1172, §35

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CHAPTER 655A

NONJUDICIAL FORECLOSURE OF NONAGRICULTURAL MORTGAGES

Referred to in §455B.172, 455B.751, 558A.1, 654.2B, 654.2D, 654.4A, 657A.7, 657A.8

655A.1 Title.
655A.2 Conditions prescribed.
655A.3 Notice.
655A.4 Service.
655A.5 Compliance with notice.
655A.6 Rejection of notice.
655A.7 Proof and record of service.
655A.8 Effect of foreclosure — reopening.
655A.9 Application of chapter.

655A.1 Title.

This chapter shall be known as the *"Nonjudicial Foreclosure of Nonagricultural Mortgages"*.

87 Acts, ch 142, §17

655A.2 Conditions prescribed.

Except as provided in section 655A.9, a mortgage may be foreclosed, at the option of the mortgagee, as provided in this chapter.

87 Acts, ch 142, §18

655A.3 Notice.

1. *a.* The nonjudicial foreclosure is initiated by the mortgagee by serving on the mortgagor a written notice which shall:

(1) Reasonably identify by a document reference number the mortgage and accurately describe the real estate covered.

(2) Specify the terms of the mortgage with which the mortgagor has not complied. The terms shall not include any obligation arising from acceleration of the indebtedness secured by the mortgage.

(3) State that, unless within thirty days after the completed service of the notice the mortgagor performs the terms in default or files with the recorder of the county where the mortgaged property is located a rejection of the notice pursuant to section 655A.6 and serves a copy of the rejection upon the mortgagee, the mortgage will be foreclosed.

(4) Specify a postal or electronic mail address where rejection of the notice may be served.

b. The notice shall contain the following in capital letters of the same type or print size as the rest of the notice:

> WITHIN THIRTY DAYS AFTER YOUR RECEIPT OF THIS NOTICE, YOU MUST EITHER CURE THE DEFAULTS DESCRIBED IN THIS NOTICE OR FILE WITH THE RECORDER OF THE COUNTY WHERE THE MORTGAGED PROPERTY IS LOCATED A REJECTION OF THIS NOTICE AND SERVE A COPY OF YOUR REJECTION ON THE MORTGAGEE IN THE MANNER PROVIDED IN SECTION 655A.4. IF YOU WISH TO REJECT THIS NOTICE, YOU SHOULD CONSULT AN ATTORNEY AS TO THE PROPER MANNER TO MAKE THE REJECTION.
>
> IF YOU DO NOT TAKE EITHER OF THE ACTIONS DESCRIBED ABOVE WITHIN THE THIRTY-DAY PERIOD, THE FORECLOSURE WILL BE COMPLETE AND YOU WILL LOSE TITLE TO THE MORTGAGED PROPERTY. AFTER THE FORECLOSURE IS COMPLETE THE DEBT SECURED BY THE MORTGAGED PROPERTY WILL BE EXTINGUISHED.

2. The mortgagee shall also serve a copy of the notice required in subsection 1 on the person in possession of the real estate, if different than the mortgagor, and on all junior lienholders of record.

3. The mortgagee may file a written notice required in subsection 1 together with proof of service on the mortgagor with the recorder of the county where the mortgaged property

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is located. Such a filing shall have the same force and effect on third parties as an indexed notation entered by the clerk of the district court pursuant to section 617.10, commencing from the filing of proof of service on the mortgagors and terminating on the filing of a rejection pursuant to section 655A.6, an affidavit of completion pursuant to section 655A.7, or the expiration of ninety days from completion of service on the mortgagors, whichever occurs first.

4. As used in this chapter, *"mortgagee"* and *"mortgagor"* include a successor in interest.

87 Acts, ch 142, §19; 2001 Acts, ch 44, §30; 2006 Acts, ch 1132, §13, 16; 2007 Acts, ch 126, §107; 2009 Acts, ch 51, §11, 17; 2012 Acts, ch 1021, §110; 2012 Acts, ch 1053, §4

Referred to in §655A.6, 655A.8

655A.4 Service.

Notice under this chapter shall be served as provided in the rules of civil procedure for service of original notice or as provided in section 654.4A. Rejection of notice under this chapter shall be served by ordinary or electronic mail addressed as provided in the notice, or if no address is provided, to the last address of the mortgagee known to the mortgagor.

87 Acts, ch 142, §20; 2009 Acts, ch 51, §12, 17; 2012 Acts, ch 1053, §5

Referred to in §655A.3, 655A.6, 655A.7

Service of original notice, R.C.P. 1.302 – 1.315

655A.5 Compliance with notice.

If the mortgagor or a junior lienholder performs, within thirty days of completed service of notice, the breached terms specified in the notice, then the right to foreclose for the breach is terminated.

87 Acts, ch 142, §21

Referred to in §655A.8

655A.6 Rejection of notice.

1. If either the mortgagor, or successor in interest of record including a contract purchaser, within thirty days of service of the notice pursuant to section 655A.3, files with the recorder of the county where the mortgaged property is located, a rejection of the notice reasonably identifying the notice which is rejected together with proofs of service required under section 655A.4 that the rejection has been served on the mortgagee, the notice served upon the mortgagor pursuant to section 655A.3 is of no force or effect.

2. Rejection of notice pursuant to subsection 1 shall not be available to a mortgagor, or successor in interest of record including a contract purchaser, of a mortgaged property that a court of competent jurisdiction determined has been abandoned pursuant to section 657A.2, on or after the date as determined in section 657A.2, subsection 5.

87 Acts, ch 142, §22; 2001 Acts, ch 44, §31; 2009 Acts, ch 51, §13, 17; 2019 Acts, ch 105, §2

Referred to in §655A.3, 655A.8

655A.7 Proof and record of service.

If the terms and conditions as to which there is default are not performed within the thirty days, the party serving the notice or causing it to be served shall file for record in the office of the county recorder a copy of the notice with proofs of service required under section 655A.4 attached or endorsed on it and, in case of service by publication, a personal affidavit that personal service could not be made within this state, and when those documents are filed and recorded, the record is constructive notice to all parties of the due foreclosure of the mortgage.

87 Acts, ch 142, §23

Referred to in §655A.3, 655A.8

655A.8 Effect of foreclosure — reopening.

Upon completion of the filings required under section 655A.7 and if no rejection of notice has been filed pursuant to section 655A.6, then without further act or deed:

1. The mortgagee acquires and succeeds to all interest of the mortgagor in the real estate.
2. All liens which are inferior to the lien of the foreclosed mortgage are extinguished.
3. The indebtedness secured by the foreclosed mortgage is extinguished.

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4. If, after completion of the filings required under section 655A.7, it appears that a junior lienholder was not properly served with a notice pursuant to section 655A.3, the mortgagee may serve the lienholder with an amended notice specifying the provisions of the mortgage currently in default. Unless, within thirty days, the junior lienholder performs pursuant to section 655A.5, the mortgagee may file a supplemental affidavit indicating service and nonperformance to extinguish the lien.

5. A foreclosure under this chapter shall not bar a mortgagee or its successor in interest from action under chapter 654 to resolve matters which have not been resolved under this chapter.

87 Acts, ch 142, §24; 2009 Acts, ch 51, §14, 17

655A.9 Application of chapter.

This chapter does not apply to real estate used for an agricultural purpose as defined in section 535.13, or to a one or two family dwelling which is, at the time of the initiation of the foreclosure, occupied by a legal or equitable titleholder.

87 Acts, ch 142, §25; 2006 Acts, ch 1132, §14, 16; 2009 Acts, ch 51, §15, 17

Referred to in §655A.2

CHAPTER 656

FORFEITURE OF REAL ESTATE CONTRACTS

Referred to in §8.45, 15E.207, 123.39, 455B.172, 558A.1, 654A.1, 654A.6, 654A.8

656.1	Conditions prescribed.	656.6	Scope of chapter.
656.2	Notice.	656.7	Attorney fees.
656.3	Service of notice.	656.8	Mediation notice.
656.4	Compliance with notice.	656.9	Defect in forfeiture proceedings — limitation of actions.
656.5	Proof and record of service.		

656.1 Conditions prescribed.

A contract which provides for the sale of real estate located in this state, and for the forfeiture of the vendee's rights in such contract in case the vendee fails, in specified ways, to comply with said contract, shall, nevertheless, not be forfeited or canceled except as provided in this chapter.

[C97, §4299; S13, §4299; C24, 27, 31, 35, 39, §**12389;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §656.1]

Referred to in §656.8

656.2 Notice.

1. The forfeiture shall be initiated by the vendor by serving on the vendee a written notice which shall:

a. Reasonably identify the contract by a document reference number and accurately describe the real estate covered.

b. Specify the terms of the contract with which the vendee has not complied.

c. State that unless, within thirty days after the completed service of the notice, the vendee performs the terms in default and pays the reasonable costs of serving the notice, the contract will be forfeited.

d. Specify the amount of attorney fees claimed by the vendor pursuant to section 656.7 and state that payment of the attorney fees is not required to comply with the notice and prevent forfeiture.

2. *a.* The vendor shall also serve a copy of the notice required in subsection 1 on the person in possession of the real estate, if different than the vendee; on all the vendee's mortgagees of record; and on a person who asserts a claim against the vendee's interest, except a government or governmental subdivision or agency holding a lien for real estate taxes or assessments, if the person has done both of the following:

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(1) Requested, on a form which substantially complies with the following form, that notice of forfeiture be served on the person at an address specified in the request.

REQUEST FOR NOTICE PURSUANT TO
IOWA CODE SECTION 656.2, SUBSECTION 2

The undersigned requests service of notice under Iowa Code sections 656.2 and 656.3 to forfeit the contract recorded on the ..... day of ..... (month), ... (year), in book or roll ....., image or page ....., office of the ..... county recorder, ... county, Iowa, wherein ..... is/are seller(s) and ..... is/are buyer(s), for sale of real estate legally described as: [insert complete legal description]

.....

NAME

.....

.....

.....

ADDRESS

CAUTION: Your name and address must be correct. If not correct, you will not receive notice requested because notice need only be served on you at the above address. If your address changes, a new request for notice must be filed.

(2) Filed the request form for record in the office of the county recorder after acquisition of the vendee's interest but prior to the date of recording of the proof and record of service of notice of forfeiture required by section 656.5 and paid a fee of five dollars.

b. The request for notice is valid for a period of five years from the date of filing with the county recorder. The request for notice may be renewed for additional periods of five years by the procedure specified in this subsection. The request for notice may be amended at any time by the procedure specified in this subsection. The request for notice shall be indexed.

c. The vendee's mortgagees of record include all assignees of record for collateral purposes.

3. As used in this section, the terms *"vendor"* and *"vendee"* include a successor in interest but the term *"vendee"* excludes a vendee who assigned or conveyed of record all of the vendee's interest in the real estate.

[C97, §4299; S13, §4299; C24, 27, 31, 35, 39, §**12390;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §656.2]

84 Acts, ch 1203, §2; 86 Acts, ch 1237, §41; 87 Acts, ch 166, §1; 91 Acts, ch 161, §1; 2000 Acts, ch 1058, §56; 2001 Acts, ch 44, §32; 2003 Acts, ch 108, §112; 2003 Acts, 1st Ex, ch 2, §44, 209; 2013 Acts, ch 90, §219

Referred to in §656.3, 656.8

656.3 Service of notice.

1. The notice provided for in section 656.2 may be served personally or by publication, on the same conditions, and in the same manner as is provided for the service of original notices, except that when the notice is served by publication an affidavit shall not be required before publication. Service by publication shall be deemed complete on the day of the last publication.

2. The notice provided for in section 656.2 may be served on a judgment creditor of a deceased vendee or on any other person who is, as a matter of record, interested in the estate of a deceased vendee in the manner provided in section 654.4A, subsections 4 and 5.

[C97, §4299; S13, §4299; C24, 27, 31, 35, 39, §**12391;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §656.3]

2013 Acts, ch 83, §3; 2014 Acts, ch 1092, §138

Referred to in §654.18, 656.2, 656.8

Manner of service, R.C.P. 1.302 – 1.315

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656.4 Compliance with notice.

If the vendee or a mortgagee of the real estate performs, within thirty days of completed service of notice, the breached terms specified in the notice and pays the vendor the reasonable cost of serving the notice, then the right to forfeit for the breach is terminated. The payment of attorney fees pursuant to section 656.7 is not necessary to comply with the notice and prevent forfeiture.

[C97, §4300; S13, §4300; C24, 27, 31, 35, 39, §**12392;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §656.4]

84 Acts, ch 1203, §3

Referred to in §656.8

656.5 Proof and record of service.

If the terms and conditions as to which there is default are not performed within thirty days, the party serving the notice or causing the notice to be served, may file for record in the office of the county recorder a copy of the notice with proofs of service attached or endorsed thereon. If notice has been served by publication, a personal affidavit that personal service could not be made within this state shall also be attached or endorsed on the notice. When so filed and recorded, the said record shall be constructive notice to all parties of the due forfeiture and cancellation of the contract.

[S13, §4300; C24, 27, 31, 35, 39, §**12393;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §656.5]

2015 Acts, ch 30, §190

Referred to in §656.2, 656.8, 656.9

656.6 Scope of chapter.

This chapter shall be operative in all cases where the intention of the parties, as gathered from the contract and surrounding circumstances, is to sell or to agree to sell an interest in real estate, any contract or agreement of the parties to the contrary notwithstanding.

[C97, §4301; C24, 27, 31, 35, 39, §**12394;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §656.6]

656.7 Attorney fees.

1. The vendee is liable to the vendor for reasonable attorney fees actually incurred by the vendor necessary for the forfeiture of a contract governed by this chapter. The demand for attorney fees must be stated in the notice served. The maximum liability under this section is fifty dollars. *"Attorney fees"*, as used in this chapter, is limited to reasonable fees for services requiring a lawyer. *"Attorney fees"* does not include clerical services even if the services are performed in a lawyer's office.

2. A vendor seeking payment of attorney fees, when the vendee fails or refuses to pay them, may file a small claims action for enforcement.

84 Acts, ch 1203, §1

Referred to in §656.2, 656.4

656.8 Mediation notice.

Notwithstanding sections 656.1 through 656.5, a person shall not initiate proceedings under this chapter to forfeit a real estate contract for the purchase of agricultural property, as defined in section 654A.1, which is subject to an outstanding obligation on the contract of twenty thousand dollars or more unless the person received a mediation release under section 654A.11, or unless the court determines after notice and hearing that the time delay required for the mediation would cause the person to suffer irreparable harm. Title to land that is agricultural property is not affected by the failure of any creditor to receive a mediation release, regardless of its validity.

86 Acts, ch 1214, §28; 87 Acts, ch 73, §3

656.9 Defect in forfeiture proceedings — limitation of actions.

An action shall not be commenced by a vendee who is not in possession of the property, or by a party to the forfeiture proceeding who is other than a vendee or vendor, that asserts a claim against real estate previously subject to a forfeiture proceeding, and such claim is

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based upon a defect in the forfeiture proceeding, in which the proof and record of service of notice of forfeiture required by section 656.5 has been filed of record for more than ten years.

91 Acts, ch 161, §2; 2013 Acts, ch 83, §4; 2016 Acts, ch 1073, §178

CHAPTER 657

NUISANCES

Referred to in §6B.56, 318.6, 318.11, 364.22B, 446.7

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657.1 Nuisance — what constitutes — action to abate — electric utility defense.

1. Whatever is injurious to health, indecent, or unreasonably offensive to the senses, or an obstruction to the free use of property, so as essentially to interfere unreasonably with the comfortable enjoyment of life or property, is a nuisance, and a civil action by ordinary proceedings may be brought to enjoin and abate the nuisance and to recover damages sustained on account of the nuisance. A petition filed under this subsection shall include the legal description of the real property upon which the nuisance is located unless the nuisance is not situated on or confined to a parcel of real property or is portable or capable of being removed from the real property.

2. Notwithstanding subsection 1, in an action to abate a nuisance against an electric utility, an electric utility may assert a defense of comparative fault as set out in section 668.3 if the electric utility demonstrates that in the course of providing electric services to its customers it has complied with engineering and safety standards as adopted by the utilities commission, and if the electric utility has secured all permits and approvals, as required by state law and local ordinances, necessary to perform activities alleged to constitute a nuisance.

[C51, §2131 – 2133; R60, §3713 – 3715; C73, §3331; C97, §4302; C24, 27, 31, 35, 39, §**12395;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §657.1]

95 Acts, ch 195, §34; 2004 Acts, ch 1077, §1; 2005 Acts, ch 3, §108; 2010 Acts, ch 1050, §8; 2023 Acts, ch 19, §2698; 2024 Acts, ch 1170, §369

657.2 What deemed nuisances.

The following are nuisances:

1. The erecting, continuing, or using any building or other place for the exercise of any trade, employment, or manufacture, which, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort, or property of individuals or the public.

2. The causing or suffering any offal, filth, or noisome substance to be collected or to remain in any place to the prejudice of others.

3. The obstructing or impeding without legal authority the passage of any navigable river, harbor, or collection of water.

4. The corrupting or rendering unwholesome or impure the water of any river, stream, or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.

5. The obstructing or encumbering by fences, buildings, or otherwise the public roads, private ways, streets, alleys, commons, landing places, or burying grounds.

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6. Houses of ill fame, kept for the purpose of prostitution and lewdness, gambling houses, places resorted to by persons participating in criminal gang activity prohibited by chapter 723A, or places resorted to by persons using controlled substances, as defined in section 124.101, subsection 5, in violation of law, or houses where drunkenness, quarreling, fighting, or breaches of the peace are carried on or permitted to the disturbance of others.

7. Billboards, signboards, and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard, or alley or of a railroad or street railway track as to render dangerous the use thereof.

8. Any object or structure erected within one thousand feet of the limits of any municipal or regularly established airport or landing place, which may endanger or obstruct aerial navigation, including take-off and landing, unless such object or structure constitutes a proper use or enjoyment of the land on which the same is located.

9. The depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones, and paper, by dealers in such articles within the fire limits of a city, unless in a building of fireproof construction, is a public nuisance.

10. The emission of dense smoke, noxious fumes, or fly ash in cities is a nuisance and cities may provide the necessary rules for inspection, regulation and control.

11. Dense growth of all weeds, vines, brush, or other vegetation in any city so as to constitute a health, safety, or fire hazard is a public nuisance.

12. Trees infected with Dutch elm disease in cities.

[C51, §2759, 2761; R60, §4409, 4411; C73, §4089, 4091; C97, §5078, 5080; S13, §713-a, -b, 1056-a19; C24, 27, 31, 35, 39, §**5740, 5741, 6567, 6743, 12396;** C46, 50, §368.3, 368.4, 416.92, 420.54, 657.2; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §657.2]

92 Acts, ch 1163, §116; 92 Acts, ch 1231, §56; 95 Acts, ch 195, §35; 98 Acts, ch 1072, §1; 2021 Acts, ch 80, §371

Referred to in §654B.1

657.2A Indexing of petition.

1. When a petition affecting real property is filed by a governmental entity under this chapter, the clerk of the district court shall index the petition pursuant to section 617.10, if the legal description of the affected property is included in or attached to the petition.

2. After filing the petition with the clerk of the district court, the governmental entity shall also file the petition in the office of the county treasurer. The county treasurer shall include a notation of the pendency of the action in the county system, as defined in section 445.1, until the judgment of the court is satisfied or until the action is dismissed. Pursuant to section 446.7, an affected property that is subject to a pending action shall not be offered for sale by the county treasurer at tax sale.

2010 Acts, ch 1050, §9

657.3 Penalty — abatement.

A person who is convicted of erecting, causing, or continuing a public or common nuisance as provided in this chapter, or at common law when the common law has not been modified or repealed by statute, if no other punishment for the offense is specially provided, shall be guilty of an aggravated misdemeanor. The court may order the nuisance abated and issue a warrant as provided in this chapter.

[C51, §2762; R60, §4412; C73, §4092; C97, §5081; S13, §5081; C24, 27, 31, 35, 39, §**12397;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §657.3]

2020 Acts, ch 1063, §366; 2021 Acts, ch 80, §372

657.4 Process.

When upon indictment, complaint, or civil action any person is found guilty of erecting, causing, or continuing a nuisance, the court before whom such finding is had may, in addition to the fine imposed, if any, or to the judgment for damages or cost for which a separate execution may issue, order that such nuisance be abated or removed at the expense of the

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defendant, and, after inquiry into and estimating as nearly as may be the sum necessary to defray the expenses of such abatement, the court may issue a warrant therefor.

[C51, §2763; R60, §4413; C73, §4093; C97, §5082; C24, 27, 31, 35, 39, §**12398;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §657.4]

657.5 Reserved.

657.6 Stay of execution.

Instead of issuing a warrant, the court may order the warrant to be stayed upon motion of the defendant, if the defendant enters into an undertaking to the state, in such sum and with such surety as the court may direct, under the condition that either the defendant will discontinue the nuisance or that, within a time limited by the court, and not exceeding six months, the defendant will cause the nuisance to be abated and removed, as either is directed by the court. Upon the defendant's failure to perform the condition of the defendant's undertaking, the surety shall be forfeited, and the court, upon being satisfied of a default, may order the warrant forthwith to issue, and action may be brought on the undertaking.

[C51, §2765; R60, §4415; C73, §4095; C97, §5084; C24, 27, 31, 35, 39, §**12400;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §657.6]

2019 Acts, ch 59, §223

657.7 Expenses — how collected.

The expense of abating a nuisance by virtue of a warrant can be collected by the officer in the same manner as damages and costs are collected on execution, except that the materials of any buildings, fences, or other things that may be removed as a nuisance may be first levied upon and sold by the officer, and if any of the proceeds remain after satisfying the expense of the removal, such balance must be paid by the officer to the defendant, or to the owner of the property levied upon; and if said proceeds are not sufficient to pay such expenses, the officer must collect the residue thereof.

[C51, §2766; R60, §4416; C73, §4096; C97, §5085; C24, 27, 31, 35, 39, §**12401;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §657.7]

657.8 Feedlots.

This chapter shall apply to the operation of a livestock feedlot, only as provided in chapter 172D.

[C77, 79, 81, §657.8]

657.9 Shooting ranges.

1. Before a person improves property acquired to establish, use, and maintain a shooting range by the erection of buildings, breastworks, ramparts, or other works or before a person substantially changes the existing use of a shooting range, the person shall obtain approval of the county zoning commission or the city zoning commission, whichever is appropriate. The appropriate commission shall comply with section 335.8 or 414.6. In the event a county does not have a zoning commission, the county board of supervisors shall comply with section 335.6 before granting the approval.

2. A person who acquires title to or who owns real property adversely affected by the use of property with a permanently located and improved range shall not maintain a nuisance action against the person who owns the range to restrain, enjoin, or impede the use of the range where there has not been a substantial change in the nature of the use of the range.

3. This section does not prohibit actions for negligence or recklessness in the operation of the range or by a person using the range.

[82 Acts, ch 1193, §1]

84 Acts, ch 1067, §49; 2018 Acts, ch 1041, §112; 2026 Acts, ch 1158, §3

Referred to in §335.26, 414.26

Subsection 1 amended

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657.10 Mediation notice.

Notwithstanding this chapter, a person, required under chapter 654B to participate in mediation, shall not begin a proceeding subject to this chapter until the person receives a mediation release under section 654B.8, or until the court determines after notice and hearing that one of the following applies:

1. The time delay required for the mediation would cause the person to suffer irreparable harm.

2. The dispute involves a claim which should be resolved as a class action.

90 Acts, ch 1143, §27

657.11 Animal feeding operations.

1. The purpose of this section is to protect animal agricultural producers who manage their operations according to state and federal requirements from the costs of defending nuisance suits, which negatively impact upon Iowa's competitive economic position and discourage persons from entering into animal agricultural production. This section is intended to promote the expansion of animal agriculture in this state by protecting persons engaged in the care and feeding of animals. The general assembly has balanced all competing interests and declares its intent to protect and preserve animal agricultural production operations.

2. An animal feeding operation, as defined in section 459.102, shall not be found to be a public or private nuisance under this chapter or under principles of common law, and the animal feeding operation shall not be found to interfere with another person's comfortable use and enjoyment of the person's life or property under any other cause of action. However, this section shall not apply if the person bringing the action proves that an injury to the person or damage to the person's property is proximately caused by either of the following:

a. The failure to comply with a federal statute or regulation or a state statute or rule which applies to the animal feeding operation.

b. Both of the following:

(1) The animal feeding operation unreasonably and for substantial periods of time interferes with the person's comfortable use and enjoyment of the person's life or property.

(2) The animal feeding operation failed to use existing prudent generally accepted management practices reasonable for the operation.

3. *a.* This section does not apply to a person during any period that the person is classified as a chronic violator under this subsection as to any confinement feeding operation in which the person holds a controlling interest, as defined by rules adopted by the department of natural resources. This section shall apply to the person on and after the date that the person is removed from the classification of chronic violator. For purposes of this subsection, "*confinement feeding operation*" means an animal feeding operation in which animals are confined to areas which are totally roofed, and which are regulated by the department of natural resources or the environmental protection commission.

b. (1) A person shall be classified as a chronic violator if the person has committed three or more violations as described in this subsection prior to, on, or after July 1, 1996. In addition, in relation to each violation, the person must have been subject to either of the following:

(a) The assessment of a civil penalty by the department or the commission in an amount equal to three thousand dollars or more.

(b) A court order or judgment for a legal action brought by the attorney general after referral by the department or commission.

(2) Each violation must have occurred within five years prior to the date of the latest violation, counting any violation committed by a confinement feeding operation in which the person holds a controlling interest. A violation occurs on the date the department issues an administrative order to the person assessing a civil penalty of three thousand dollars or more, or on the date the department notifies a person in writing that the department will recommend that the commission refer, or the commission refers the case to the attorney general for legal action, or the date of entry of the court order or judgment, whichever occurs first. A violation under this subsection shall not be counted if the civil penalty ultimately imposed is less than three thousand dollars, the department or commission does not refer the action to the attorney

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general, the attorney general does not take legal action, or a court order or judgment is not entered against the person. A person shall be removed from the classification of chronic violator on the date on which the person and all confinement feeding operations in which the person holds a controlling interest have committed less than three violations described in this subsection for the prior five years.

c. For purposes of counting violations, a continuing and uninterrupted violation shall be considered as one violation. Different types of violations shall be counted as separate violations regardless of whether the violations were committed during the same period. The violation must be a violation of a state statute, or a rule adopted by the department, which applies to a confinement feeding operation and any related animal feeding operation structure, including an anaerobic lagoon, earthen manure storage basin, formed manure storage structure, or egg washwater storage structure; or any related pollution control device or practice. The structure, device, or practice must be part of the confinement feeding operation. The violation must be one of the following:

(1) Constructing or operating a related animal feeding operation structure or installing or using a related pollution control device or practice, for which the person must obtain a permit, in violation of statute or rules adopted by the department, including the terms or conditions of the permit.

(2) Intentionally making a false statement or misrepresenting information to the department as part of an application for a construction permit for the related animal feeding operation structure, or the installation of the related pollution control device or practice, for which the person must obtain a construction permit from the department.

(3) Failing to obtain a permit or approval by the department for a permit to construct or operate a confinement feeding operation or use a related animal feeding operation structure or pollution control device or practice, for which the person must obtain a permit from the department.

(4) Operating a confinement feeding operation, including a related animal feeding operation structure or pollution control device or practice, which causes pollution to the waters of the state, if the pollution was caused intentionally, or caused by a failure to take measures required to abate the pollution which resulted from an act of God.

(5) Failing to submit a manure management plan as required, or operating a confinement feeding operation required to have a manure management plan without having submitted the manure management plan.

4. This section shall apply regardless of the established date of operation or expansion of the animal feeding operation. A defense against a cause of action provided in this section includes but is not limited to a defense for actions arising out of the care and feeding of animals; the handling or transportation of animals; the treatment or disposal of manure resulting from animals; the transportation and application of animal manure; and the creation of noise, odor, dust, or fumes arising from an animal feeding operation.

5. If a court determines that a claim is frivolous, a person who brings the claim as part of a losing cause of action against a person who may raise a defense under this section shall be liable to the person against whom the action was brought for all costs and expenses incurred in the defense of the action.

6. This section does not apply to an injury to a person or damages to property caused by the animal feeding operation before May 21, 1998.

95 Acts, ch 195, §36; 96 Acts, ch 1118, §1; 98 Acts, ch 1209, §38, 39, 53; 99 Acts, ch 114, §58, 59; 2013 Acts, ch 30, §261; 2014 Acts, ch 1026, §132

Referred to in §266.43, 266.44, 266.45, 657.11A

657.11A Animal agriculture — promotion of responsible animal feeding operations.

1. *a. Findings.* The general assembly finds that important public interests are advanced by preserving and encouraging the expansion of responsible animal agricultural production in this state which provides employment opportunities in and economic growth for rural Iowa, contributes tax revenues to the state and to local communities, and protects our valuable natural resources.

b. Purpose. The purpose of this section is to encourage persons involved in animal

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agriculture to adopt existing prudent and generally utilized management practices for their animal feeding operations, thereby enhancing the fundamental role of animal agriculture in this state by providing a reasonable level of protection to persons engaged in animal agricultural production from certain types of nuisance actions.

c. Declaration. The general assembly has balanced all competing interests and declares its intent to preserve and enhance responsible animal agricultural production, specifically animal agricultural producers in this state who use existing prudent and generally utilized management practices reasonable for their animal feeding operations.

2. Except as otherwise provided by this section, an animal feeding operation, as defined in section 459.102, found to be a public or private nuisance under this chapter or under principles of common law, or found to interfere with another person's comfortable use and enjoyment of the person's life or property under any other cause of action, shall be conclusively presumed to be a permanent nuisance and not a temporary or continuing nuisance under principles of common law, and shall be subject to compensatory damages only as provided in subsection 3.

3. Compensatory damages awarded to a person bringing an action alleging that an animal feeding operation is a public or private nuisance, or an interference with the person's comfortable use and enjoyment of the person's life or property under any other cause of action, shall not exceed the following:

a. The person's share of compensatory property damages due to any diminution in the fair market value of the person's real property proximately caused by the animal feeding operation. The fair market value of the real property is deemed to equal the price that a buyer who is willing but not compelled to buy and a seller who is willing but not compelled to sell would accept for the real property. The person's share of any compensatory property damages must be based on the person's share of the ownership interest in the real property. For purposes of this section, ownership interest means holding legal or equitable title to real property in fee simple, as a life estate, or as a leasehold interest.

b. The person's compensatory damages due to the person's past, present, and future adverse health condition. This determination shall be made utilizing only objective and documented medical evidence that the nuisance or interference with the comfortable use and enjoyment of the person's life or property was the proximate cause of the person's adverse health condition.

c. The person's compensatory special damages proximately caused by the animal feeding operation, including without limitation, annoyance and the loss of comfortable use and enjoyment of real property. However, the total damages awarded to a person under this paragraph *"c"* shall not exceed one and one-half times the sum of any damages awarded to the person for the person's share of the total compensatory property damages awarded under paragraph *"a"* plus any compensatory damages awarded to the person under paragraph *"b"*.

4. This section shall apply to an animal feeding operation in the same manner as section 657.11, subsections 4 and 5.

5. This section shall not apply if the person bringing the action proves that the public or private nuisance or interference with another person's comfortable use and enjoyment of the person's life or property under any other cause of action is proximately caused by any of the following:

a. The failure to comply with a federal statute or regulation or a state statute or rule which applies to the animal feeding operation.

b. The failure to use existing prudent generally utilized management practices reasonable for the animal feeding operation.

6. This section does not apply to a person during the time in which the person is classified as a habitual violator pursuant to section 459.604.

7. This section does not apply to a cause of action that accrued prior to March 29, 2017.

2017 Acts, ch 17, §1, 2

657.12 Adult establishments.

1. As used in this section, *"adult establishment"* means any business that provides nude or topless dancing or operates any other adult-oriented business.

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2. A public safety nuisance exists when it is established by clear and convincing evidence that an owner, manager, employee, contemporaneous patron, or guest of an adult establishment commits any of the following acts either on the premises or in any parking lots or areas, including but not limited to public rights of way, adjacent to the premises:

a. Unlawfully discharges a firearm or uses an offensive weapon, as defined in section 724.1, regardless of whether it inflicts injury or death.

b. Assaults another person with a dangerous weapon as defined in section 702.7 resulting in injury or death.

c. Engages in a riot as defined in section 723.1 on three or more dates within a twelve-month period to which the police respond and disperse a crowd. The participants need not be the same persons for each incident.

3. When the county attorney or city attorney for the county or city where the premises is located believes a serious threat to the public safety exists, the county attorney, city attorney, or any other attorney on behalf of the county attorney or city attorney may file a suit in equity in the district court without bond seeking abatement of the public safety nuisance arising from an adult establishment.

4. *a.* Upon filing a suit pursuant to subsection 3, the petitioner may seek a temporary injunction. As part of any temporary injunction issued, and upon a showing of reasonable cause that a public safety nuisance exists, the court shall limit the business hours of the adult establishment to be between the hours of 12:00 p.m. and 10:00 p.m. and prohibit the consumption of alcoholic beverages on the property.

b. This subsection shall not be construed to prohibit the court from ordering any other restrictions that the court deems appropriate including complete closure during the pendency of the action.

5. Upon finding a public safety nuisance exists, after trial, the court may enter judgment declaring the existence of the nuisance and ordering such remedial action to abate the nuisance as the court determines reasonable. The abatement order may take the form of an injunction. The duration of such abatement order may be up to two years. Remedial action may include but is not limited to temporary or complete closure, change in business practice or operation, or posting of a bond. If a bond is ordered and posted, the bond shall be subject to forfeiture, in whole or in part, for any further actions contrary to the abatement order.

2024 Acts, ch 1117, §1

657.13 Racing facilities and racetracks — immunity.

1. A racing facility or racetrack shall not be subject to any action brought by a surrounding property owner under any nuisance, taking, or other theory if the racing facility or racetrack was built before the surrounding real property owner either purchased the real property or built in the area of the racing facility or racetrack.

2. This section applies to claims against racing facilities and racetracks located in this state prior to the date the surrounding real property owner bringing the claim acquired or improved the real property.

3. For the purposes of this section a *"racing facility"* or *"racetrack"* means a designated area or facility where competitive vehicle and motorsport races are conducted. A *"racing facility"* or *"racetrack"* includes the track, spectator areas, garages, and any associated grounds or buildings used to operate the races.

2025 Acts, ch 39, §1

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CHAPTER 657A

ABANDONED OR UNSAFE BUILDINGS — ABATEMENT BY REHABILITATION

Referred to in §6B.56, 446.7

Nuisances in general, chapter 657

657A.1	Definitions.	657A.7	Priority of receiver's mortgage.
657A.1A	Preliminary inspection of building.	657A.8	Assessment of costs.
657A.2	Petition.	657A.9	Discharge of receiver.
657A.3	Interested persons — opportunity to abate public nuisance.	657A.10	Compensation and liability of receiver.
657A.4	Appointment of receiver.	657A.10A	Applicability.
657A.5	Determination of costs of abatement.	657A.10B	Petition by city or county for title to abandoned property.
657A.6	Powers and duties of receiver.	657A.10C	Petition for injunction.
657A.6A	Receiver — prohibited acts.	657A.11	Jurisdiction — remedies.
		657A.12	Indexing of petition.

657A.1 Definitions.

As used in this chapter, unless context requires otherwise:

1. *"Abandoned"* or *"abandonment"* means that a building is vacant, or is occupied only by trespassers, and in violation of the housing code or building code of the city in which the property is located or the housing code or building code applicable in the county in which the property is located if outside the limits of a city.

2. *"Abate"* or *"abatement"* in connection with property means the removal or correction of hazardous conditions deemed to constitute a public nuisance or the making of improvements needed to effect a rehabilitation of the property consistent with maintaining safe and habitable conditions over the remaining useful life of the property. However, the closing or boarding up of a building or structure that is found to be a public nuisance is not an abatement of the nuisance.

3. *"Building"* means a building or structure located in a city or outside the limits of a city in a county, which is used or intended to be used for commercial or industrial purposes or which is used or intended to be used for residential purposes and includes a building or structure in which some floors may be used for retail stores, shops, salesrooms, markets, or similar commercial uses, or for offices, banks, civic administration activities, professional services, or similar business or civic uses, and other floors are used, designed, or intended to be used for residential purposes. *"Building"* does not include a mobile home, a modular home, and a manufactured home as defined in section 435.1, unless the mobile home or manufactured home has been converted to real estate pursuant to section 435.26.

4. *"Interested person"* means an owner, mortgagee, lienholder, or other person that possesses an interest of record or an interest otherwise provable in property that becomes subject to the jurisdiction of the court pursuant to this chapter, the city in which the property is located, the county in which the property is located if the property is located outside the limits of a city, and an applicant for the appointment as receiver pursuant to this chapter.

5. *"Neighboring landowner"* means an owner of property which is located within five hundred feet of property that becomes subject to the jurisdiction of the court pursuant to this chapter.

6. *"Owner"* includes a person who is purchasing property by land installment contract or under a duly executed purchase contract.

7. *"Public nuisance"* means a building that is a menace to the public health, welfare, or safety, or that is structurally unsafe, unsanitary, or not provided with adequate safe egress, or that constitutes a fire hazard, or is otherwise dangerous to human life, or that in relation to the existing use constitutes a hazard to the public health, welfare, or safety by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment.

8. *"Responsible building official"* or *"official"* means the person appointed by the city or,

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if the building is outside the limits of a city, the county, to enforce its building codes and regulations in general or to enforce this chapter in particular.

85 Acts, ch 222, §1; 86 Acts, ch 1059, §1; 96 Acts, ch 1204, §27; 2015 Acts, ch 136, §49, 54, 55; 2019 Acts, ch 105, §3, 4; 2020 Acts, ch 1063, §367

Referred to in §404.3B, 446.19B, 448.13

657A.1A Preliminary inspection of building.

1. No sooner than one hundred thirty-five days after a property has become vacant, a person, other than a governmental entity, may request that the responsible building official inspect the property and certify that a property is both abandoned and in need of abatement. The responsible building official may also initiate an inspection on the official's own initiative at any time.

2. If the responsible building official finds from an exterior view of the property, in addition to any other credible information that the official may have, that there is reasonable cause to believe that the property is abandoned and in need of abatement, the official shall schedule a date and time for an inspection of the property by the official. The person requesting the inspection shall provide written notice of the scheduled inspection by first class mail and certified mail to the owner and all interested persons at least twenty days before the inspection. The notice must state the date, time, and place of the inspection and state that unless the owner appears at the inspection to allow the responsible building official access to the interior of the property, the official, accompanied by the person serving notice and any interested persons appearing for the inspection, may enter the property to determine whether the property is abandoned and in need of abatement and, if so, to estimate the costs of abatement. The official may enter the property for an inspection, along with the person serving notice and any interested persons, if the owner is not present for the inspection. Upon request, the inspection may be rescheduled as needed. The responsible building official must obtain an administrative search warrant pursuant to section 808.14 to enter any building to conduct an inspection pursuant to this section.

3. The responsible building official's findings shall be in writing with copies provided to the person requesting the inspection, the owner, and all interested parties. The governmental entity employing the responsible building official may establish and charge a fee to cover the reasonable costs of the inspection, which shall be added to costs in an action under this chapter.

4. Evidence that financial obligations in respect to a building, including but not limited to payments of a mortgage, bills, or property taxes, are currently met does not rebut a finding of abandonment if the property is substantially in need of abatement in an action filed under section 657A.2.

2019 Acts, ch 105, §5

Referred to in §631.1, 657A.2, 657A.8, 657A.10A, 657A.10B

657A.2 Petition.

1. No sooner than the later of thirty days after the responsible building official's findings have been provided under section 657A.1A or six months after a building has become abandoned, a petition for abatement under this chapter may be filed in the district court of the county in which the property is located by the city in which the property is located, by the county if the property is located outside the limits of a city, by a neighboring landowner, or by a duly organized nonprofit corporation which has as one of its goals the improvement of housing conditions in the county or city in which the property in question is located. The petition shall not demand a personal judgment against any party, but shall concern only the interests in the property. A petition for abatement filed under this chapter shall include the legal description of the real property upon which the public nuisance is located unless the public nuisance is not situated on or confined to a parcel of real property, or is portable or capable of being removed from the real property. Service shall be made on all interested persons by personal service or, if personal service cannot be made, by certified mail and first class mail to the last known address of record of the interested person and by posting the notice in a conspicuous place on the building, or by publication. The last known address

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of record for the property owner shall be the address of record with the county treasurer of the county where the property is located. Service may also be made as provided in section 654.4A.

2. If entering judgment, the court shall determine any issues at law, including issues relating to title, raised by the plaintiff or by a party in interest who has filed a motion or answer.

3. In any evidentiary hearing or motion in a proceeding under this chapter, the written findings of the responsible building official relating to the condition of the building and other matters within the scope of this chapter, if provided at least ten days before the hearing to all persons not in default, shall be accepted as evidence without prejudice to the right of any party to require the personal testimony of the responsible building official at the hearing.

4. If the court finds at a hearing pursuant to this section that the building is abandoned or is a public nuisance, the court may issue an injunction requiring the owner to correct any conditions that make such building a public nuisance, or issue another order that the court deems appropriate to address the public nuisance.

5. If the court finds at a hearing pursuant to this section that the building is abandoned, unless the court order establishes otherwise, the property shall be deemed continuously abandoned from the date the action is indexed pursuant to section 617.10, subsection 1.

6. A property shall not be claimed as homestead pursuant to chapter 561 on or after the date determined in subsection 5.

7. In a proceeding under this section, if the court determines the building is not abandoned, the court shall dismiss the petition and may require the petitioner to pay an interested party's reasonable attorney fees. An owner of the property who failed to appear for an inspection pursuant to section 657A.1A shall not be awarded attorney fees under this section.

8. If a party to the action holds an interest in the property as a nominee, a fiduciary, or another representative capacity for a third party, or an underlying loan on the property is guaranteed by a third party, the party to the action may apply to the court for a stay of action, as it affects the party's interest, for a reasonable time to allow the party to obtain the appropriate authority, information, or instructions from or on behalf of the beneficiary or guarantor as related to the property interest or underlying loan.

85 Acts, ch 222, §2; 87 Acts, ch 113, §1, 2; 96 Acts, ch 1204, §28; 2004 Acts, ch 1165, §9, 11; 2010 Acts, ch 1050, §10; 2019 Acts, ch 105, §6; 2020 Acts, ch 1063, §368

Referred to in §655A.6, 657A.1A, 657A.7, 657A.10A, 657A.10B, 657A.10C

657A.3 Interested persons — opportunity to abate public nuisance.

1. Before appointing a receiver to perform work or to furnish material to abate a public nuisance under this chapter, the court shall establish a date before which interested persons may file with the court written proof of intent and ability to promptly undertake the work required and to post security for the performance of the work. If no such written proof is filed by that date, the court may appoint a receiver pursuant to subsection 3.

2. All amounts expended by the person toward abating the public nuisance are a lien on the property if the expenditures are approved in advance by a judge and if the person desires the lien. Unless an interested person has a contract with the owner providing for a different interest rate, the lien shall bear interest at the rate provided for judgments pursuant to section 535.3, and shall be payable upon terms approved by the judge. If a certified copy of a court order approving the expenses and the terms of payment for the lien, and a description of the property in question, are filed of record within thirty days of the date of issuance of the order in the office of the county recorder of the county in which the property is located, the lien has the same priority as the mortgage of a receiver as provided in section 657A.7.

3. If the court determines by the date established in subsection 1 or at a hearing on the sufficiency of a timely filed rehabilitation plan that no interested person can undertake the work and furnish the materials required to abate the public nuisance, or if the court determines at any time after the hearing that an interested person who is undertaking corrective work pursuant to this section cannot or will not proceed, or has not proceeded

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with due diligence, the court may appoint a receiver to take possession and control of the property. The receiver shall be appointed in the manner provided in section 657A.4.

4. If the building is a historic building or is located in a designated historic district, the court shall give preference to an economically feasible rehabilitation plan that preserves the historical nature of the building.

5. Unless a receiver's mortgage provides for periodic payments, a notice, in lieu of the notice pursuant to section 654.2D, shall also be served by ordinary or electronic mail informing all interested persons of the date certain for the maturity of the mortgage note, or the event triggering maturity of the mortgage note, and that on maturity the receiver's mortgage loan will be payable in full and the mortgagee may then commence foreclosure without further notice. A notice pursuant to section 654.4B shall also be served by ordinary or electronic mail on the owner of record of the property. The mortgagee shall not commence foreclosure of the mortgage until sixty calendar days have passed since the date of service of a notice under this subsection.

85 Acts, ch 222, §3; 2019 Acts, ch 105, §7
Referred to in §657A.4, 657A.10A, 657A.10B

657A.4 Appointment of receiver.

After expiration of a date established pursuant to section 657A.3, subsection 1, or a hearing pursuant to section 657A.3, the court may appoint a receiver to take possession and control of the property in question. A person shall not be appointed as a receiver unless the person has first provided the court with a viable financial and construction plan for the rehabilitation of the property in question and has demonstrated the capacity and expertise to perform the required work in a satisfactory manner. The appointed receiver may be a financial institution that possesses an interest of record in the property, a nonprofit corporation that is duly organized and exists for the primary purpose of improving housing conditions in the county or city in which the property in question is located, or any person deemed qualified by the court. No part of the net earnings of a nonprofit corporation serving as a receiver under this section shall benefit a private shareholder or individual. Membership on the board of trustees of a nonprofit corporation does not constitute the holding of a public office or employment and is not an interest, either direct or indirect, in a contract or expenditure of money by a city or county. A member of a board of trustees of a nonprofit corporation appointed as receiver is not disqualified from holding public office or employment and is also not required to forfeit public office or employment by reason of the membership on the board of trustees.

85 Acts, ch 222, §4; 96 Acts, ch 1204, §29; 2019 Acts, ch 105, §8; 2020 Acts, ch 1063, §369
Referred to in §657A.3, 657A.10A, 657A.10B

657A.5 Determination of costs of abatement.

1. Prior to ordering work or the furnishing of materials to abate a public nuisance under this chapter, the court shall make all of the following findings:

a. The estimated cost of the labor, materials, and financing required to abate the public nuisance.

b. The estimated income and expenses of the property after the furnishing of the materials and the completion of the repairs and improvements.

c. The need for and terms of financing for the performance of the work and the furnishing of the materials.

d. If repair and rehabilitation of the property are not found to be feasible, the cost of demolition of the property or the portions of the property that constitute the public nuisance.

2. Upon the written request of all the known interested persons to have the property or portions of the property demolished, the court may order the demolition. However, demolition shall not be ordered unless the requesting persons have paid the costs of demolition, the costs of the receivership, and all notes and mortgages of the receivership.

85 Acts, ch 222, §5
Referred to in §657A.10A, 657A.10B

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657A.6 Powers and duties of receiver.

Before proceeding with the receiver's duties, a receiver appointed by the court shall post a bond in an amount designated by the court. The court may empower the receiver to do the following:

1. Take possession and control of the property, operate and manage the property, establish and collect rents and income, lease and rent the property, and evict tenants. An existing housing or building ordinance violation does not restrict the receiver's authority pursuant to this subsection.

2. Pay all expenses of operating and conserving the property, including but not limited to the cost of electricity, gas, water, sewerage, heating fuel, repairs and supplies, custodian services, taxes, assessments, and insurance premiums, and hire and pay reasonable compensation to a managing agent.

3. Pay prereceivership mortgages and other liens and installments of prereceivership mortgages and other liens.

4. Perform or enter into contracts for the performance of work and the furnishing of materials necessary to abate the public nuisance, and obtain financing for the abatement of the public nuisance.

5. Pursuant to court order, remove and dispose of personal property which is abandoned, stored, or otherwise located on the property, that creates a dangerous or unsafe condition or that constitutes a violation of housing or building regulations or ordinances.

6. Obtain mortgage insurance for a receiver's mortgage from an agency of the federal government.

7. Enter into agreements and take actions necessary to maintain and preserve the property and to comply with housing and building regulations and ordinances.

8. Give the custody of the property and the opportunity to abate the nuisance and operate the property to the owner or to a mortgagee or a lienholder of record.

9. Issue notes and secure the notes by mortgages bearing interest at the rate provided for judgments pursuant to section 535.3, and any terms and conditions as approved by the court. The court may provide for a higher interest rate if the receiver has established to the satisfaction of the court that the receiver has sought financing from individuals and institutions willing to lend money for rehabilitation of property and that the terms proposed by the receiver are reasonable. When transferred by the receiver in return for valuable consideration including money, material, labor, or services, the notes issued by the receiver are freely transferable. If the receiver has notice that the mortgagee of the receiver's mortgage is contemplating a transfer of the mortgage, the receiver shall disclose such to the court in the application for approval of the mortgage.

85 Acts, ch 222, §6; 2019 Acts, ch 105, §9
Referred to in §657A.8, 657A.10A, 657A.10B

657A.6A Receiver — prohibited acts.

Notwithstanding section 657A.10, it shall be unlawful, and a receiver may be held liable for actual damages as determined by a court, for entering a residential property that is not abandoned for the purpose of forcing, intimidating, harassing, or coercing a lawful occupant of the property to vacate in order to render the property vacant and abandoned, and it shall be unlawful to otherwise force, intimidate, harass, or coerce a lawful occupant of a residential property to vacate so the property may be deemed vacant and abandoned. A receiver who peacefully enters a property for the purpose of rendering the property vacant and abandoned shall be immune from liability if the receiver makes a good-faith effort to comply with this chapter and all terms of any applicable mortgage, lease, or other agreement related to the occupancy of the building.

2019 Acts, ch 105, §10
Referred to in §657A.10A, 657A.10B

657A.7 Priority of receiver's mortgage.

1. If the receiver's mortgage is filed of record in the office of the county recorder of the county in which the property is located within sixty days of the issuance of a secured note, the

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receiver's mortgage is a first lien upon the property and is superior to claims of the receiver and to all prior or subsequent liens and encumbrances except taxes and assessments, including taxes and assessments advanced by any mortgagee in the twelve-month period immediately preceding the date a petition is filed pursuant to section 657A.2. Priority among the receiver's mortgages is determined by the order in which the mortgages are recorded.

2. The creation of a mortgage lien under this chapter prior to or superior to a mortgage of record at the time the receiver's mortgage lien was created does not disqualify a prior recorded mortgage as a legal investment.

3. If a mortgagee of the receiver's mortgage begins foreclosure procedures pursuant to chapter 655A and an interested party desires to pay off the mortgage loan, the interested party shall also pay the mortgagee's reasonable costs and attorney fees.

85 Acts, ch 222, §7; 2019 Acts, ch 105, §11, 12
Referred to in §657A.3, 657A.8, 657A.10A, 657A.10B

657A.8 Assessment of costs.

The court may assess the costs and expenses set out in section 657A.6, subsection 2, and may approve receiver's fees to the extent that the fees are not covered by the income from the property. The receiver shall pay the costs and reasonable attorney fees of a plaintiff who requested an inspection pursuant to section 657A.1A unless an interested party not in default who appeared for the inspection objects to the fees and costs in whole or in part. The court shall determine the merits of such objection. If the court finds that a neighboring landowner has pursued an action pursuant to this chapter in bad faith, the court may assess attorney fees against the neighboring landowner and may bar such neighboring landowner from filing future actions under this chapter. If a foreclosure of the receiver's mortgage pursuant to chapter 655A is contemplated, the court may retain jurisdiction to determine the amount of attorney fees payable under section 657A.7, subsection 3.

85 Acts, ch 222, §8; 2019 Acts, ch 105, §13
Referred to in §657A.10A, 657A.10B

657A.9 Discharge of receiver.

The receiver may be discharged at any time in the discretion of the court. The receiver shall be discharged when all of the following have occurred:

1. The public nuisance has been abated.
2. The costs of the receivership have been paid.
3. Either all the receiver's notes and mortgages issued pursuant to this chapter have been paid, or all the holders of the notes and mortgages request in writing that the receiver be discharged.

85 Acts, ch 222, §9
Referred to in §657A.10A, 657A.10B

657A.10 Compensation and liability of receiver.

1. A receiver appointed under this chapter is entitled to receive fees and commissions in the same manner and to the same extent as receivers appointed in actions to foreclose mortgages.

2. The receiver appointed under this chapter is not civilly or criminally liable for actions pursuant to this chapter taken in good faith.

85 Acts, ch 222, §10; 86 Acts, ch 1238, §27
Referred to in §657A.6A, 657A.10A, 657A.10B

657A.10A Applicability.

1. The provisions of sections 657A.1A through 657A.10 shall only apply to cities and counties that have, by ordinance, provided that the provisions shall apply.

2. The provisions of sections 657A.1A through 657A.10 shall not apply to a house, barn, outbuilding, or other building or structure located on agricultural land. For purposes of this subsection, *"agricultural land"* means land suitable for use in farming. For purposes of this

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subsection, *"farming"* means the cultivation of land for the production of agricultural crops, the production of fruit or other horticultural crops, grazing, or the production of livestock.

2019 Acts, ch 105, §15, 17
Referred to in §657A.10B
Former §657A.10A transferred to §657A.10B pursuant to directive; 2019 Acts, ch 105, §17

657A.10B Petition by city or county for title to abandoned property.

1. For purposes of this section, when referring to the location of an abandoned building, *"county"* means only the area of the county located outside the limits of a city.

2. *a.* In lieu of the procedures in sections 657A.1A through 657A.10 and 657A.10A, a city or county in which a building that has been abandoned for at least six consecutive months is located may petition the court to enter judgment awarding title to the abandoned property to the city or county. A petition filed under this section shall include the legal description of the abandoned property. If more than one abandoned building is located on a parcel of real estate, the city or county may combine the actions into one petition. The owner of the building and grounds, mortgagees of record, lienholders of record, or other known persons who hold an interest in the property shall be named as respondents on the petition.

b. The petition shall be filed in the district court of the county in which the property is located. Service on the owner and any other named respondents shall be by personal service or certified mail or, if service cannot be made by either method, by posting the notice in a conspicuous place on the building and by publication in a newspaper of general circulation in the city or county. The notice shall include a statement of the city's or county's intended use of the property or purpose for acquiring the property. The action shall be in equity.

c. A county shall not petition to acquire title to any property under this section if the property is larger than two and one-half acres.

d. A county shall not petition to acquire title to a property under this section unless the county submits to the court a plan to transfer title to the property to another entity no more than eighteen months after the court enters judgment and order awarding title to the county under this section.

3. Not sooner than sixty days after the filing of the petition, the city or county may request a hearing on the petition.

4. In determining whether a property has been abandoned, the court shall consider the following for each building that is located on the property and named in the petition and the building grounds:

a. Whether any property taxes or special assessments on the property were delinquent at the time the petition was filed.

b. Whether any utilities are currently being provided to the property.

c. Whether the building is unoccupied by the owner or lessees or licensees of the owner.

d. Whether the building meets the city's or county's housing code as being fit for human habitation, occupancy, or use.

e. Whether the building meets the city's or county's building code as being fit for occupancy or use.

f. Whether the building is exposed to the elements such that deterioration of the building is occurring.

g. Whether the building is boarded up or otherwise secured from unauthorized entry.

h. Past efforts to rehabilitate the building and grounds.

i. Whether those claiming an interest in the property have, prior to the filing of the petition, demonstrated a good-faith effort to restore the property to productive use.

j. The presence of vermin, accumulation of debris, and uncut vegetation.

k. The effort expended by the petitioning city or county to maintain the building and grounds.

l. Past and current compliance with orders of the local housing or building code official.

m. Any other evidence the court deems relevant.

5. In lieu of the considerations in subsection 4, if the city or county can establish to the court's satisfaction that all parties with an interest in the property have received proper notice and either consented to the entry of an order awarding title to the property to the city or

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county or did not make a good-faith effort to comply with the order of the local housing or building code official within sixty days after the filing of the petition, the court shall enter judgment against the respondents granting the city or county title to the property.

6. *a.* If the court determines that the property has been abandoned or that subsection 5 applies, the court shall enter judgment and order awarding title to the city or county. The title awarded to the city or county shall be free and clear of any claims, liens, or encumbrances held by the respondents.

b. If the court enters judgment and order awarding title to a county, the court shall enforce the county's plan under subsection 2 to transfer title to the property to another entity no more than eighteen months after the court's judgment and order.

7. If a city or county files a petition under subsection 2, naming the holder of a tax sale certificate of purchase for the property as a respondent, the city or county shall also file the petition, along with a verified statement declaring that the property identified in the petition contains an abandoned building, with the county treasurer. Upon receiving the petition and verified statement, the county treasurer shall make an entry in the county system canceling the sale of the property and shall refund the purchase money to the tax sale certificate holder.

8. This section does not apply to a house, barn, outbuilding, or structure located on agricultural land outside the limits of a city. For purposes of this subsection, "*agricultural land*" means land suitable for use in farming. For purposes of this subsection, "*farming*" means the cultivation of land for the production of agricultural crops, the production of fruit or other horticultural crops, grazing, or the production of livestock.

2004 Acts, ch 1165, §10, 11

C2005, §657A.10A

2010 Acts, ch 1050, §11, 12; 2013 Acts, ch 30, §261; 2015 Acts, ch 136, §50 – 55; 2019 Acts, ch 105, §14, 17

C2020, §657A.10B

2021 Acts, ch 55, §2

Referred to in §448.13

657A.10C Petition for injunction.

1. As an alternative to the remedies under this chapter, a city, or a county if a property that is alleged to be a public nuisance is located outside the limits of a city, may petition the court for an injunction that requires the owner of the property to correct or eliminate the condition or violation causing the public nuisance. Service of the original notice shall be made as provided in section 657A.2, subsection 1.

2. This section shall not apply to a house, barn, outbuilding, or other building or structure located on agricultural land. For purposes of this subsection, "*agricultural land*" means land suitable for use in farming. For purposes of this subsection, "*farming*" means the cultivation of land for the production of agricultural crops, the production of fruit or other horticultural crops, grazing, or the production of livestock.

2019 Acts, ch 105, §16

657A.11 Jurisdiction — remedies.

1. An action pursuant to this chapter is exclusively within the jurisdiction of district judges as provided in section 602.6202.

2. This chapter does not prevent a person from using other remedies or procedures to enforce building or housing ordinances or to correct or remove public nuisances.

85 Acts, ch 222, §11

657A.12 Indexing of petition.

1. When a petition affecting real property is filed by a governmental entity under this chapter, the clerk of the district court shall index the petition pursuant to section 617.10, if the legal description of the affected property is included in or attached to the petition.

2. After filing the petition with the clerk of the district court, the governmental entity shall also file the petition in the office of the county treasurer. The county treasurer shall include a notation of the pendency of the action in the county system, as defined in section 445.1, until

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the judgment of the court is satisfied or until the action is dismissed. Pursuant to section 446.7, an affected property that is subject to a pending action shall not be offered for sale by the county treasurer at a tax sale.

2010 Acts, ch 1050, §13; 2016 Acts, ch 1011, §113

CHAPTER 658

WASTE AND TRESPASS

658.1	Definitions.	658.5	Estate of remainder or reversion.
658.1A	Treble damages.	658.6	Action by heir.
658.2	Forfeiture and eviction.	658.7	Purchaser at execution sale.
658.3	Who deemed to have committed.	658.8	Settlers on lands of state.
658.4	Treble damages for injury to trees.	658.9	Holder of tax certificate.
		658.10	Disposition of money.

658.1 Definitions.

As used in this chapter, unless the context otherwise requires, *"book"*, *"list"*, *"record"*, or *"schedule"* kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in section 445.1.

2000 Acts, ch 1148, §1

658.1A Treble damages.

If a guardian, tenant for life or years, joint tenant, or tenant in common of real property commit waste thereon, that person is liable to pay three times the damages which have resulted from such waste, to the person who is entitled to sue therefor.

[C51, §2134; R60, §3716; C73, §3332; C97, §4303; C24, 27, 31, 35, 39, §**12402;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §658.1]

C2001, §658.1A

Referred to in §217.13

658.2 Forfeiture and eviction.

Judgment of forfeiture and eviction may be rendered against the defendant whenever the amount of damages so recovered is more than two-thirds the value of the interest such defendant has in the property injured, when the action is brought by the person entitled to the reversion.

[C51, §2135; R60, §3717; C73, §3333; C97, §4304; C24, 27, 31, 35, 39, §**12403;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §658.2]

658.3 Who deemed to have committed.

Any person whose duty it is to prevent waste, and who fails to use reasonable and ordinary care to avert the same, shall be held to have committed it.

[C51, §2136; R60, §3718; C73, §3334; C97, §4305; C24, 27, 31, 35, 39, §**12404;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §658.3]

Referred to in §217.13

658.4 Treble damages for injury to trees.

For willfully injuring any timber, tree, or shrub on the land of another, or in the street or highway in front of another's cultivated ground, yard, or city lot, or on the public grounds of any city, or any land held by the state for any purpose whatever, the perpetrator shall pay treble damages at the suit of any person entitled to protect or enjoy the property.

[C51, §2137; R60, §3719; C73, §3335; C97, §4306; C24, 27, 31, 35, 39, §**12405;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §658.4]

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658.5 Estate of remainder or reversion.

The owner of an estate in remainder or reversion may maintain either of the aforesaid actions for injuries done to the inheritance, notwithstanding any intervening estate for life or years.

[C51, §2139; R60, §3721; C73, §3337; C97, §4307; C24, 27, 31, 35, 39, §**12406;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §658.5]

658.6 Action by heir.

An heir, whether a minor or of full age, may maintain these actions for injuries done in the time of the heir's ancestor as well as in the heir's own time, unless barred by the statute of limitations.

[C51, §2140; R60, §3722; C73, §3338; C97, §4308; C24, 27, 31, 35, 39, §**12407;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §658.6]

658.7 Purchaser at execution sale.

The purchaser of lands or tenements at execution sale may have and maintain an action against any person for either of the causes above mentioned, occurring or existing after such purchase; but this provision shall not be construed to forbid the person occupying the lands in the meantime from using them in the ordinary course of husbandry, or taking timber with which to make suitable repairs thereon, unless the timber so taken shall be of higher grade than required, in which case the person shall be held guilty of waste and liable accordingly.

[C51, §2141 – 2143; R60, §3723 – 3725; C73, §3339 – 3341; C97, §4309; C24, 27, 31, 35, 39, §**12408;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §658.7]

Recovery of damages, §626.101

658.8 Settlers on lands of state.

Any person settled upon and occupying any portion of the public lands held by the state is not liable as a trespasser for improving or cultivating it in the ordinary course of husbandry, nor for taking and using timber or other materials necessary and proper to enable the person to do so, provided the timber and other materials are taken from land properly constituting a part of the *"claim"* or tract of land so settled upon and occupied by the person.

[C51, §2144; R60, §3726; C73, §3342; C97, §4310; C24, 27, 31, 35, 39, §**12409;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §658.8]

658.9 Holder of tax certificate.

The owner of a treasurer's certificate of purchase of land sold for taxes may recover treble damages of any person willfully committing waste or trespass thereon.

[C73, §3343; C97, §4311; C24, 27, 31, 35, 39, §**12410;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §658.9]

Referred to in §658.10

658.10 Disposition of money.

All money recovered in an action brought under section 658.9 shall be paid by the officer collecting it to the auditor of the county in which the lands are situated, which shall be held by the auditor, and an entry thereof made in a book kept for that purpose, until the lands are redeemed, or a treasurer's deed therefor executed to the holder of said certificate. If redemption is made, the money shall be paid to the owner of the land, and if not, to the person to whom the deed is executed.

[C73, §3344; C97, §4312; C24, 27, 31, 35, 39, §**12411;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §658.10]

Referred to in §331.502

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CHAPTER 659

LIBEL AND SLANDER

Referred to in §280.22

659.1 Pleading.
659.2 Libel — retraction — actual damages.
659.3 Retraction — actual, special, and exemplary damages.
659.4 Candidate — retraction — time — imputing sexual misconduct.
659.5 Defamatory statement by radio.
659.6 Proof of malice.

659.1 Pleading.

In an action for slander or libel, it shall not be necessary to state any extrinsic facts for the purpose of showing the application to the plaintiff of any defamatory matter out of which the cause of action arose, or that the matter was used in a defamatory sense; but it shall be sufficient to state the defamatory sense in which such matter was used, and that the same was spoken or published concerning the plaintiff.

[R60, §2928; C73, §2681; C97, §3592; C24, 27, 31, 35, 39, §**12412;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §659.1]

659.2 Libel — retraction — actual damages.

In any action for damages for the publication of a libel in a newspaper, free newspaper or shopping guide, or for defamatory statements made on a radio or television station, if the defendant can show that such libelous matter was published or broadcast through misinformation or mistake, the plaintiff shall recover no more than actual damages, unless a retraction be demanded and refused as hereinafter provided. Plaintiff shall serve upon the publisher at the principal place of publication or upon the owner of a radio or television station at the owner's principal place of business a notice specifying the statements claimed to be libelous, and requesting that the same be withdrawn.

[SS15, §3592-a; C24, 27, 31, 35, 39, §**12413;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §659.2]

Referred to in §659.4

659.3 Retraction — actual, special, and exemplary damages.

If a retraction or correction thereof be not published in as conspicuous a place and type in said newspaper, free newspaper or shopping guide, as were the statements complained of, in a regular issue thereof published within two weeks after such service, or in case of a defamatory statement on a radio or television station if a retraction or correction thereof be not broadcast at a time considered as favorable as that of the defamatory statement within two weeks after such service, plaintiff may allege such notice, demand, and failure to retract in the complaint and may recover both actual, special, and exemplary damages if the plaintiff's cause of action be maintained. If such retraction be so published or broadcast, the plaintiff may still recover such actual, special, and exemplary damages, unless the defendant shall show that the libelous publication or defamatory statement was made in good faith, without malice, and under a mistake as to the facts.

[SS15, §3592-a; C24, 27, 31, 35, 39, §**12414;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §659.3]

Referred to in §659.4

659.4 Candidate — retraction — time — imputing sexual misconduct.

If the plaintiff was a candidate for office at the time of the libelous publication, no retraction shall be available unless published in a conspicuous place on the editorial page, nor if the libel was published within two weeks next before the election. This section and sections 659.2 and 659.3 do not apply to libel imputing sexual misconduct to any persons.

[SS15, §3592-a; C24, 27, 31, 35, 39, §**12415;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §659.4]

85 Acts, ch 99, §11

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659.5 Defamatory statement by radio.

The owner, lessee, licensee, or operator of a radio broadcasting station, and the agents or employees of any such owner, lessee, licensee, or operator, shall not be liable for any damages for any defamatory statement published or uttered in or as a part of a radio broadcast, by one other than such owner, lessee, licensee, or operator, or agent or employee thereof, if such owner, lessee, licensee, operator, agent, or employee shall prove the exercise of due care to prevent the publication or utterance of such statement in such broadcasts.

[C39, §**12415.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §659.5]

659.6 Proof of malice.

In actions for slander or libel, an unproved allegation of the truth of the matter charged shall not be deemed proof of malice, unless the jury on the whole case finds that such defense was made with malicious intent.

[R60, §2929; C73, §2682; C97, §3593; C24, 27, 31, 35, 39, §**12416;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §659.6]

CHAPTER 659A

UNAUTHORIZED DISCLOSURE OF INTIMATE IMAGES — CIVIL REMEDY

Referred to in §614.8

659A.1	Short title.	659A.6	Remedies.
659A.2	Definitions.	659A.7	Statute of limitations.
659A.3	Civil action.	659A.8	Construction.
659A.4	Exceptions to liability.	659A.9	Uniformity of application and construction.
659A.5	Plaintiff's privacy.		

659A.1 Short title.

This chapter may be cited as the "Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act".

2021 Acts, ch 56, §1

659A.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Consent"* means affirmative, conscious, and voluntary authorization by an individual with legal capacity to give authorization.

2. *"Depicted individual"* means an individual whose body is shown in whole or in part in an intimate image.

3. *"Disclosure"* means transfer, publication, or distribution to another person. *"Disclose"* has a corresponding meaning.

4. *"Identifiable"* means recognizable by a person other than the depicted individual from any of the following:

a. An intimate image itself.

b. An intimate image and identifying characteristic displayed in connection with the intimate image.

5. *"Identifying characteristic"* means information that may be used to identify a depicted individual.

6. *"Individual"* means a human being.

7. *"Intimate image"* means a photograph, film, video recording, or other similar medium that shows any of the following:

a. The uncovered genitals, pubic area, anus, or female post-pubescent nipple of a depicted individual.

b. A depicted individual engaging in or being subjected to sexual conduct.

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8. *"Person"* means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

9. *"Sexual conduct"* includes all of the following:

a. Masturbation, which means the same as *"masturbate"* as defined in section 709.9, subsection 2, paragraph *"c"*.

b. Genital, anal, or oral sex.

c. Sexual penetration of, or with, an object.

d. Bestiality.

e. The transfer of semen onto a depicted individual.

2021 Acts, ch 56, §2
Referred to in §659A.4

659A.3 Civil action.

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

a. *"Harm"* includes physical harm, economic harm, and emotional distress whether or not accompanied by physical or economic harm.

b. *"Private"* means any of the following:

(1) Created or obtained under circumstances in which a depicted individual had a reasonable expectation of privacy.

(2) Made accessible through theft, bribery, extortion, fraud, false pretenses, voyeurism, or exceeding authorized access to an account, message, file, device, resource, or property.

2. Except as otherwise provided in section 659A.4, a depicted individual who is identifiable and who suffers harm from a person's intentional disclosure or threatened disclosure, without the depicted individual's consent, of an intimate image that was private has a cause of action against the person, if the person knew, or acted with reckless disregard regarding, all of the following:

a. The depicted individual did not consent to the disclosure.

b. The intimate image was private.

c. The depicted individual was identifiable.

3. The following conduct by a depicted individual does not establish by itself that the individual consented to the disclosure of the intimate image which is the subject of an action under this chapter or that the individual lacked a reasonable expectation of privacy:

a. Consent to creation of the image.

b. Previous consensual disclosure of the image.

4. A depicted individual who does not consent to the sexual conduct or uncovering of the part of the body depicted in an intimate image of the individual retains a reasonable expectation of privacy even if the image was created when the individual was in a public place.

2021 Acts, ch 56, §3; 2023 Acts, ch 66, §147
Referred to in §659A.7

659A.4 Exceptions to liability.

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

a. *"Child"* means an unemancipated individual who is less than eighteen years of age.

b. *"Parent"* means an individual recognized as a parent under law of this state other than this chapter.

2. A person is not liable under this chapter if the person proves that disclosure of, or a threat to disclose, an intimate image was any of the following:

a. Made in good faith in any of the following circumstances:

(1) Law enforcement.

(2) A legal proceeding.

(3) Medical education or treatment.

b. Made in good faith in the reporting or investigation of any of the following:

(1) Unlawful conduct.

(2) Unsolicited and unwelcome conduct.

c. Related to a matter of public concern or public interest.

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d. Reasonably intended to assist the depicted individual.

3. Subject to subsection 4, a defendant who is a person responsible for the care of a child as defined in section 232.68 is not liable under this chapter for a disclosure or threatened disclosure of an intimate image, as defined in section 659A.2, subsection 7, paragraph "*a*", of the child.

4. If a defendant asserts an exception to liability under subsection 3, the exception does not apply if the plaintiff proves the disclosure was any of the following:

a. Prohibited by law other than this chapter.

b. Made for the purpose of sexual arousal, sexual gratification, humiliation, degradation, or monetary or commercial gain.

5. Disclosure of, or a threat to disclose, an intimate image is not a matter of public concern or public interest solely because the depicted individual is a public figure.

2021 Acts, ch 56, §4
Referred to in §659A.3

659A.5 Plaintiff's privacy.

In an action under this chapter all of the following are true:

1. Identifying characteristics of the plaintiff shall be redacted from all pleadings and documents filed in the action under rule of civil procedure 1.422, without court order.

2. A plaintiff to whom subsection 1 applies shall file with the court and serve on the defendant a protected information form, pursuant to rule of electronic procedure 16.606, that includes the excluded or redacted plaintiff's name and other identifying characteristics.

3. The court may make further orders as necessary to protect the identity and privacy of a plaintiff.

2021 Acts, ch 56, §5

659A.6 Remedies.

1. In an action under this chapter, a prevailing plaintiff may recover all of the following:

a. The greater of the following:

(1) Economic and noneconomic damages proximately caused by the defendant's disclosure or threatened disclosure, including damages for emotional distress whether or not accompanied by other damages.

(2) Statutory damages not to exceed ten thousand dollars against each defendant found liable under this chapter for all disclosures and threatened disclosures by the defendant of which the plaintiff knew or reasonably should have known when filing the action or which became known during the pendency of the action. In determining the amount of statutory damages under this subparagraph, consideration shall be given to all of the following:

(a) The age of the parties at the time of the disclosure or threatened disclosure.

(b) The number of disclosures or threatened disclosures made by the defendant.

(c) The breadth of distribution of the image by the defendant.

(d) Other exacerbating or mitigating factors.

b. An amount equal to any monetary gain made by the defendant from disclosure of the intimate image.

c. Punitive damages as allowed under chapter 668A.

2. In an action under this chapter, the court may award a prevailing plaintiff all of the following:

a. Reasonable attorney fees and costs.

b. Additional relief, including injunctive relief.

3. This chapter does not affect a right or remedy available under law of this state other than this chapter.

2021 Acts, ch 56, §6

659A.7 Statute of limitations.

1. An action under section 659A.3, subsection 2, for:

a. An unauthorized disclosure shall not be brought later than four years from the date the

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disclosure was discovered or should have been discovered with the exercise of reasonable diligence.

b. A threat to disclose shall not be brought later than four years from the date of the threat to disclose.

2. This section is subject to section 614.8.

2021 Acts, ch 56, §7

659A.8 Construction.

This chapter shall be construed to be consistent with the Communications Decency Act of 1996, 47 U.S.C. §230.

2021 Acts, ch 56, §8

659A.9 Uniformity of application and construction.

In applying and construing this chapter, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

2021 Acts, ch 56, §9

CHAPTER 660

QUO WARRANTO

For Iowa court rules concerning quo warranto, see R.C.P. 1.1301 – 1.1307

660.1	Books and papers.	660.6	Action.
660.2	Action for damages.	660.7	Duty of trustees.
660.3	Action against officers of corporation.	660.8	Books delivered.
		660.9	Inventory.
660.4	Corporation dissolved.	660.10	Powers.
660.5	Bond.	660.11	Penalty for refusing to obey order.

660.1 Books and papers.

The court, after such judgment, shall order the defendant to deliver over all books and papers in the defendant's custody or under the defendant's control belonging to said office.

[C51, §2159; R60, §3741; C73, §3354; C97, §4322; C24, 27, 31, 35, 39, §**12426;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §660.1]

660.2 Action for damages.

When judgment has been rendered in favor of the claimant, the claimant may, at any time within one year thereafter, bring an action against the defendant, and recover the damages the claimant has sustained by reason of the act of the defendant.

[C51, §2160; R60, §3742; C73, §3355; C97, §4323; C24, 27, 31, 35, 39, §**12427;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §660.2]

660.3 Action against officers of corporation.

When judgment of ouster is rendered against a corporation on account of the misconduct of the directors or officers thereof, such officers shall be jointly and severally liable to an action by anyone injured thereby.

[C51, §2173; R60, §3755; C73, §3359; C97, §4327; C24, 27, 31, 35, 39, §**12431;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §660.3]

660.4 Corporation dissolved.

If a corporation is ousted and dissolved by the proceedings herein authorized, the court shall appoint three disinterested persons as trustees of the creditors and stockholders.

[C51, §2166; R60, §3748; C73, §3360; C97, §4328; C24, 27, 31, 35, 39, §**12432;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §660.4]

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660.5 Bond.

Said trustees shall enter into a bond in such a penalty and with such security as the court approves, conditioned for the faithful discharge of their trust.

[C51, §2167; R60, §3749; C73, §3361; C97, §4329; C24, 27, 31, 35, 39, §**12433;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §660.5]

660.6 Action.

Action may be brought on such bond by any person injured by the negligence or wrongful act of the trustees in the discharge of their duties.

[C51, §2168; R60, §3750; C73, §3362; C97, §4330; C24, 27, 31, 35, 39, §**12434;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §660.6]

660.7 Duty of trustees.

The trustees shall proceed immediately to collect the debts and pay the liabilities of the corporation, and to divide the surplus among those thereto entitled.

[C51, §2169; R60, §3751; C73, §3363; C97, §4331; C24, 27, 31, 35, 39, §**12435;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §660.7]

660.8 Books delivered.

The court shall, upon application for that purpose, order any officer of such corporation, or any other person having possession of any of the effects, books, or papers thereof, in any wise necessary for the settlement of its affairs, to deliver the same to the trustees.

[C51, §2170; R60, §3752; C73, §3364; C97, §4332; C24, 27, 31, 35, 39, §**12436;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §660.8]

660.9 Inventory.

As soon as practicable after their appointment, the trustees shall make and file in the office of the clerk of the court an inventory, sworn to by each of them, of all the effects, rights, and credits which come to their possession or knowledge.

[C51, §2171; R60, §3753; C73, §3365; C97, §4333; C24, 27, 31, 35, 39, §**12437;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §660.9]

660.10 Powers.

They shall sue for and recover the debts and property of the corporation, and shall be responsible to the creditors and stockholders, respectively, to the extent of the effects which come into their hands.

[C51, §2172; R60, §3754; C73, §3366; C97, §4334; C24, 27, 31, 35, 39, §**12438;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §660.10]

660.11 Penalty for refusing to obey order.

Any person who without good reason refuses to obey an order of the court, as herein provided, shall be guilty of contempt, and shall be punished accordingly, and shall be further liable for the damages resulting to any person on account of the disobedience of the person who refuses to obey.

[C51, §2174; R60, §3756; C73, §3367; C97, §4335; C24, 27, 31, 35, 39, §**12439;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §660.11]

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CHAPTER 661

MANDAMUS

661.1 Definition.
661.2 Discretion — exercise of.
661.3 Nature of action.
661.4 Order issued.
661.5 Auxiliary remedy.
661.6 "Enforceable duty" defined.
661.7 Other plain, speedy and adequate remedy.
661.8 When order granted.
661.9 Petition.
661.10 Other pleadings.
661.11 Repealed by 67 Acts, ch 400, §197.
661.12 Injunction may issue — joinder.
661.13 Peremptory order.
661.14 Form of order — return.
661.15 Performance by another — costs.
661.16 Temporary orders.
661.17 Appeal by state.

661.1 Definition.

The action of mandamus is one brought to obtain an order commanding an inferior tribunal, board, corporation, or person to do or not to do an act, the performance or omission of which the law enjoins as a duty resulting from an office, trust, or station.

[R60, §3761; C73, §3373; C97, §4341; S13, §4341; C24, 27, 31, 35, 39, §**12440;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §661.1]

661.2 Discretion — exercise of.

Where discretion is left to the inferior tribunal or person, the mandamus can only compel it to act, but cannot control such discretion.

[C51, §2180; R60, §3763; C73, §3373; C97, §4341; S13, §4341; C24, 27, 31, 35, 39, §**12441;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §661.2]

661.3 Nature of action.

All such actions shall be tried as equitable actions.

[S13, §4341; C24, 27, 31, 35, 39, §**12442;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §661.3]

661.4 Order issued.

The order may be issued by the district court to any inferior tribunal, or to any corporation, officer, or person; and by the supreme court or the court of appeals to any inferior court, if necessary, and in any other case where it is found necessary for either of those courts to exercise its legitimate power.

[C51, §2179, 2181; R60, §3761, 3764; C73, §3374; C97, §4342; C24, 27, 31, 35, 39, §**12443;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §661.4]

661.5 Auxiliary remedy.

The plaintiff in any action, except those brought for the recovery of specific real or personal property, may also, as an auxiliary relief, have an order of mandamus to compel the performance of a duty established in such action.

[R60, §3767; C73, §3375; C97, §4343; C24, 27, 31, 35, 39, §**12444;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §661.5]

661.6 "Enforceable duty" defined.

If such duty, the performance of which is sought to be compelled, is not one resulting from an office, trust, or station, it must be one for the breach of which a legal right to damages is already complete at the commencement of the action, and must also be a duty of which a court of equity would enforce the performance.

[R60, §3767; C73, §3375; C97, §4343; C24, 27, 31, 35, 39, §**12445;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §661.6]

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661.7 Other plain, speedy and adequate remedy.

An order of mandamus shall not be issued in any case where there is a plain, speedy and adequate remedy in the ordinary course of the law, save as herein provided.

[C51, §2182; R60, §3765; C73, §3376; C97, §4344; C24, 27, 31, 35, 39, §**12446;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §661.7]

661.8 When order granted.

The order of mandamus is granted on the petition of any private party aggrieved, without the concurrence of the prosecutor for the state, or on the petition of the state by the county attorney, when the public interest is concerned, and is in the name of such private party or of the state, as the case may be in fact brought.

[R60, §3761; C73, §3377; C97, §4345; C24, 27, 31, 35, 39, §**12447;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §661.8]

661.9 Petition.

The plaintiff in such action shall state the plaintiff's claim, and shall also state facts sufficient to constitute a cause for such claim, and shall also set forth that the plaintiff, if a private individual, is personally interested therein, and that the plaintiff sustains and may sustain damage by the nonperformance of such duty, and that performance thereof has been demanded by the plaintiff, and refused or neglected, and shall pray an order of mandamus commanding the defendant to fulfill such duty.

[R60, §3762; C73, §3378; C97, §4346; C24, 27, 31, 35, 39, §**12448;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §661.9]

661.10 Other pleadings.

The pleadings and other proceedings in any action in which a mandamus is claimed shall be the same, as nearly as may be, and costs shall be recoverable by either party, as in an ordinary action for the recovery of damages.

[R60, §3766; C73, §3379; C97, §4347; C24, 27, 31, 35, 39, §**12449;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §661.10]

661.11 Repealed by 67 Acts, ch 400, §197.

661.12 Injunction may issue — joinder.

When the action is brought by a private person, it may be joined with a cause of action for such an injunction as may be obtained by ordinary proceedings, or with the causes of actions specified in this chapter, but no other joinder and no counterclaim shall be allowed.

[R60, §4181; C73, §3380; C97, §4348; C24, 27, 31, 35, 39, §**12450;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §661.12]

661.13 Peremptory order.

When the plaintiff recovers judgment, the court may include therein a peremptory order of mandamus directed to the defendant, commanding the defendant forthwith to perform the duty to be enforced, together with a money judgment for damages and costs, upon which an ordinary execution may issue.

[R60, §3768; C73, §3381; C97, §4349; C24, 27, 31, 35, 39, §**12451;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §661.13]

661.14 Form of order — return.

The order commanding the performance of the duty shall be directed to the party and shall be returnable forthwith. No return except that of compliance shall be allowed; however, the court may upon sufficient grounds allow reasonable time for making the return.

[R60, §3769; C73, §3382; C97, §4350; C24, 27, 31, 35, 39, §**12452;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §661.14]

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661.15 Performance by another — costs.

The court may, upon application of the plaintiff, besides or instead of proceeding against the defendant by attachment, direct that the act required to be done may be done by the plaintiff or some other person appointed by the court, at the expense of the defendant, and, upon the act being done, the amount of such expense may be ascertained by the court, or by a referee appointed by the court, and the court may render judgment for the amount of the expense and cost, and enforce payment thereof by execution.

[R60, §3770; C73, §3383; C97, §4351; C24, 27, 31, 35, 39, §**12453;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §661.15]

661.16 Temporary orders.

During the pendency of the action, the court may make temporary orders for preventing damage or injury to the plaintiff until the action is decided.

[R60, §3771; C73, §3384; C97, §4352; C24, 27, 31, 35, 39, §**12454;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §661.16]

661.17 Appeal by state.

When the state is a party, it may appeal without security.

[R60, §3772; C73, §3385; C97, §4353; C24, 27, 31, 35, 39, §**12455;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §661.17]

CHAPTER 662

CERTIORARI

For Iowa court rules concerning certiorari, see R.C.P. 1.1401 – 1.1412

CHAPTER 663

HABEAS CORPUS

Referred to in §331.653

Postconviction procedure, see chapter 822

663.1 Petition.
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663.3 Writ allowed — service.
663.4 Application — to whom made.
663.5 Inmates of state or federal institutions.
663.6 Writ refused.
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663.9 How issued.
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663.12 County attorney notified.
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663.14 Mode.
663.15 Defendant not found.
663.16 Power of officer.
663.17 Arrest.
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663.19 Defects in writ.
663.20 Penalty for eluding writ.
663.21 Refusal to give copy of process.
663.22 Preliminary writ.
663.23 Arrest of defendant.
663.24 Execution of writ — return.
663.25 Examination.
663.26 Informalities.
663.27 Appearance — answer.
663.28 Body to be produced.
663.29 Penalty — contempt.
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663.31 Answer.
663.32 Transfer of plaintiff.
663.33 Copy of process.
663.34 Demurrer or reply — trial.
663.35 Commitment questioned.
663.36 Nonpermissible issues.
663.37 Discharge.
663.38 Plaintiff held.
663.39 Reserved.
663.40 Plaintiff retained in custody.
663.41 Right to be present waived.
663.42 Disobedience of order.
663.43 Papers filed with clerk.
663.44 Costs.

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663.1 Petition.

The petition for the writ of habeas corpus must state:

1. That the person in whose behalf it is sought is restrained of the person's liberty, and the person by whom and the place where the person is so restrained, mentioning the names of the parties, if known, and if unknown describing them with as much particularity as practicable.

2. The cause or pretense of such restraint, according to the best information of the applicant; and if by virtue of any legal process, a copy thereof must be annexed, or a satisfactory reason given for its absence.

3. That the restraint is illegal, and wherein.

4. That the legality of the restraint has not already been adjudged upon a prior proceeding of the same character, to the best knowledge and belief of the applicant.

5. Whether application for the writ has been before made to and refused by any court or judge, and if so, a copy of the petition in that case must be attached, with the reasons for the refusal, or satisfactory reasons given for the failure to do so.

[C51, §2213; R60, §3801; C73, §3449; C97, §4417; C24, 27, 31, 35, 39, §**12468;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.1]

Referred to in §822.1

663.2 Verification — presentation to court.

The petition must be sworn to by the person confined, or by someone in the confined person's behalf, and presented to some court or officer authorized to allow the writ.

[C51, §2214; R60, §3802; C73, §3450; C97, §4418; C24, 27, 31, 35, 39, §**12469;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.2]

Referred to in §822.1

663.3 Writ allowed — service.

The writ may be allowed by the supreme or district court, or by a supreme court judge or district judge, and may be served in any part of the state.

[C51, §2215; R60, §3803; C73, §3451; C97, §4419; C24, 27, 31, 35, 39, §**12470;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.3]

Referred to in §822.1

663.4 Application — to whom made.

Application for the writ must be made to the court or judge most convenient in point of distance to the applicant, and the more remote court or judge, if applied to therefor, may refuse the same unless a sufficient reason be stated in the petition for not making the application to the more convenient court or a judge thereof.

[C51, §2217; R60, §3805; C73, §3452; C97, §4420; S13, §4420; C24, 27, 31, 35, 39, §**12471;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.4]

Referred to in §663.5, 822.1

663.5 Inmates of state or federal institutions.

When the applicant is confined in a state or federal institution, other than a penal institution, the provisions of section 663.4 relating to the court to which or the judge to whom applications must be made are mandatory, and the convenience or preference of an attorney or witness or other person interested in the release of the applicant shall not be a sufficient reason to authorize a more remote court or judge to assume jurisdiction.

[S13, §4420; C24, 27, 31, 35, 39, §**12472;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.5]

Referred to in §822.1

663.6 Writ refused.

If, from the showing of the petitioner, the plaintiff would not be entitled to any relief, the court or judge must refuse to allow the writ.

[C51, §2218; R60, §3806; C73, §3453; C97, §4421; C24, 27, 31, 35, 39, §**12473;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.6]

Referred to in §822.1

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663.7 Reasons endorsed.

If the writ is disallowed, the court or judge shall cause the reasons thereof to be appended to the petition and returned to the person applying for the writ.

[C51, §2221; R60, §3809; C73, §3454; C97, §4422; C24, 27, 31, 35, 39, §**12474;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.7]

Referred to in §822.1

663.8 Form of writ.

If the petition is in accordance with the foregoing requirements, and states sufficient grounds for the allowance of the writ, it shall issue, and may be substantially as follows:

> The State of Iowa,
>
> To.....:
>
> You are hereby commanded to have the body of ....., by you unlawfully detained, as is alleged, before the court (or before me, or before ....., judge, etc., as the case may be), at ....., on ..... (or immediately after being served with this writ), to be dealt with according to law, and have you then and there this writ, with a return thereon of your doings in the premises.

[C51, §2219; R60, §3807; C73, §3455; C97, §4423; C24, 27, 31, 35, 39, §**12475;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.8]

2000 Acts, ch 1058, §53

Referred to in §822.1

663.9 How issued.

When the writ is allowed by a court, it must be issued by the clerk, but when by a judge, the judge must issue it personally, subscribing the judge's name thereto.

[C51, §2220; R60, §3808; C73, §3456; C97, §4424; C24, 27, 31, 35, 39, §**12476;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.9]

Referred to in §602.8102(114), 822.1

663.10 Penalty for refusing.

Any judge, whether acting individually or as a member of the court, who wrongfully and willfully refuses the allowance of the writ when properly applied for, shall forfeit to the party aggrieved the sum of one thousand dollars.

[C51, §2222; R60, §3810; C73, §3457; C97, §4425; C24, 27, 31, 35, 39, §**12477;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.10]

Referred to in §822.1

663.11 Issuance on judge's own motion.

When any court or judge authorized to grant the writ has evidence, from a judicial proceeding before the court or judge, that any person within the jurisdiction of such court or officer is illegally restrained of the person's liberty, such court or judge shall issue the writ or cause it to be issued, on the court's or judge's own motion.

[C51, §2223; R60, §3811; C73, §3458; C97, §4426; C24, 27, 31, 35, 39, §**12478;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.11]

Referred to in §822.1

663.12 County attorney notified.

The court or officer allowing the writ must cause the county attorney of the proper county to be informed thereof, and of the time and place where and when it is made returnable.

[C51, §2240; R60, §3828; C73, §3459; C97, §4427; C24, 27, 31, 35, 39, §**12479;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.12]

Referred to in §822.1

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663.13 Service of writ.

The writ may be served by the sheriff, or by any other person appointed in writing for that purpose by the court or judge by whom it is issued or allowed. If served by any other than the sheriff, the person appointed possesses the same power, and is liable to the same penalty for a nonperformance of the duty, as though the person were the sheriff.

[C51, §2224; R60, §3812; C73, §3460; C97, §4428; C24, 27, 31, 35, 39, §**12480;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.13]

Referred to in §822.1

663.14 Mode.

The service shall be made by leaving the original writ with the defendant, and preserving a copy thereof on which to make the return of service, but a failure in this respect shall not be held material.

[C51, §2225; R60, §3813; C73, §3461; C97, §4429; C24, 27, 31, 35, 39, §**12481;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.14]

Referred to in §822.1

663.15 Defendant not found.

If the defendant cannot be found, or if the defendant has not the plaintiff in custody, the service may be made upon any person who has, in the same manner and with the same effect as though the person had been made defendant therein.

[C51, §2226; R60, §3814; C73, §3462; C97, §4430; C24, 27, 31, 35, 39, §**12482;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.15]

Referred to in §822.1

663.16 Power of officer.

If the defendant hides, or refuses admittance to the person attempting to serve the writ, or if the defendant attempts wrongfully to carry the plaintiff out of the county or the state after the service of the writ, the sheriff, or the person who is attempting to serve or who has served it, is authorized to arrest the defendant and bring the defendant, together with the plaintiff, forthwith before the officer or court before whom the writ is made returnable.

[C51, §2227; R60, §3815; C73, §3463; C97, §4431; C24, 27, 31, 35, 39, §**12483;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.16]

Referred to in §822.1

663.17 Arrest.

In order to make the arrest, the sheriff or other person having the writ possesses the same power as is given to a sheriff for the arrest of a person charged with a felony.

[C51, §2228; R60, §3816; C73, §3464; C97, §4432; C24, 27, 31, 35, 39, §**12484;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.17]

Referred to in §822.1

663.18 Reserved.

663.19 Defects in writ.

The writ must not be disobeyed for any defects of form or misdescription of the plaintiff or defendant, provided enough is stated to show the meaning and intent thereof.

[C51, §2234; R60, §3822; C73, §3466; C97, §4434; C24, 27, 31, 35, 39, §**12486;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.19]

Referred to in §822.1

663.20 Penalty for eluding writ.

If the defendant attempts to elude the service of the writ, or to avoid the effect thereof by transferring the plaintiff to another, or by concealing the plaintiff, the defendant shall be guilty of a serious misdemeanor, and any person knowingly aiding or abetting in any such act shall be subject to like punishment.

[C51, §2253; R60, §3841; C73, §3467; C97, §4435; C24, 27, 31, 35, 39, §**12487;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.20]

Referred to in §822.1

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663.21 Refusal to give copy of process.

An officer refusing to deliver a copy of any legal process by which the officer detains the plaintiff in custody to any person who demands it and tenders the fees therefor, shall forfeit two hundred dollars to the person who demands it.

[C51, §2254; R60, §3842; C73, §3468; C97, §4436; C24, 27, 31, 35, 39, §**12488;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.21]

Referred to in §822.1

663.22 Preliminary writ.

The court or judge to whom the application for the writ is made, if satisfied that the plaintiff would suffer any irreparable injury before the plaintiff could be relieved by the proceedings above authorized, may issue an order to the sheriff, or any other person selected instead, commanding the sheriff or other person to bring the plaintiff forthwith before such court or judge.

[C51, §2230; R60, §3818; C73, §3469; C97, §4437; C24, 27, 31, 35, 39, §**12489;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.22]

Referred to in §822.1

663.23 Arrest of defendant.

If the evidence is sufficient to justify the arrest of the defendant for a criminal offense committed in connection with the illegal detention of the plaintiff, the order must also direct the arrest of the defendant.

[C51, §2231; R60, §3819; C73, §3470; C97, §4438; C24, 27, 31, 35, 39, §**12490;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.23]

Referred to in §822.1

663.24 Execution of writ — return.

The officer or person to whom the order is directed must execute the same by bringing the defendant, and also the plaintiff if required, before the court or judge issuing it, and the defendant must make return to the writ in the same manner as if the ordinary course had been pursued.

[C51, §2232; R60, §3820; C73, §3471; C97, §4439; C24, 27, 31, 35, 39, §**12491;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.24]

Referred to in §822.1

663.25 Examination.

The defendant may also be examined and committed, or bailed, or discharged, according to the nature of the case.

[C51, §2233; R60, §3821; C73, §3472; C97, §4440; C24, 27, 31, 35, 39, §**12492;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.25]

Referred to in §822.1

663.26 Informalities.

Any person served with the writ is to be presumed to be the person to whom it is directed, although it may be directed to the person served by a wrong name or description, or to another person.

[C51, §2235; R60, §3823; C73, §3473; C97, §4441; C24, 27, 31, 35, 39, §**12493;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.26]

Referred to in §822.1

663.27 Appearance — answer.

Service being made in any of the modes herein provided, the defendant must appear at the proper time and answer the petition, but no verification shall be required to the answer.

[C51, §2236; R60, §3824, 4182; C73, §3474; C97, §4442; C24, 27, 31, 35, 39, §**12494;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.27]

Referred to in §822.1

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663.28 Body to be produced.

The defendant must also produce the body of the plaintiff, or show good cause for not doing so.

[C51, §2237; R60, §3825; C73, §3475; C97, §4443; C24, 27, 31, 35, 39, §**12495;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.28]

Referred to in §822.1

663.29 Penalty — contempt.

A willful failure to comply with the above requirements will render the defendant liable to be attached for contempt, and to be imprisoned till the defendant complies, and shall subject the defendant to the forfeiture of one thousand dollars to the party thereby aggrieved.

[C51, §2238; R60, §3826; C73, §3476; C97, §4444; C24, 27, 31, 35, 39, §**12496;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.29]

Referred to in §822.1

663.30 Attachment.

Such attachment may be served by the sheriff or any other person authorized by the court or judge, who shall also be empowered to produce the body of the plaintiff forthwith, and has, for this purpose, the same powers as are above conferred in similar cases.

[C51, §2239; R60, §3827; C73, §3477; C97, §4445; C24, 27, 31, 35, 39, §**12497;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.30]

Referred to in §822.1

663.31 Answer.

The defendant in the answer must state whether the defendant then has, or at any time has had, the plaintiff under the defendant's control and restraint, and if so the cause thereof.

[C51, §2241; R60, §3829; C73, §3478; C97, §4446; C24, 27, 31, 35, 39, §**12498;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.31]

Referred to in §822.1

663.32 Transfer of plaintiff.

If the defendant has transferred the plaintiff to another person, the defendant must state that fact, and to whom, and the time thereof, as well as the reason or authority therefor.

[C51, §2242; R60, §3830; C73, §3479; C97, §4447; C24, 27, 31, 35, 39, §**12499;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.32]

Referred to in §822.1

663.33 Copy of process.

If the defendant holds the plaintiff by virtue of a legal process or written authority, a copy thereof must be annexed.

[C51, §2243; R60, §3831; C73, §3480; C97, §4448; C24, 27, 31, 35, 39, §**12500;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.33]

Referred to in §822.1

663.34 Demurrer or reply — trial.

The plaintiff may demur or reply to the defendant's answer, but no verification shall be required to the reply, and all issues joined therein shall be tried by the judge or court.

[C51, §2244; R60, §3832; C73, §3481; C97, §4449; C24, 27, 31, 35, 39, §**12501;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.34]

Referred to in §822.1

663.35 Commitment questioned.

The reply may deny the sufficiency of the testimony to justify the action of the committing magistrate, on the trial of which issue all written testimony before such magistrate may be given in evidence before the court or judge, in connection with any other testimony which may then be produced.

[C51, §2245; R60, §3833; C73, §3482; C97, §4450; C24, 27, 31, 35, 39, §**12502;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.35]

Referred to in §822.1

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663.36 Nonpermissible issues.

It is not permissible to question the correctness of the action of a court or judge when lawfully acting within the scope of their authority.

[C51, §2246; R60, §3834; C73, §3483; C97, §4451; C24, 27, 31, 35, 39, §**12503;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.36]

Referred to in §822.1

663.37 Discharge.

If no sufficient legal cause of confinement is shown, the plaintiff must be discharged.

[C51, §2247; R60, §3835; C73, §3484; C97, §4452; C24, 27, 31, 35, 39, §**12504;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.37]

Referred to in §822.1

663.38 Plaintiff held.

Although the commitment of the plaintiff may have been irregular, if the court or judge is satisfied from the evidence that the plaintiff ought to be held or committed, the order may be made accordingly.

[C51, §2248; R60, §3836; C73, §3485; C97, §4453; C24, 27, 31, 35, 39, §**12505;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.38]

Referred to in §822.1

663.39 Reserved.

663.40 Plaintiff retained in custody.

Until the sufficiency of the cause of restraint is determined, the defendant may retain the plaintiff in the defendant's custody, and may use all necessary and proper means for that purpose.

[C51, §2250; R60, §3838; C73, §3487; C97, §4455; C24, 27, 31, 35, 39, §**12507;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.40]

Referred to in §822.1

663.41 Right to be present waived.

The plaintiff may, in writing, or by attorney, waive the right to be present at the trial, in which case the proceedings may be had in the plaintiff's absence. The writ will in such cases be modified accordingly.

[C51, §2251; R60, §3839; C73, §3488; C97, §4456; C24, 27, 31, 35, 39, §**12508;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.41]

Referred to in §822.1

663.42 Disobedience of order.

Disobedience to any order of discharge will subject the defendant to attachment for contempt, and also to the forfeiture of one thousand dollars to the party aggrieved, besides all damages sustained by the plaintiff in consequence thereof.

[C51, §2252; R60, §3840; C73, §3489; C97, §4457; C24, 27, 31, 35, 39, §**12509;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.42]

Referred to in §822.1

663.43 Papers filed with clerk.

When the proceedings are before a judge, except when the writ is refused, all the papers in the case, including the judge's final order, shall be filed with the clerk of the district court of the county wherein the final proceedings were had, and a memorandum thereof shall be entered by the clerk upon the judgment docket.

[C51, §2255; R60, §3843; C73, §3490; C97, §4458; C24, 27, 31, 35, 39, §**12510;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.43]

Referred to in §602.8102(114), 822.1

663.44 Costs.

1. If the plaintiff is discharged, the costs shall be assessed to the defendant, unless the defendant is an officer holding the plaintiff in custody under a commitment, or under other

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legal process, in which case the costs shall be assessed to the county. If the plaintiff's application is refused, the costs shall be assessed against the plaintiff, and, in the discretion of the court, against the person who filed the petition in the plaintiff's behalf.

2. Notwithstanding subsection 1, if the plaintiff is confined in any state institution and is discharged in habeas corpus proceedings, or if the habeas corpus proceedings fail, and costs and fees cannot be collected from the person liable to pay costs and fees, the costs and fees shall be paid by the county in which such state institution is located. The facts of such payment and the proceedings on which it is based, with a statement of the amount of fees or costs incurred, with approval in writing by the presiding judge appended to the statement or endorsed on the statement, shall be certified by the clerk of the district court under the seal of office to the state executive council. The executive council shall review the proceedings and authorize reimbursement for all such fees and costs or such part of the fees and costs as the executive council finds justified, and shall notify the director of the department of administrative services to draw a warrant to such county treasurer for the amount authorized. There is appropriated from moneys in the general fund not otherwise appropriated an amount necessary to pay the reimbursement authorized by the executive council. The costs and fees referred to above shall include any award of fees made to a court appointed attorney representing an indigent party bringing the habeas corpus action.

[C97, §4459; C24, 27, 31, 35, 39, §**12511;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.44]

86 Acts, ch 1237, §40; 2003 Acts, ch 145, §286; 2011 Acts, ch 131, §39, 158

Referred to in §602.8102(114), 822.1

CHAPTER 663A

WRONGFUL IMPRISONMENT

663A.1 Wrongful imprisonment — cause of action.

663A.1 Wrongful imprisonment — cause of action.

1. As used in this section, a "*wrongfully imprisoned person*" means an individual who meets all of the following criteria:

a. The individual was charged, by indictment or information, with the commission of a public offense classified as an aggravated misdemeanor or felony.

b. The individual did not plead guilty to the public offense charged, or to any lesser included offense, but was convicted by the court or by a jury of an offense classified as an aggravated misdemeanor or felony.

c. The individual was sentenced to incarceration for a term of imprisonment not to exceed two years if the offense was an aggravated misdemeanor or to an indeterminate term of years under chapter 902 if the offense was a felony, as a result of the conviction.

d. The individual's conviction was vacated or dismissed, or was reversed, and no further proceedings can be or will be held against the individual on any facts and circumstances alleged in the proceedings which had resulted in the conviction.

e. The individual was imprisoned solely on the basis of the conviction that was vacated, dismissed, or reversed and on which no further proceedings can be or will be had.

2. Upon receipt of an order vacating, dismissing, or reversing the conviction and sentence in a case for which no further proceedings can be or will be held against an individual on any facts and circumstances alleged in the proceedings which resulted in the conviction, the district court shall make a determination whether there is clear and convincing evidence to establish either of the following findings:

a. That the offense for which the individual was convicted, sentenced, and imprisoned, including any lesser included offenses, was not committed by the individual.

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b. That the offense for which the individual was convicted, sentenced, and imprisoned was not committed by any person, including the individual.

3. If the district court finds that there is clear and convincing evidence to support either of the findings specified in subsection 2, the district court shall do all of the following:

a. Enter an order finding that the individual is a wrongfully imprisoned person.

b. Orally inform the person and the person's attorney that the person has a right to commence a civil action against the state under chapter 669 on the basis of wrongful imprisonment.

4. Within seven days of entry of the order finding that an individual is a wrongfully imprisoned person, the clerk of court shall forward a copy of the order, together with a copy of this section, to the individual named in the order.

5. A claim for wrongful imprisonment under this section is a "claim" for purposes of chapter 669, notwithstanding anything in section 669.14 to the contrary. Notwithstanding section 669.8, however, an action brought under this section shall not preclude or otherwise limit any action or claim for relief based on any negligent or wrongful acts or omissions which arose during the period of the wrongful imprisonment, but which are not related to the facts and circumstances underlying the conviction or proceedings to obtain relief from the conviction.

6. Damages recoverable from the state by a wrongfully imprisoned person under this section are limited to the following:

a. The amount of restitution for any fine, surcharge, other penalty, or court costs imposed and paid and any reasonable attorney's fees and expenses incurred in connection with all criminal proceedings and appeals regarding the wrongfully imposed judgment and sentence and such fees and expenses incurred in connection with any civil actions and proceedings for postconviction relief which are related to the wrongfully imposed judgment and sentence.

b. An amount of liquidated damages in an amount equal to fifty dollars per day of wrongful imprisonment.

c. The value of any lost wages, salary, or other earned income which directly resulted from the individual's conviction and imprisonment, up to twenty-five thousand dollars per year.

d. The value of reasonable attorney's fees for services provided in connection with an action under this section.

7. In awarding damages under this section, the state appeal board or the court shall not offset the award by any expenses incurred by the state or any political subdivision of the state in connection with the arrest, prosecution, and imprisonment of the individual, including, but not limited to, expenses for food, clothing, shelter, and medical care.

8. Actions under this section shall be commenced within two years of entry of the district court order adjudging the individual to be a wrongfully imprisoned person.

97 Acts, ch 196, §1

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CHAPTER 664

INJUNCTIONS

For Iowa court rules concerning injunctions,
see R.C.P. 1.1501 – 1.1511

CHAPTER 664A

NO-CONTACT ORDERS — ENFORCEMENT OF PROTECTIVE ORDERS

Referred to in §235F.2, 235F.8, 236.7, 236.18, 236A.9, 236A.18, 331.756(4), 562A.27A, 562B.25A, 633.701, 708.2E

664A.1 Definitions.
664A.2 Applicability.
664A.3 Entry of temporary no-contact order.
664A.4 Notice of no-contact order.
664A.4A Short-form notification — no-contact order or protective order.
664A.5 Modification — entry of permanent no-contact order.
664A.6 Mandatory arrest for violation of no-contact order — immunity for actions.
664A.7 Violation of no-contact order or protective order — contempt or simple misdemeanor penalties.
664A.8 Extension of no-contact order.

664A.1 Definitions.

For purposes of this chapter:

1. *"No-contact order"* means a court order issued in a criminal proceeding requiring the defendant to have no contact with the alleged victim, persons residing with the alleged victim, or members of the alleged victim's immediate family, and to refrain from harassing the alleged victim, persons residing with the alleged victim, or members of the alleged victim's family.

2. *"Protective order"* means a protective order issued pursuant to chapter 232, a court order or court-approved consent agreement entered pursuant to this chapter or chapter 235F, a court order or court-approved consent agreement entered pursuant to chapter 236 or 236A, including a valid foreign protective order under section 236.19, subsection 3, or section 236A.19, subsection 3, a temporary or permanent protective order or order to vacate the homestead under chapter 598, or an order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault under section 708.2A or older individual assault under section 708.2D, or a civil injunction issued pursuant to section 915.22.

3. *"Victim"* means a person who has suffered physical, emotional, or financial harm as a result of a public offense, as defined in section 701.2, committed in this state.

2006 Acts, ch 1101, §5; 2007 Acts, ch 180, §4; 2014 Acts, ch 1107, §22; 2017 Acts, ch 121, §26; 2022 Acts, ch 1132, §12

664A.2 Applicability.

1. This chapter applies to no-contact orders issued for violations or alleged violations of sections 708.2A, 708.2D, 708.7, 708.11, 709.2, 709.3, and 709.4, and any other public offense for which there is a victim.

2. A protective order issued in a civil proceeding shall be issued pursuant to chapter 232, 235F, 236, 236A, 598, or 915. Punishment for a violation of a protective order shall be imposed pursuant to section 664A.7.

2006 Acts, ch 1101, §6; 2007 Acts, ch 180, §5; 2014 Acts, ch 1107, §23; 2017 Acts, ch 121, §27; 2022 Acts, ch 1132, §13

Referred to in §664A.3, 664A.5, 664A.7, 664A.8

664A.3 Entry of temporary no-contact order.

1. When a person is taken into custody for contempt proceedings pursuant to section 236.11, taken into custody pursuant to section 236A.12, or arrested for any public offense referred to in section 664A.2, subsection 1, and the person is brought before a magistrate for

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initial appearance, the magistrate shall enter a no-contact order if the magistrate finds both of the following:

a. Probable cause exists to believe that any public offense referred to in section 664A.2, subsection 1, or a violation of a no-contact order, protective order, or consent agreement has occurred.

b. The presence of or contact with the defendant poses a threat to the safety of the alleged victim, persons residing with the alleged victim, or members of the alleged victim's family.

2. Notwithstanding chapters 804 and 805, a person taken into custody pursuant to section 236.11 or 236A.12 or arrested pursuant to section 236.12, 709.2, 709.3, or 709.4 may be released on bail or otherwise only after initial appearance before a magistrate as provided in chapter 804 and the rules of criminal procedure or section 236.11 or 236A.12, whichever is applicable.

3. A no-contact order issued pursuant to this section shall be issued in addition to any other conditions of release imposed by a magistrate pursuant to section 811.2. The no-contact order has force and effect until it is modified or terminated by subsequent court action in a contempt proceeding or criminal or juvenile court action and is reviewable in the manner prescribed in section 811.2. Upon final disposition of the criminal or juvenile court action, the court shall terminate or modify the no-contact order pursuant to section 664A.5.

4. A no-contact order requiring the defendant to have no contact with the alleged victim's children shall prevail over any existing order which may be in conflict with the no-contact order.

5. A no-contact order issued pursuant to this section shall restrict the defendant from having contact with the victim, persons residing with the victim, or the victim's immediate family.

6. A no-contact order issued pursuant to this section shall specifically include notice that the person may be required to relinquish all firearms, offensive weapons, and ammunition upon the issuance of a permanent no-contact order pursuant to section 664A.5.

2006 Acts, ch 1101, §7; 2007 Acts, ch 180, §6; 2010 Acts, ch 1083, §3; 2017 Acts, ch 121, §28, 29; 2022 Acts, ch 1043, §1

Referred to in §664A.5, 709.22, 915.50, 915.50A

664A.4 Notice of no-contact order.

1. The clerk of the district court or other person designated by the court shall provide a copy of the no-contact order to the victim pursuant to this chapter and chapter 915.

2. The clerk of the district court shall provide a notice and copy of the no-contact order to the appropriate law enforcement agencies and the twenty-four-hour dispatcher for the law enforcement agencies in the same manner as provided in section 235F.6, 236.5, or 236A.7, as applicable. The clerk of the district court shall provide a notice and copy of a modification or vacation of a no-contact order in the same manner.

2006 Acts, ch 1101, §8; 2014 Acts, ch 1107, §24; 2017 Acts, ch 121, §30

664A.4A Short-form notification — no-contact order or protective order.

1. In lieu of personal service of a no-contact order or a protective order on a person whose activities are restrained by the order, a sheriff of any county in this state or any peace officer or corrections officer in this state may serve the person with a short-form notification pursuant to this section to effectuate service of an unserved no-contact order or protective order.

2. Service of a short-form notification under this section shall be allowed during traffic stops and other contacts with the person by a sheriff, peace officer, or corrections officer in this state in the course of performing official duties. The person may be detained for a reasonable period of time to complete the short-form notification process.

3. When the short-form notification process is complete, the sheriff, peace officer, or corrections officer serving the notification shall file a copy of the notification with the clerk of the district court. The filing shall indicate the date and time the notification was served on the person.

4. The short-form notification shall be on a form prescribed by the state court administrator. The state court administrator shall prescribe rules relating to the content and

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distribution of the form to appropriate law enforcement agencies in this state. The form shall include but not be limited to all of the following statements:

a. The person shall have no contact with the protected party.

b. The person is responsible for obtaining a full copy of the no-contact order or the protective order from the county sheriff of the county in which the order was entered or from the clerk of the district court.

c. The terms and conditions of the no-contact order or protective order are enforceable, and the person is subject to arrest for violating the no-contact order or the protective order.

2013 Acts, ch 16, §2, 3
Referred to in §235F.2, 236.3, 236A.3

664A.5 Modification — entry of permanent no-contact order.

If a defendant is convicted of, receives a deferred judgment for, or pleads guilty to a public offense referred to in section 664A.2, subsection 1, or is held in contempt for a violation of a no-contact order issued under section 664A.3 or for a violation of a protective order issued pursuant to chapter 232, 235F, 236, 236A, 598, or 915, the court shall either terminate or modify the temporary no-contact order issued by the magistrate. The court may enter a no-contact order or continue the no-contact order already in effect for a period of five years from the date the judgment is entered or the deferred judgment is granted, regardless of whether the defendant is placed on probation.

2006 Acts, ch 1101, §9; 2007 Acts, ch 180, §7; 2014 Acts, ch 1107, §25; 2017 Acts, ch 121, §31
Referred to in §664A.3, 708.2A, 708.2D, 726.24, 726.25

664A.6 Mandatory arrest for violation of no-contact order — immunity for actions.

1. If a peace officer has probable cause to believe that a person has violated a no-contact order issued under this chapter, the peace officer shall take the person into custody and shall take the person without unnecessary delay before the nearest or most accessible magistrate in the judicial district in which the person was taken into custody.

2. If the peace officer is investigating a domestic abuse assault pursuant to section 708.2A, the officer shall also comply with sections 236.11 and 236.12.

3. A peace officer shall not be held civilly or criminally liable for acting pursuant to this section provided the peace officer acts in good faith and on reasonable grounds and the peace officer's acts do not constitute a willful or wanton disregard for the rights or safety of another.

2006 Acts, ch 1101, §10; 2007 Acts, ch 180, §8

664A.7 Violation of no-contact order or protective order — contempt or simple misdemeanor penalties.

1. Violation of a no-contact order issued under this chapter or a protective order issued pursuant to chapter 232, 235F, 236, 236A, or 598, including a modified no-contact order, is punishable by summary contempt proceedings.

2. A hearing in a contempt proceeding brought pursuant to this section shall be held not less than five and not more than fifteen days after the issuance of a rule to show cause, as determined by the court.

3. If convicted of or held in contempt for a violation of a no-contact order or a modified no-contact order for a public offense referred to in section 664A.2, subsection 1, or held in contempt of a no-contact order issued during a contempt proceeding brought pursuant to section 236.11 or 236A.12, the person shall be confined in the county jail for a minimum of seven days. A jail sentence imposed pursuant to this subsection shall be served on consecutive days. No portion of the mandatory minimum term of confinement imposed by this subsection shall be deferred or suspended. A deferred judgment, deferred sentence, or suspended sentence shall not be entered for a violation of a no-contact order, modified no-contact order, or protective order and the court shall not impose a fine in lieu of the minimum sentence, although a fine may be imposed in addition to the minimum sentence.

4. If convicted or held in contempt for a violation of a civil protective order referred to in section 664A.2, the person shall serve a jail sentence. A jail sentence imposed pursuant to this subsection shall be served on consecutive days. A person who is convicted of or held in

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contempt for a violation of a protective order referred to in section 664A.2 may be ordered by the court to pay the plaintiff's attorney's fees and court costs.

5. Violation of a no-contact order entered for the offense or alleged offense of domestic abuse assault in violation of section 708.2A or for the offense or alleged offense of older individual assault in violation of section 708.2D, or a violation of a protective order issued pursuant to chapter 232, 235F, 236, 236A, 598, or 915 constitutes a public offense and is punishable as a simple misdemeanor. Alternatively, the court may hold a person in contempt of court for such a violation, as provided in subsection 3.

6. A person shall not be held in contempt or convicted of violations under multiple no-contact orders, protective orders, or consent agreements, for the same set of facts and circumstances that constitute a single violation.

2006 Acts, ch 1101, §11; 2007 Acts, ch 180, §9, 10; 2014 Acts, ch 1107, §26; 2017 Acts, ch 121, §32; 2022 Acts, ch 1132, §14; 2023 Acts, ch 66, §148

Referred to in §598.41, 598C.305, 664A.2, 907.3

664A.8 Extension of no-contact order.

Upon the filing of an application by the state or by the victim of any public offense referred to in section 664A.2, subsection 1 which is filed within ninety days prior to the expiration of a modified no-contact order, the court shall modify and extend the no-contact order for an additional period of five years, unless the court finds that the defendant no longer poses a threat to the safety of the victim, persons residing with the victim, or members of the victim's family. The number of modifications extending the no-contact order permitted by this section is not limited.

2006 Acts, ch 1101, §12; 2007 Acts, ch 180, §11

CHAPTER 665

CONTEMPTS

Referred to in §20.12, 81.4, 123.23, 125.83, 229.13, 252B.26, 331.654, 356A.3, 692A.109, 717B.3B, 815.9, 815.11

665.1 "Court" defined.
665.2 Acts constituting contempt.
665.3 In courts of record.
665.4 Punishment.
665.5 Imprisonment.
665.6 Affidavit necessary.
665.7 Notice to show cause.
665.8 Testimony reduced to writing.
665.9 Personal knowledge of court — record required.
665.10 Warrant of commitment.
665.11 Revision by certiorari.
665.12 Indictment not barred.

665.1 "Court" defined.

Any officer authorized to punish for contempt is a court within the meaning of this chapter. [C51, §1608; R60, §2698; C73, §3501; C97, §4470; C24, 27, 31, 35, 39, §**12540;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §665.1]

665.2 Acts constituting contempt.

The following acts or omissions are contempts, and are punishable as such by any of the courts of this state, or by any judicial officer, including judicial magistrates, acting in the discharge of an official duty, as hereinafter provided:

1. Contemptuous or insolent behavior toward such court while engaged in the discharge of a judicial duty which may tend to impair the respect due to its authority.
2. Any willful disturbance calculated to interrupt the due course of its official proceedings.
3. Illegal resistance to any order or process made or issued by it.
4. Disobedience to any subpoena issued by it and duly served, or refusing to be sworn or to answer as a witness.
5. Unlawfully detaining a witness or party to an action or proceeding pending before such court, while going to or remaining at the place where the action or proceeding is thus

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pending, after being summoned, or knowingly assisting, aiding or abetting any person in evading service of the process of such court.

6. Any other act or omission specially declared a contempt by law.

[C51, §1598; R60, §2688; C73, §3491; C97, §4460; C24, 27, 31, 35, 39, §**12541;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §665.2]

Referred to in §665.3

665.3 In courts of record.

In addition to the acts or omissions in section 665.2, any court of record may punish the following acts or omissions as contempts:

1. Failure to testify before a grand jury, when lawfully required to do so.

2. Assuming to be an officer, attorney, or counselor of the court, and acting as such without authority.

3. Misbehavior as a juror, by improperly conversing with a party or with any other person in relation to the merits of an action in which the juror is acting or is to act as a juror, or receiving a communication from any person in respect to it without immediately disclosing the same to the court.

4. Bribing, attempting to bribe, or in any other manner improperly influencing or attempting to influence a juror to render a verdict, or suborning or attempting to suborn witness.

5. Disobedience by an inferior tribunal, magistrate, or officer to any lawful judgment, order or process of a superior court, or proceeding in any matter in a manner contrary to law, after it has been removed from such tribunal, magistrate or officer.

[C51, §1599; R60, §2689; C73, §3492; C97, §4461; C24, 27, 31, 35, 39, §**12542;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §665.3]

2017 Acts, ch 29, §162

665.4 Punishment.

The punishment for contempt, where not otherwise specifically provided, shall be:

1. In the supreme court or the court of appeals, by a fine not exceeding one thousand dollars or by imprisonment in a county jail not exceeding six months, or by both such fine and imprisonment.

2. Before district judges, district associate judges, and associate juvenile judges by a fine not exceeding five hundred dollars or imprisonment in a county jail not exceeding six months or by both such fine and imprisonment.

3. Before judicial magistrates, by a fine not exceeding one hundred dollars or imprisonment in a county jail not exceeding thirty days.

[C51, §1600; R60, §2690; C73, §3493; C97, §4462; C24, 27, 31, 35, 39, §**12543;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §665.4]

85 Acts, ch 27, §1; 96 Acts, ch 1134, §6

665.5 Imprisonment.

If the contempt consists in an omission to perform an act which is yet in the power of the person to perform, the person may be imprisoned until the person performs it. In that case the act to be performed must be specified in the warrant of the commitment.

[C51, §1601; R60, §2691; C73, §3494; C97, §4463; C24, 27, 31, 35, 39, §**12544;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §665.5]

665.6 Affidavit necessary.

Unless the contempt is committed in the immediate view and presence of the court, or comes officially to its knowledge, an affidavit showing the nature of the transaction is necessary as a basis for further action in the premises.

[C51, §1602; R60, §2692; C73, §3495; C97, §4464; C24, 27, 31, 35, 39, §**12545;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §665.6]

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665.7 Notice to show cause.

Before punishing for contempt, unless the offender is already in the presence of the court, the offender must be served personally with an order to show cause against the punishment, and a reasonable time given the offender therefor; or the offender may be brought before the court forthwith, or on a given day, by warrant, if necessary. In either case the offender may, at the offender's option, make a written explanation of the offender's conduct under oath, which must be filed and preserved.

[C51, §1603; R60, §2693; C73, §3496; C97, §4465; C24, 27, 31, 35, 39, §**12546;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §665.7]

2010 Acts, ch 1159, §15

665.8 Testimony reduced to writing.

Where the action of the court is founded upon evidence given by others, such evidence must be in writing, and be filed and preserved.

[C51, §1604; R60, §2694; C73, §3497; C97, §4466; C24, 27, 31, 35, 39, §**12547;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §665.8]

665.9 Personal knowledge of court — record required.

If the court or judge acts upon personal knowledge in the premises, a statement of the facts upon which the order is founded must be entered on the records of the court, or be filed and preserved when the court keeps no record, and shall be a part of the record.

[C51, §1604; R60, §2694; C73, §3497; C97, §4466; C24, 27, 31, 35, 39, §**12548;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §665.9]

665.10 Warrant of commitment.

When the offender is committed, the warrant must state the particular facts and circumstances on which the court acted in the premises, and whether the same was in the knowledge of the court or was proved by witnesses.

[C51, §1605; R60, §2695; C73, §3498; C97, §4467; C24, 27, 31, 35, 39, §**12549;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §665.10]

665.11 Revision by certiorari.

No appeal lies from an order to punish for a contempt, but the proceedings may, in proper cases, be taken to a higher court for revision by certiorari.

[C51, §1606; R60, §2696; C73, §3499; C97, §4468; C24, 27, 31, 35, 39, §**12550;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §665.11]

665.12 Indictment not barred.

The punishment for a contempt constitutes no bar to an indictment, but if the offender is indicted and convicted for the same offense, the court, in passing sentence, must take into consideration the punishment before inflicted.

[C51, §1607; R60, §2697; C73, §3500; C97, §4469; C24, 27, 31, 35, 39, §**12551;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §665.12]

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CHAPTER 666

OFFICIAL BONDS, FINES AND FORFEITURES

Official and private bonds, see chapter 64

666.1 Official bonds construed.
666.2 Prior judgment no bar.
666.3 Fines and forfeitures.
666.4 By whom action prosecuted.
666.5 Collusion.
666.6 Annual report of outstanding fines, penalties, forfeitures, and recognizances.

666.1 Official bonds construed.

The official bond of a public officer is to be construed as a security to the body politic or civil corporation of which the person is an officer, and to all the members thereof, severally, who are intended to be secured thereby.

[C51, §2145; R60, §3727; C73, §3368; C97, §4336; C24, 27, 31, 35, 39, §**12552;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §666.1]

Conditions of bond, §64.2

666.2 Prior judgment no bar.

A judgment in favor of a party for one delinquency does not preclude the same or another party from an action on the same security for another delinquency, except that sureties can be made liable in the aggregate only to the extent of their undertaking.

[C51, §2147; R60, §3728; C73, §3369; C97, §4337; C24, 27, 31, 35, 39, §**12553;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §666.2]

666.3 Fines and forfeitures.

Fines and forfeitures, after deducting court costs, court expenses collectible through the clerk of the court, and fees of collection, if any, and not otherwise disposed of, shall be paid to the treasurer of state for deposit in the general fund of the state.

[C51, §1158, 2148; R60, §3729; C73, §3370; C97, §4338; C24, 27, 31, 35, 39, §**12554;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §666.3]

83 Acts, ch 185, §58, 62; 83 Acts, ch 186, §10126, 10201, 10204

Referred to in §207.10

666.4 By whom action prosecuted.

Actions for their recovery may be prosecuted by the officers or persons to whom they by law belong, in whole or in part, or by the public officer into whose hands they are to be paid when collected.

[C51, §2149; R60, §3730; C73, §3371; C97, §4339; C24, 27, 31, 35, 39, §**12555;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §666.4]

666.5 Collusion.

A judgment for a penalty or forfeiture, rendered by collusion, does not prevent another action for the same subject matter.

[C51, §2150; R60, §3731; C73, §3372; C97, §4340; C24, 27, 31, 35, 39, §**12556;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §666.5]

666.6 Annual report of outstanding fines, penalties, forfeitures, and recognizances.

The clerk of the district court shall make an annual report in writing to the state court administrator no later than August 15 of the fines, penalties, forfeitures, and recognizances which have not been paid, remitted, canceled, or otherwise satisfied during the previous fiscal year.

[C73, §3974; C97, §1302; C24, 27, 31, 35, 39, §**12557;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §666.6; 81 Acts, ch 117, §1239]

83 Acts, ch 185, §59, 62; 83 Acts, ch 186, §10127, 10201; 85 Acts, ch 197, §39; 91 Acts, ch 185, §1; 95 Acts, ch 169, §9

Referred to in §602.8102(116)

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CHAPTER 667

SEIZURE OF BOATS OR RAFTS

667.1 Seizure.
667.2 Petition and warrant.
667.3 Warrant issued on Sunday.
667.4 Service of notice.
667.5 Service of warrant.
667.6 Who may appear.
667.7 Bond to discharge.
667.8 Special execution.
667.9 Sale.
667.10 Fractional share sold.
667.11 Appeal.
667.12 Rights saved.
667.13 Contract alleged.
667.14 Lien.
667.15 Appearance by executing bond.

667.1 Seizure.

In an action brought against the owners of any boat or raft to recover any debt contracted by such owner, or by the master, agent, clerk, or consignee thereof, for supplies furnished, or for labor done in, about, or on such boat or raft, or for materials furnished in building, repairing, fitting out, furnishing, or equipping the same, or to recover for the nonperformance of any contract relative to the transportation of persons or property thereon, made by any of the persons aforementioned, or to recover damages for injuries to persons or property done by such boat or raft or the officers or crew thereof in connection with its business, a warrant may issue for the seizure of the same as herein provided.

[C51, §2116; R60, §3693, 3698, 3700; C73, §3432, 3445, 3447; C97, §4402; C24, 27, 31, 35, 39, §**12558;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §667.1]

667.2 Petition and warrant.

The petition must be in writing, sworn to, and filed with the clerk who shall thereupon issue a warrant to the proper officer, commanding the officer to seize the boat or raft, its apparel, tackle, furniture, and appendages, and detain the same until released by due course of law.

[C51, §2121; R60, §3701; C73, §3433; C97, §4403; C24, 27, 31, 35, 39, §**12559;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §667.2]

Referred to in §602.8102(117)

667.3 Warrant issued on Sunday.

The warrant may be issued on Sunday, if the plaintiff, the plaintiff's agent, or attorney states in the petition that it would be unsafe to delay proceedings.

[R60, §3702; C73, §3434; C97, §4404; C24, 27, 31, 35, 39, §**12560;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §667.3]

Analogous or related provisions, §626.6, 639.5, and 643.3

667.4 Service of notice.

It shall be sufficient service of the original notice in such an action to serve it on the defendant, or on the master, agent, clerk, or consignee of such boat or raft; if neither of them can be found, it may be served by posting a copy thereof on some conspicuous part of the same.

[C51, §2122; R60, §3703; C73, §3435; C97, §4405; C24, 27, 31, 35, 39, §**12561;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §667.4]

667.5 Service of warrant.

Any marshal of any city may execute the warrant.

[R60, §3704; C73, §3436; C97, §4406; C24, 27, 31, 35, 39, §**12562;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §667.5]

667.6 Who may appear.

Any persons interested in the property seized may appear for the defendant in person or by an agent or attorney, and defend the action, and no continuance shall be granted to the plaintiff while the property is held in custody.

[C51, §2123; R60, §3705; C73, §3437; C97, §4407; C24, 27, 31, 35, 39, §**12563;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §667.6]

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667.7 Bond to discharge.

The property seized may be discharged at any time before final judgment, by giving a bond with sureties, to be approved by the officer executing the warrant, or by the clerk who issued it, in a penalty double the plaintiff's demand, conditioned that the obligors therein will pay the amount which may be found due to the plaintiff, together with the costs.

[C51, §2124; R60, §3706; C73, §3438; C97, §4408; C24, 27, 31, 35, 39, §**12564;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §667.7]

Similar provisions, §639.42, 639.45, 643.12

667.8 Special execution.

If judgment is rendered for the plaintiff before the property is thus discharged, a special execution shall be issued against it. If it has been previously discharged, the execution shall issue against the principal and sureties in the bond without further proceedings.

[C51, §2125; R60, §3707; C73, §3439; C97, §4409; C24, 27, 31, 35, 39, §**12565;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §667.8]

667.9 Sale.

The officer must first sell the furniture or appendages of the boat or raft, if by so doing the officer can satisfy the demand. If the officer sells the boat or raft, the officer must do so to the bidder who will advance the amount required to satisfy the execution for lowest fractional share thereof, unless the person defending desires a different and equally convenient mode of sale. The officer making the sale shall execute a bill of sale to the purchaser for the interest sold.

[C51, §2126; R60, §3708; C73, §3440; C97, §4410; C24, 27, 31, 35, 39, §**12566;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §667.9]

667.10 Fractional share sold.

If a fractional share of the boat or raft is thus sold, the purchaser shall hold such share or interest jointly with the other owners.

[C51, §2127; R60, §3709; C73, §3441; C97, §4411; C24, 27, 31, 35, 39, §**12567;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §667.10]

667.11 Appeal.

If an appeal is taken by the defendant before the property is discharged as above provided, the appeal bond, if one is filed, will have the same effect in discharging it as the bond above contemplated, and execution shall issue against the obligors therein after judgment in the same manner.

[C51, §2128; R60, §3710; C73, §3442; C97, §4412; C24, 27, 31, 35, 39, §**12568;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §667.11]

Presumption of approval of bond, §636.10

667.12 Rights saved.

Nothing herein contained is intended to affect the rights of a plaintiff to sue in the same manner as though the provisions of this chapter had not been enacted.

[C51, §2129; R60, §3711; C73, §3443; C97, §4413; C24, 27, 31, 35, 39, §**12569;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §667.12]

667.13 Contract alleged.

In actions commenced in accordance with the provisions of this chapter, it is sufficient to allege the contract to have been made with the boat or raft itself.

[C51, §2130; R60, §3712; C73, §3444; C97, §4414; C24, 27, 31, 35, 39, §**12570;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §667.13]

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667.14 Lien.

Claims growing out of either of the above causes shall be liens upon the boat or raft, its tackle, and appendages, for the term of twenty days from the time the right of action therefor accrued.

[R60, §3699; C73, §3446; C97, §4415; C24, 27, 31, 35, 39, §**12571;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §667.14]

667.15 Appearance by executing bond.

The execution by or for the owner of such boat or raft of a bond, whereby possession of the same is obtained or retained by the owner, shall be an appearance of such owner as a defendant to the action.

[R60, §4130; C73, §3448; C97, §4416; C24, 27, 31, 35, 39, §**12572;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §667.15]

CHAPTER 668

LIABILITY IN TORT — COMPARATIVE FAULT

Referred to in §321J.4B, 625.21

668.1 Fault defined.
668.2 Party defined.
668.3 Comparative fault — effect — payment method.
668.4 Joint and several liability.
668.5 Right of contribution.
668.6 Enforcement of contribution.
668.7 Effect of release.
668.8 Tolling of statute.
668.9 Insurance practice.
668.10 Governmental exemptions.
668.11 Disclosure of expert witnesses in liability cases involving licensed professionals.
668.12 Liability for products — defenses.
668.12A No liability for negligent hiring in actions involving commercial motor vehicles.
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668.1 Fault defined.

1. As used in this chapter, *"fault"* means one or more acts or omissions that are in any measure negligent or reckless toward the person or property of the actor or others, or that subject a person to strict tort liability. The term also includes breach of warranty, unreasonable assumption of risk not constituting an enforceable express consent, misuse of a product for which the defendant otherwise would be liable, and unreasonable failure to avoid an injury or to mitigate damages.

2. The legal requirements of cause in fact and proximate cause apply both to fault as the basis for liability and to contributory fault.

84 Acts, ch 1293, §1
Contributory fault; see §619.17

668.2 Party defined.

As used in this chapter, unless otherwise required, *"party"* means any of the following:

1. A claimant.
2. A person named as defendant.
3. A person who has been released pursuant to section 668.7.
4. A third-party defendant.

84 Acts, ch 1293, §2
Referred to in §516A.5, 668.5

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668.3 Comparative fault — effect — payment method.

1. *a.* Contributory fault shall not bar recovery in an action by a claimant to recover damages for fault resulting in death or in injury to person or property unless the claimant bears a greater percentage of fault than the combined percentage of fault attributed to the defendants, third-party defendants and persons who have been released pursuant to section 668.7, but any damages allowed shall be diminished in proportion to the amount of fault attributable to the claimant.

b. Contributory fault shall not bar recovery in an action by a claimant to recover damages for loss of services, companionship, society, or consortium, unless the fault attributable to the person whose injury or death provided the basis for the damages is greater in percentage than the combined percentage of fault attributable to the defendants, third-party defendants, and persons who have been released pursuant to section 668.7, but any damages allowed shall be diminished in proportion to the amount of fault attributable to the person whose injury or death provided the basis for the damages.

2. In the trial of a claim involving the fault of more than one party to the claim, including third-party defendants and persons who have been released pursuant to section 668.7, the court, unless otherwise agreed by all parties, shall instruct the jury to answer special interrogatories or, if there is no jury, shall make findings, indicating all of the following:

a. The amount of damages each claimant will be entitled to recover if contributory fault is disregarded.

b. The percentage of the total fault allocated to each claimant, defendant, third-party defendant, person who has been released from liability under section 668.7, and injured or deceased person whose injury or death provides a basis for a claim to recover damages for loss of consortium, services, companionship, or society. For this purpose the court may determine that two or more persons are to be treated as a single party.

3. In determining the percentages of fault, the trier of fact shall consider both the nature of the conduct of each party and the extent of the causal relation between the conduct and the damages claimed.

4. The court shall determine the amount of damages payable to each claimant by each other party, if any, in accordance with the findings of the court or jury.

5. If the claim is tried to a jury, the court shall give instructions and permit evidence and argument with respect to the effects of the answers to be returned to the interrogatories submitted under this section.

6. In an action brought under this chapter and tried to a jury, the court shall not discharge the jury until the court has determined that the verdict or verdicts are consistent with the total damages and percentages of fault, and if inconsistencies exist the court shall do all of the following:

a. Inform the jury of the inconsistencies.

b. Order the jury to resume deliberations to correct the inconsistencies.

c. Instruct the jury that it is at liberty to change any portion or portions of the verdicts to correct the inconsistencies.

7. When a final judgment or award is entered, any party may petition the court for a determination of the appropriate payment method of such judgment or award. If so petitioned the court may order that the payment method for all or part of the judgment or award be by structured, periodic, or other nonlump-sum payments. However, the court shall not order a structured, periodic, or other nonlump-sum payment method if it finds that any of the following are true:

a. The payment method would be inequitable.

b. The payment method provides insufficient guarantees of future collectibility of the judgment or award.

c. Payments made under the payment method could be subject to other claims, past or future, against the defendant or the defendant's insurer.

8. In an action brought pursuant to this chapter the court shall instruct the jury to answer special interrogatories or, if there is no jury, shall make findings on each specific item of requested or awarded damages indicating that portion of the judgment or decree awarded for past damages and that portion of the judgment or decree awarded for future damages.

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All awards of future damages shall be calculated according to the method set forth in section 624.18.

84 Acts, ch 1293, §3; 86 Acts, ch 1211, §39; 87 Acts, ch 157, §5, 6; 97 Acts, ch 197, §10 – 12, 16

Referred to in §321.445, 657.1, 668.5, 668.6, 668.7, 668.13

668.4 Joint and several liability.

In actions brought under this chapter, the rule of joint and several liability shall not apply to defendants who are found to bear less than fifty percent of the total fault assigned to all parties. However, a defendant found to bear fifty percent or more of fault shall only be jointly and severally liable for economic damages and not for any noneconomic damage awards.

84 Acts, ch 1293, §4; 97 Acts, ch 197, §13, 16

668.5 Right of contribution.

1. A right of contribution exists between or among two or more persons who are liable upon the same indivisible claim for the same injury, death, or harm, whether or not judgment has been recovered against all or any of them. It may be enforced either in the original action or by a separate action brought for that purpose. The basis for contribution is each person's equitable share of the obligations, including the share of fault of a claimant, as determined in accordance with section 668.3.

2. Contribution is available to a person who enters into a settlement with the claimant only if the liability of the person against whom contribution is sought has been extinguished and only to the extent that the amount paid in settlement was reasonable.

3. Contractual or statutory rights of persons not enumerated in section 668.2 for subrogation for losses recovered in proceedings pursuant to this chapter shall not exceed that portion of the judgment or verdict specifically related to such losses, as shown by the itemization of the judgment or verdict returned under section 668.3, subsection 8, and according to the findings made pursuant to section 668.14, subsection 3, and such contractual or statutory subrogated persons shall be responsible for a pro rata share of the legal and administrative expenses incurred in obtaining the judgment or verdict.

4. Subrogation payment restrictions imposed pursuant to subsection 3 apply to settlement recoveries, but only to the extent that the settlement was reasonable.

84 Acts, ch 1293, §5; 87 Acts, ch 157, §7

Referred to in §455B.472B

668.6 Enforcement of contribution.

1. If the percentages of fault of each of the parties to a claim for contribution have been established previously by the court as provided in section 668.3, a party paying more than the party's percentage share of damages may recover judgment for contribution upon motion to the court or in a separate action.

2. If the percentages of fault of each of the parties to a claim for contribution have not been established by the court, contribution may be enforced in a separate action, whether or not a judgment has been rendered against either the person seeking contribution or the person from whom contribution is sought.

3. If a judgment has been rendered, an action for contribution must be commenced within one year after the judgment becomes final. If a judgment has not been rendered, a claim for contribution is enforceable only upon satisfaction of one of the following sets of conditions:

a. The person bringing the action for contribution must have discharged the liability of the person from whom contribution is sought by payment made within the period of the statute of limitations applicable to the claimant's right of action and must have commenced the action for contribution within one year after the date of that payment.

b. The person seeking contribution must have agreed while the action of the claimant was pending to discharge the liability of the person from whom contribution is sought and within one year after the date of the agreement must have discharged that liability and commenced the action for contribution.

84 Acts, ch 1293, §6

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668.7 Effect of release.

A release, covenant not to sue, or similar agreement entered into by a claimant and a person liable discharges that person from all liability for contribution, but it does not discharge any other persons liable upon the same claim unless it so provides. However, the claim of the releasing person against other persons is reduced by the amount of the released person's equitable share of the obligation, as determined in section 668.3, subsection 4.

84 Acts, ch 1293, §7
Referred to in §668.2, 668.3

668.8 Tolling of statute.

The filing of a petition under this chapter tolls the statute of limitations for the commencement of an action against all parties who may be assessed any percentage of fault under this chapter.

84 Acts, ch 1293, §8
Referred to in §516A.5

668.9 Insurance practice.

It shall be an unfair trade practice, as defined in chapter 507B, if an insurer assigns a percentage of fault to a claimant, for the purpose of reducing a settlement, when there exists no reasonable evidence upon which the assigned percentage of fault could be based. The prohibitions and sanctions of chapter 507B shall apply to violations of this section.

84 Acts, ch 1293, §9

668.10 Governmental exemptions.

1. In any action brought pursuant to this chapter, the state or a municipality shall not be assigned a percentage of fault for any of the following:

a. The failure to place, erect, or install a stop sign, traffic control device, or other regulatory sign as defined in the uniform manual for traffic control devices adopted pursuant to section 321.252. However, once a regulatory device has been placed, created, or installed, the state or municipality may be assigned a percentage of fault for its failure to maintain the device.

b. The failure to remove natural or unnatural accumulations of snow or ice, or to place sand, salt, or other abrasive material on a highway, road, or street if the state or municipality establishes that it has complied with its policy or level of service for snow and ice removal or placing sand, salt, or other abrasive material on its highways, roads, or streets.

2. In any action brought pursuant to this chapter, the state shall not be assigned a percentage of fault for contribution unless the party claiming contribution has given the state notice of the claim pursuant to section 669.13.

84 Acts, ch 1293, §10; 2007 Acts, ch 110, §3

668.11 Disclosure of expert witnesses in liability cases involving licensed professionals.

1. A party in a professional liability case brought against a licensed professional pursuant to this chapter who intends to call an expert witness of their own selection, shall certify to the court and all other parties the expert's name, qualifications and the purpose for calling the expert within the following time period:

a. The plaintiff within one hundred eighty days of the defendant's answer unless the court for good cause not ex parte extends the time of disclosure.

b. The defendant within ninety days of plaintiff's certification.

2. If a party fails to disclose an expert pursuant to subsection 1 or does not make the expert available for discovery, the expert shall be prohibited from testifying in the action unless leave for the expert's testimony is given by the court for good cause shown.

3. This section does not apply to court appointed experts or to rebuttal experts called with the approval of the court.

86 Acts, ch 1211, §40
Referred to in §147.140

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668.12 Liability for products — defenses.

1. In any action brought pursuant to this chapter against an assembler, designer, supplier of specifications, distributor, manufacturer, or seller for damages arising from an alleged defect in the design, testing, manufacturing, formulation, packaging, warning, or labeling of a product, a percentage of fault shall not be assigned to such persons if they plead and prove that the product conformed to the state of the art in existence at the time the product was designed, tested, manufactured, formulated, packaged, provided with a warning, or labeled.

2. Nothing contained in subsection 1 shall diminish the duty of an assembler, designer, supplier of specifications, distributor, manufacturer, or seller to warn concerning subsequently acquired knowledge of a defect or dangerous condition that would render the product unreasonably dangerous for its foreseeable use or diminish the liability for failure to so warn.

3. An assembler, designer, supplier of specifications, distributor, manufacturer, or seller shall not be subject to liability for failure to warn regarding risks and risk-avoidance measures that should be obvious to, or generally known by, foreseeable product users. When reasonable minds may differ as to whether the risk or risk-avoidance measure was obvious or generally known, the issues shall be decided by the trier of fact.

4. In any action brought pursuant to this chapter against an assembler, designer, supplier of specifications, distributor, manufacturer, or seller for damages arising from an alleged defect in packaging, warning, or labeling of a product, a product bearing or accompanied by a reasonable and visible warning or instruction that is reasonably safe for use if the warning or instruction is followed shall not be deemed defective or unreasonably dangerous on the basis of failure to warn or instruct. When reasonable minds may differ as to whether the warning or instruction is reasonable and visible, the issues shall be decided by the trier of fact.

86 Acts, ch 1211, §41; 2004 Acts, ch 1050, §1
Referred to in §683.1

668.12A No liability for negligent hiring in actions involving commercial motor vehicles.

1. In any civil action involving the operation of a commercial motor vehicle requiring a commercial driver's license, there shall not be civil liability for damages for an employer's negligent hiring of an employee if all of the following apply:

a. The employer complies with subsection 2.

b. The employee's actions that caused the claimant damage are within the course and scope of the employee's employment.

2. On motion of an employer who is a defendant in a civil action involving the operation of a commercial motor vehicle requiring a commercial driver's license, a trial court shall dismiss from the civil action any claim of the employer's direct negligence in hiring the employee driver, if the employer stipulates that at the time of the event that caused the damages that are the subject of the civil action all of the following are true:

a. The person whose negligence is alleged to have caused the damages was the employer's employee.

b. The person whose negligence is alleged to have caused the damages was acting within the course and scope of employment with the employer.

3. If an employer makes the stipulations in subsection 2 with respect to an employee, and the employee's negligence is found to have caused or contributed to causing the damages, the employer's liability for negligent hiring shall be adjudged solely on the basis of respondeat superior.

4. As used in this section:

a. *"Commercial motor vehicle"* means as defined in section 321.1, subsection 11, paragraph *"f"*, subparagraphs (1), (2), and (4), and also includes a glider kit vehicle as defined in section 321.1, subsection 28A; a road tractor as defined in section 321.1, subsection 64A; a towing or recovery vehicle as defined in section 321.1, subsection 83A; and a truck tractor as defined in section 321.1, subsection 88.

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b. "Operation" means actual physical control of a commercial motor vehicle upon a highway as defined in section 321.1.

2023 Acts, ch 84, §1

668.13 Interest on judgments.

Interest shall be allowed on all money due on judgments and decrees on actions brought pursuant to this chapter, subject to the following:

1. Interest, except interest awarded for future damages, shall accrue from the date of the commencement of the action.

2. If the interest rate is fixed by a contract on which the judgment or decree is rendered, the interest allowed shall be at the rate expressed in the contract, not exceeding the maximum rate permitted under section 535.2.

3. Interest shall be calculated as of the date of judgment at a rate equal to the one-year treasury constant maturity published by the federal reserve in the H15 report settled immediately prior to the date of the judgment plus two percent. The state court administrator shall distribute notice monthly of that rate and any changes to that rate to all district courts.

4. Interest awarded for future damages shall not begin to accrue until the date of the entry of the judgment.

5. Interest shall be computed daily to the date of the payment, except as may otherwise be ordered by the court pursuant to a structured judgment under section 668.3, subsection 7.

6. Structured, periodic, or other nonlump-sum payments ordered pursuant to section 668.3, subsection 7, shall reflect interest in accordance with annuity principles.

87 Acts, ch 157, §8; 97 Acts, ch 197, §14, 16; 2001 Acts, ch 87, §9, 10; 2003 Acts, ch 151, §58

Referred to in §202C.3, 535.3, 551A.8, 602.1209

668.14 Evidence of previous payment or future right of payment.

1. In an action brought pursuant to this chapter seeking damages for personal injury, the court shall permit evidence and argument as to the previous payment or future right of payment of actual economic losses incurred or to be incurred as a result of the personal injury for necessary medical care, rehabilitation services, and custodial care except to the extent that the previous payment or future right of payment is pursuant to a state or federal program or from assets of the claimant or the members of the claimant's immediate family.

2. If evidence and argument regarding previous payments or future rights of payment is permitted pursuant to subsection 1, the court shall also permit evidence and argument as to the costs to the claimant of procuring the previous payments or future rights of payment and as to any existing rights of indemnification or subrogation relating to the previous payments or future rights of payment.

3. If evidence or argument is permitted pursuant to subsection 1 or 2, the court shall, unless otherwise agreed to by all parties, instruct the jury to answer special interrogatories or, if there is no jury, shall make findings indicating the effect of such evidence or argument on the verdict.

4. This section does not apply to actions governed by section 147.136.

87 Acts, ch 157, §9

Referred to in §668.5

668.14A Recoverable damages for medical expenses.

1. In an action brought to recover damages for personal injury, the damages that may be recovered by a claimant for the reasonable and necessary cost or value of medical care rendered shall not exceed the sum of the amounts actually paid by or on behalf of the injured person to the health care providers who rendered treatment and any amounts actually necessary to satisfy the medical care charges that have been incurred but not yet satisfied.

2. This section does not apply to actions governed by section 147.136.

2020 Acts, ch 1070, §2

668.15 Damages resulting from sexual abuse — evidence.

1. In a civil action alleging conduct which constitutes sexual abuse, as defined in section 709.1, sexual assault, or sexual harassment, a party seeking discovery of information

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concerning the plaintiff's sexual conduct with persons other than the person who committed the alleged act of sexual abuse, as defined in section 709.1, sexual assault, or sexual harassment, must establish specific facts showing good cause for that discovery, and that the information sought is relevant to the subject matter of the action and reasonably calculated to lead to the discovery of admissible evidence.

2. In an action against a person accused of sexual abuse, as defined in section 709.1, sexual assault, or sexual harassment, by an alleged victim of the sexual abuse, sexual assault, or sexual harassment, for damages arising from an injury resulting from the alleged conduct, evidence concerning the past sexual behavior of the alleged victim is not admissible.

89 Acts, ch 138, §1; 90 Acts, ch 1241, §1

668.15A Noneconomic damages — commercial motor vehicle owners or operators.

1. As used in this section:

a. "Commercial motor vehicle" means as defined in section 321.1, subsection 11, paragraph *"f"*, subparagraphs (1), (2), and (4), and also includes a glider kit vehicle as defined in section 321.1, subsection 28A; a road tractor as defined in section 321.1, subsection 64A; a towing or recovery vehicle as defined in section 321.1, subsection 83A; and a truck tractor as defined in section 321.1, subsection 88.

b. "Inflation" means the annual percentage change in the United States department of labor, bureau of labor statistics, consumer price index for all urban consumers for the midwest region, all items, or its successor index.

c. "Noneconomic damages" means damages arising from pain, suffering, inconvenience, physical impairment, mental anguish, emotional pain and suffering, loss of chance, loss of consortium, or any other nonpecuniary damages.

d. "Operation" means actual physical control of a commercial motor vehicle upon a highway as defined in section 321.1.

2. The total amount recoverable per plaintiff against the owner or operator of a commercial motor vehicle for noneconomic damages for personal injury or death in a civil action involving the operation of a commercial motor vehicle requiring a commercial driver's license, whether in tort or otherwise, is five million dollars. This limitation on damages applies regardless of the number of derivative claims or theories of liability in the civil action, subject to subsection 3.

3. Upon motion by any plaintiff in a civil action against the owner or operator of a commercial motor vehicle requiring a commercial driver's license and prior to entry of judgment by the trial court, the trial court shall not apply the limitation on damages set forth in subsection 2 if the trial court finds, by a preponderance of the evidence, that the negligent act leading to the plaintiff's claimed harm involved any of the following:

a. Operating a commercial motor vehicle with an alcohol concentration, as defined in section 321J.1, of .04 or more.

b. Operating a commercial motor vehicle under the influence of a drug.

c. A refusal to submit to chemical testing required under chapter 321J.

d. A felony involving the use of a motor vehicle.

e. The use of a commercial motor vehicle involving the manufacturing, distributing, or dispensing of a controlled substance as defined in section 124.101; not including the lawful transport for hire of a controlled substance.

f. Knowingly operating a commercial motor vehicle without a proper license, or while the person's commercial driver's license is revoked, suspended, or canceled, or while the person is otherwise disqualified from operating a commercial motor vehicle.

g. Operating a commercial motor vehicle without the possession of a commercial driver's license or commercial learner's permit valid for the vehicle operated.

h. Operating a commercial motor vehicle involving an act or practice of human trafficking as defined in section 710A.1.

i. Reckless driving, as described in section 321.277.

j. Use of an electronic device while driving, as described in section 321.276.

k. Speeding fifteen miles per hour or more over the legal speed limit.

l. Violating any state or local law or ordinance restricting or prohibiting the use of a mobile

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telephone, computer, tablet, or other device that is not a part of the vehicle while operating the vehicle.

4. *a.* The limitation on damages set forth in subsection 2 does not apply to any case involving operation of a vehicle that does not require a commercial driver's license.

b. The limitation on damages set forth in subsection 2 does not apply to a civil action involving the operation of a commercial motor vehicle serving as a common carrier of passengers, or a commercial motor vehicle that is primarily engaged in transporting passengers, or a commercial motor vehicle as defined in section 321.1, subsection 11, paragraph "*f*", subparagraph (3); commercial vehicle as defined in section 321.1, subsection 12, paragraph "*c*"; school bus as defined in section 321.1, subsection 69; or other passenger transport.

5. The limitation on damages set forth in subsection 2 shall be adjusted for inflation by the secretary of state on January 1, 2028, and on January 1 of each even-numbered year thereafter. The secretary of state shall certify and publish the adjusted limitation on damages within fourteen days after the appropriate information is available.

2023 Acts, ch 84, §2; 2026 Acts, ch 1040, §112
Subsection 3, paragraph j amended

668.16 Applicability of this chapter.

This chapter does not apply to Article 3 or 4 of chapter 554.

94 Acts, ch 1167, §119, 122

CHAPTER 668A

PUNITIVE OR EXEMPLARY DAMAGES

Referred to in §554.3513, 659A.6

668A.1 Punitive or exemplary damages.

668A.1 Punitive or exemplary damages.

1. In a trial of a claim involving the request for punitive or exemplary damages, the court shall instruct the jury to answer special interrogatories or, if there is no jury, shall make findings, indicating all of the following:

a. Whether, by a preponderance of clear, convincing, and satisfactory evidence, the conduct of the defendant from which the claim arose constituted willful and wanton disregard for the rights or safety of another.

b. Whether the conduct of the defendant was directed specifically at the claimant, or at the person from which the claimant's claim is derived.

2. An award for punitive or exemplary damages shall not be made unless the answer or finding pursuant to subsection 1, paragraph "*a*", is affirmative. If such answer or finding is affirmative, the jury, or court if there is no jury, shall fix the amount of punitive or exemplary damages to be awarded, and such damages shall be ordered paid as follows:

a. If the answer or finding pursuant to subsection 1, paragraph "*b*", is affirmative, or if the claim is against any physician and surgeon, osteopathic physician and surgeon, dentist, podiatric physician, optometrist, pharmacist, chiropractor, physician associate, or nurse, licensed under chapter 147, or a hospital licensed under chapter 135B, arising out of patient care, or if the claim is part of a civil action involving the operation of a commercial motor vehicle, then the full amount of the punitive or exemplary damages awarded shall be paid to the claimant.

b. If the answer or finding pursuant to subsection 1, paragraph "*b*", is negative, and if the claim is not against any physician and surgeon, osteopathic physician and surgeon, dentist, podiatric physician, optometrist, pharmacist, chiropractor, physician associate, or nurse, licensed under chapter 147, or a hospital licensed under chapter 135B, arising out of patient care, and if the claim is not part of a civil action involving the operation of a commercial

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motor vehicle, then after payment of all applicable costs and fees, an amount not to exceed twenty-five percent of the punitive or exemplary damages awarded may be ordered paid to the claimant, with the remainder of the award to be ordered paid into a civil reparations trust fund administered by the state court administrator. Funds placed in the civil reparations trust shall be under the control and supervision of the executive council, and shall be disbursed only for purposes of indigent civil litigation programs or insurance assistance programs.

3. The mere allegation or assertion of a claim for punitive damages shall not form the basis for discovery of the wealth or ability to respond in damages on behalf of the party from whom punitive damages are claimed until such time as the claimant has established that sufficient admissible evidence exists to support a prima facie case establishing the requirements of subsection 1, paragraph *"a"*.

86 Acts, ch 1211, §42; 87 Acts, ch 157, §10; 2023 Acts, ch 4, §4 – 6; 2023 Acts, ch 84, §3; 2026 Acts, ch 1008, §3

2023 amendment to subsection 2, paragraphs a and b, by 2023 Acts, ch 4, applies to causes of action accrued on or after February 16, 2023; 2023 Acts, ch 4, §6

Code editor directive applied

CHAPTER 669

STATE TORT CLAIMS

Referred to in §8.5, 8A.514, 13.13, 13.34, 15E.63, 29A.3A, 29C.6, 29C.8, 70A.26, 70A.39, 89B.6, 96.17, 135.24, 135.143, 135C.30, 163.3A, 173.1, 189.18, 203.12B, 203C.3, 203C.4, 217.13, 217.31, 231E.12, 232.13, 235A.20, 235B.11, 261I.2, 313.16, 327C.4, 356.15A, 421.60, 455B.432, 455B.474, 524.217, 552.19, 554.10105, 614.8, 663A.1, 692.6, 904.104A, 904.311, 904.603, 907.13

Comparative fault, see chapter 668
This chapter not enacted as a part of this title;
transferred from chapter 25A in Code 1993

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669.1 Citation and applicability.

This chapter may be cited as the *"Iowa Tort Claims Act"*. Every provision of this chapter is applicable and of full force and effect notwithstanding any inconsistent provision of the Iowa administrative procedure Act, chapter 17A.

[C66, 71, 73, 75, 77, 79, 81, §25A.1]
C93, §669.1
2003 Acts, ch 44, §114

669.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Acting within the scope of the employee's office or employment"* means acting in the employee's line of duty as an employee of the state.

2. *"Award"* means any amount determined by the attorney general to be payable to a

claimant under section 669.3, and the amount of any compromise or settlement under section 669.9.

3. *"Claim"* means:

a. Any claim against the state of Iowa for money only, on account of damage to or loss of property or on account of personal injury or death, caused by the negligent or wrongful act or omission of any employee of the state while acting within the scope of the employee's office or employment, under circumstances where the state, if a private person, would be liable to the claimant for such damage, loss, injury, or death.

b. Any claim against an employee of the state for money only, on account of damage to or loss of property or on account of personal injury or death, caused by the negligent or wrongful act or omission of any employee of the state while acting within the scope of the employee's office or employment.

4. *a. "Employee of the state"* includes any one or more officers, agents, or employees of the state or any state agency, including members of the general assembly, and persons acting on behalf of the state or any state agency in any official capacity, temporarily or permanently in the service of the state of Iowa, whether with or without compensation, but does not include a contractor doing business with the state. Professional personnel, including physicians, osteopathic physicians and surgeons, osteopathic physicians, optometrists, dentists, nurses, physician associates, and other medical personnel, who render services to patients or inmates of state institutions under the jurisdiction of the department of health and human services or the Iowa department of corrections, and employees of the department of veterans affairs, are to be considered employees of the state, whether the personnel are employed on a full-time basis or render services on a part-time basis on a fee schedule or other arrangement. Criminal defendants while performing unpaid community service ordered by the district court, board of parole, or judicial district department of correctional services, or an inmate providing services pursuant to a chapter 28E agreement entered into pursuant to section 904.703, and persons supervising those inmates under and according to the terms of the chapter 28E agreement, are to be considered employees of the state. Members of the Iowa national guard performing duties in a requesting state pursuant to section 29C.21 are to be considered employees of the state solely for the purpose of claims arising out of those duties in the event that the requesting state's tort claims coverage does not extend to such members of the Iowa national guard or is less than that provided under Iowa law.

b. "Employee of the state" also includes an individual performing unpaid community service under an order of the district court pursuant to section 598.23A.

c. "Employee of the state" also includes an architect licensed pursuant to chapter 544A or a professional engineer licensed pursuant to chapter 542B who voluntarily and without compensation provides initial structural or building systems inspection services for the purposes of determining human occupancy at the scene of a disaster as defined in section 29C.2, subsection 4. To be considered an employee of the state, the architect or engineer shall be acting at the request and under the direction of the commissioner of public safety and in coordination with the local emergency management commission established under chapter 29C. For purposes of this paragraph, *"compensation"* does not include reimbursement for expenses.

5. *"State agency"* includes all executive departments, agencies, boards, bureaus, and commissions of the state of Iowa, and corporations whose primary function is to act as, and while acting as, instrumentalities or agencies of the state of Iowa, whether or not authorized to sue and be sued in their own names. This definition does not include a contractor with the state of Iowa. Soil and water conservation districts as defined in section 161A.3, subsection 6, and judicial district departments of correctional services as established in section 904.104A are state agencies for purposes of this chapter.

6. *"State appeal board"* means the state appeal board as defined in section 73A.1.

[C66, 71, 73, 75, 77, 79, 81, §25A.2]

83 Acts, ch 96, §56, 159; 84 Acts, ch 1259, §1; 86 Acts, ch 1172, §1; 87 Acts, ch 23, §1; 89 Acts, ch 83, §13; 90 Acts, ch 1251, §2

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C93, §669.2

93 Acts, ch 48, §53; 94 Acts, ch 1171, §51; 96 Acts, ch 1165, §1; 97 Acts, ch 33, §12, 15; 98 Acts, ch 1086, §1; 2001 Acts, ch 158, §37; 2005 Acts, ch 115, §36, 40; 2006 Acts, ch 1185, §104; 2011 Acts, ch 47, §11; 2011 Acts, ch 132, §64, 106; 2014 Acts, ch 1028, §1; 2015 Acts, ch 30, §191; 2017 Acts, ch 131, §7; 2023 Acts, ch 19, §1287; 2024 Acts, ch 1182, §51; 2026 Acts, ch 1008, §3

Referred to in §25.1, 80.9A, 123.30, 123.31, 123.43, 123.127, 123.175, 135C.30, 203.12B, 203C.3, 203C.4, 669.21
Code editor directive applied

669.3 Adjustment and settlement of claims.

1. The attorney general, on behalf of the state of Iowa, shall consider, ascertain, adjust, compromise, settle, determine, and allow any claim that is subject to this chapter.

2. A claim made under this chapter shall be filed with the director of the department of management, who shall acknowledge receipt on behalf of the state.

3. The state appeal board shall adopt rules and procedures for the handling, processing, and investigation of claims, in accordance with chapter 17A.

[C66, 71, 73, 75, 77, 79, 81, §25A.3]

C93, §669.3

2003 Acts, ch 44, §114; 2006 Acts, ch 1185, §105

Referred to in §669.2, 669.15

669.4 District court to hold hearings.

1. The district court of the state of Iowa for the district in which the plaintiff is resident or in which the act or omission complained of occurred, or where the act or omission occurred outside of Iowa and the plaintiff is a nonresident, the Polk county district court has exclusive jurisdiction to hear, determine, and render judgment on any suit or claim as defined in this chapter. However, the laws and rules of civil procedure of this state on change of place of trial apply to such suits.

2. The state shall be liable in respect to such claims to the same claimants, in the same manner, and to the same extent as a private individual under like circumstances, except that the state shall not be liable for interest prior to judgment or for punitive damages. Costs shall be allowed in all courts to the successful claimant to the same extent as if the state were a private litigant.

3. The immunity of the state from suit and liability is waived to the extent provided in this chapter.

4. A suit is commenced under this chapter by serving the attorney general or the attorney general's duly authorized delegate in charge of the tort claims division by service of an original notice. The state shall have thirty days within which to enter its general or special appearance.

[C66, 71, 73, 75, 77, 79, 81, §25A.4; 82 Acts, ch 1055, §1, 2]

C93, §669.4

2006 Acts, ch 1185, §106; 2015 Acts, ch 29, §114

669.5 When suit permitted — employees of the state.

1. A suit shall not be permitted for a claim under this chapter unless the attorney general has made final disposition of the claim. However, if the attorney general does not make final disposition of a claim within six months after the claim is made in writing to the director of the department of management, the claimant may, by notice in writing, withdraw the claim from consideration and begin suit under this chapter. Disposition of or offer to settle any claim made under this chapter shall not be competent evidence of liability or amount of damages in any suit under this chapter.

2. *a.* Upon certification by the attorney general that a defendant in a suit was an employee of the state acting within the scope of the employee's office or employment at the time of the incident upon which the claim is based, the suit commenced upon the claim shall be deemed to be an action against the state under the provisions of this chapter, and if the state is not already a defendant, the state shall be substituted as the defendant in place of the employee.

b. If the attorney general refuses to certify that a defendant was acting within the scope of

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the defendant's office or employment as described in paragraph *"a"* at the time of the incident out of which the claim arose, the defendant may petition the court, with notice to the attorney general, for the court to find and certify that the defendant was an employee of the state and was acting within the scope of the defendant's office or employment. The defendant must file the petition within ninety days of the date the attorney general serves notice of the attorney general's refusal to provide certification as provided in paragraph *"a"*. If the court issues the finding and certification, the suit shall be deemed to be brought against the state and subject to the provisions of this chapter and the state shall be substituted as the defendant party unless the state is already a defendant. If the court denies the petition for certification, the order shall not be a final order and is not subject to interlocutory appeal by the defendant.

[C66, 71, 73, 75, 77, 79, 81, §25A.5]
C93, §669.5
2006 Acts, ch 1185, §107
Referred to in §669.13, 669.21

669.6 Applicable rules.

In suits under this chapter, the forms of process, writs, pleadings, and actions, and the practice and procedure, shall be in accordance with the rules of civil procedure. The same provisions for counterclaims, setoff, interest upon judgments, and payment of judgments, are applicable as in other suits brought in the district court. However, no writ of execution shall issue against the state or any state agency by reason of a judgment under this chapter.

[C66, 71, 73, 75, 77, 79, 81, §25A.6]
83 Acts, ch 186, §10013, 10201
C93, §669.6

669.7 Appeal.

Judgments in the district courts in suits under this chapter shall be subject to appeal to the supreme court of the state in the same manner and to the same extent as other judgments of the district courts.

[C66, 71, 73, 75, 77, 79, 81, §25A.7]
C93, §669.7

669.8 Judgment as bar.

The final judgment in any suit under this chapter shall constitute a complete bar to any action by the claimant, by reason of the same subject matter, against the state or the employee of the state whose act or omission gave rise to the claim. However, this section shall not apply if the court rules that the claim is not permitted under this chapter.

[C66, 71, 73, 75, 77, 79, 81, §25A.8]
C93, §669.8
Referred to in §663A.1

669.9 Compromise and settlement.

With a view to doing substantial justice, the attorney general is authorized to compromise or settle any suit permitted under this chapter, with the approval of the court in which suit is pending.

[C66, 71, 73, 75, 77, 79, 81, §25A.9]
C93, §669.9
Referred to in §669.2, 669.15

669.10 Award conclusive on state.

1. Any award made under this chapter and accepted by the claimant shall be final and conclusive on all officers of the state of Iowa, except when procured by means of fraud, notwithstanding any other provisions of law to the contrary.

2. The acceptance by the claimant of such award shall be final and conclusive on the claimant, and shall constitute a complete release by the claimant of any claim against the

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state and against the employee of the state whose act or omission gave rise to the claim, by reason of the same subject matter.

[C66, 71, 73, 75, 77, 79, 81, §25A.10]
C93, §669.10
2016 Acts, ch 1011, §121

669.11 Payment of award.

Any award to a claimant under this chapter, and any judgment in favor of any claimant under this chapter, shall be paid promptly out of appropriations which have been made for that purpose, if any; but any such amount or part thereof which cannot be paid promptly from such appropriations shall be paid promptly out of any moneys in the state treasury not otherwise appropriated. Payment shall be made only upon receipt of a written release by the claimant in a form approved by the attorney general.

[C66, 71, 73, 75, 77, 79, 81, §25A.11]
C93, §669.11
2019 Acts, ch 24, §90

669.12 Report by director.

The director of the department of management shall annually report to the general assembly all claims and judgments paid under this chapter. Such report shall include the name of each claimant, a statement of the amount claimed and the amount awarded, and a brief description of the claim.

[C66, 71, 73, 75, 77, 79, 81, §25A.12]
C93, §669.12
2015 Acts, ch 29, §114

669.13 Limitation of actions.

1. Except as provided in section 614.8, a claim or suit otherwise permitted under this chapter shall be forever barred, unless within two years after the claim accrued, the claim is made in writing and filed with the director of the department of management under this chapter. The time to begin a suit under this chapter shall be extended for a period of six months from the date of mailing of notice to the claimant by the attorney general as to the final disposition of the claim or from the date of withdrawal of the claim under section 669.5, if the time to begin suit would otherwise expire before the end of the period.

2. If a claim is made or filed under any other law of this state and a determination is made by a state agency or court that this chapter provides the exclusive remedy for the claim, the two-year period authorized in subsection 1 to make a claim and to begin a suit under this chapter shall be extended for a period of six months from the date of the court order making such determination or the date of mailing of notice to the claimant of such determination by a state agency, if the time to make the claim and to begin the suit under this chapter would otherwise expire before the end of the two-year period. The time to begin a suit under this chapter may be further extended as provided in subsection 1.

3. This section is the only statute of limitations applicable to claims as defined in this chapter.

[C66, 71, 73, 75, 77, 79, 81, §25A.13]
C93, §669.13
2006 Acts, ch 1185, §108; 2007 Acts, ch 110, §4, 6
Referred to in §668.10

669.14 Exceptions.

The provisions of this chapter shall not apply, with respect to any claim against the state, to:

1. Any claim based upon an act or omission of an employee of the state, exercising due care, in the execution of a statute or regulation, whether or not such statute or regulation be valid, or based upon the exercise or performance or the failure to exercise or perform

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a discretionary function or duty on the part of a state agency or an employee of the state, whether or not the discretion be abused.

2. Any claim arising in respect to the assessment or collection of any tax or fee, or the detention of any goods or merchandise by any law enforcement officer.

3. Any claim for damages caused by the imposition or establishment of a quarantine by the state, whether such quarantine relates to persons or property.

4. Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights.

5. Any claim by an employee of the state which is covered by the Iowa workers' compensation law or the Iowa occupational disease law, chapter 85A.

6. Any claim by an inmate as defined in section 85.59.

7. A claim based upon damage to or loss or destruction of private property, both real and personal, or personal injury or death, when the damage, loss, destruction, injury or death occurred as an incident to the training, operation, or maintenance of the national guard while not in "state active duty" as defined in section 29A.1.

8. Any claim based upon or arising out of a claim of negligent design or specification, negligent adoption of design or specification, or negligent construction or reconstruction of a highway, secondary road, or street as defined in section 321.1, subsection 78, that was constructed or reconstructed in accordance with a generally recognized engineering or safety standard, criteria, or design theory in existence at the time of the construction or reconstruction. A claim under this chapter shall not be allowed for failure to upgrade, improve, or alter any aspect of an existing highway, secondary road, or street, to new, changed, or altered design standards. In respect to highways and roads, sealcoating, asphalting, patching, resurfacing, ditching, draining, repairing, graveling, rocking, blading, or maintaining an existing highway or road does not constitute reconstruction. This subsection shall not apply to claims based upon gross negligence.

9. Any claim based upon or arising out of a claim of negligent design or specification, negligent adoption of design or specification, or negligent construction or reconstruction of a public improvement as defined in section 384.37, subsection 19, or other public facility that was constructed or reconstructed in accordance with a generally recognized engineering or safety standard, criteria, or design theory in existence at the time of the construction or reconstruction. A claim under this chapter shall not be allowed for failure to upgrade, improve, or alter any aspect of an existing public improvement or other public facility to new, changed, or altered design standards. This subsection shall not apply to claims based upon gross negligence. This subsection takes effect July 1, 1984, and applies to all cases tried or retried on or after July 1, 1984.

10. Any claim based upon the enforcement of chapter 89B.

11. *a.* Any claim for financial loss based upon an act or omission in financial regulation, including but not limited to examinations, inspections, audits, or other financial oversight responsibilities, pursuant to chapter 486, Code 1999, and chapters 87, 203, 203C, 203D, 421B, 486A, 488, and 490 through 553, excluding chapters 540A, 542, 542B, 543B, 543C, 543D, 544A, and 544B.

b. This subsection applies to all cases filed on or after July 1, 1986, and does not expand any existing cause of action or create any new cause of action against the state.

12. Any claim based upon the actions of a certified volunteer long-term care ombudsman in the performance of duty if the action is undertaken and carried out in good faith.

13. A claim relating to a swimming pool or spa as defined in section 135I.1 which has been inspected in accordance with chapter 135I, or a swimming pool or spa inspection program, which has been established or certified by the state in accordance with that chapter, unless the claim is based upon an act or omission of an officer or employee of the state and the act or omission constitutes actual malice or a criminal offense.

14. Any claim arising from or related to the collection of a DNA sample for DNA profiling pursuant to section 81.4 or a DNA profiling procedure performed by the division of criminal investigation, department of public safety.

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15. Any claim relating to a constructed honeybee hive on state property, provided the state and beehive owner, if not the state, acted reasonably and in good faith.

16. Any claim arising from the performance, failure to perform, nature, age, condition, or packaging of any vehicle or equipment used in fire fighting, emergency medical response, or law enforcement which has been donated in good faith without payment to any organization engaged in fire fighting or emergency medical services, or to a law enforcement agency.

[C66, 71, 73, 75, 77, 79, 81, §25A.14]

83 Acts, ch 198, §11, 12, 27, 29; 84 Acts, ch 1067, §7; 84 Acts, ch 1085, §20; 86 Acts, ch 1211, §8, 9; 88 Acts, ch 1068, §1; 89 Acts, ch 291, §7; 91 Acts, ch 160, §2

C93, §669.14

98 Acts, ch 1216, §37; 99 Acts, ch 129, §18; 2001 Acts, ch 55, §35, 38; 2001 Acts, 2nd Ex, ch 1, §26, 28; 2003 Acts, ch 69, §49; 2004 Acts, ch 1021, §116 – 118; 2004 Acts, ch 1086, §101; 2004 Acts, ch 1101, §90; 2004 Acts, ch 1175, §388; 2005 Acts, ch 3, §114; 2005 Acts, ch 158, §13, 19; 2009 Acts, ch 54, §13; 2013 Acts, ch 18, §33; 2013 Acts, ch 30, §261; 2018 Acts, ch 1126, §1; 2019 Acts, ch 59, §224; 2020 Acts, ch 1027, §2

Referred to in §163.3E, 189.18, 421.60, 663A.1, 669.23

Legislative intent that subsection 8 not apply to areas of litigation other than highway or road construction or reconstruction; applicability of rule of exclusion; see 83 Acts, ch 198, §27

669.14A Qualified immunity.

1. Notwithstanding any other provision of law, an employee of the state subject to a claim brought under this chapter shall not be liable for monetary damages if any of the following apply:

a. The right, privilege, or immunity secured by law was not clearly established at the time of the alleged deprivation, or at the time of the alleged deprivation the state of the law was not sufficiently clear that every reasonable employee would have understood that the conduct alleged constituted a violation of law.

b. A court of competent jurisdiction has issued a final decision on the merits holding, without reversal, vacatur, or preemption, that the specific conduct alleged to be unlawful was consistent with the law.

2. The state or a state agency shall not be liable for any claim brought under this chapter where the employee was determined to be protected by qualified immunity under subsection 1.

3. A plaintiff who brings a claim under this chapter alleging a violation of the law must state with particularity the circumstances constituting the violation and that the law was clearly established at the time of the alleged violation. Failure to plead a plausible violation or failure to plead that the law was clearly established at the time of the alleged violation shall result in dismissal with prejudice.

4. Any decision by the district court denying qualified immunity shall be immediately appealable.

5. This section shall apply in addition to any other statutory or common law immunity.

2021 Acts, ch 183, §12, 16

669.15 Attorney fees and expenses — penalty.

The court rendering a judgment for a claimant under this chapter or the attorney general, making an award under section 669.3 or 669.9, shall, as a part of the judgment or award, determine and allow reasonable attorney fees and expenses. The attorney fees and expenses shall be paid out of but not in addition to the amount of judgment or award recovered, to the attorneys representing the claimant. Any attorney who charges, demands, receives, or collects for services rendered in connection with such claim any amount in excess of that allowed under this section, if recovery be had, shall be guilty of a serious misdemeanor.

[C66, 71, 73, 75, 77, 79, 81, §25A.15]

C93, §669.15

2006 Acts, ch 1185, §109

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669.16 Remedies exclusive.

From and after March 31, 1965, the authority of any state agency to sue or be sued in its own name shall not be construed to authorize suits against such state agency on claims as defined in this chapter. The remedies provided by this chapter in such cases shall be exclusive.

[C66, 71, 73, 75, 77, 79, 81, §25A.16]
C93, §669.16

669.17 Adjustment of other claims.

Nothing contained in this chapter shall be deemed to repeal any provision of law authorizing any state agency to consider, ascertain, adjust, compromise, settle, determine, allow, or pay any claim other than a claim as defined in this chapter.

[C66, 71, 73, 75, 77, 79, 81, §25A.17]
C93, §669.17
2020 Acts, ch 1063, §370

669.18 Extension of time.

If a claim is made or a suit is begun under this chapter, and if a determination is made by the attorney general or by the court that the claim or suit is not permitted under this chapter for any reason other than lapse of time, the time to make a claim or to begin a suit under any other applicable law of this state shall be extended for a period of six months from the date of the court order making such determination or the date of mailing of notice to the claimant of such determination by the attorney general, if the time to make the claim or begin the suit under such other law would otherwise expire before the end of such period.

[C66, 71, 73, 75, 77, 79, 81, §25A.18]
C93, §669.18
2006 Acts, ch 1185, §110
Limitations of civil actions, see chapter 614

669.19 Investigation of claims.

The attorney general shall fully investigate each claim under this chapter and may exercise the authority provided in section 25.5 in performing the investigation.

[C66, 71, 73, 75, 77, 79, 81, §25A.19]
85 Acts, ch 67, §6
C93, §669.19
2006 Acts, ch 1185, §111

669.20 Liability insurance.

If a claim or suit against the state is covered by liability insurance, the provisions of the liability insurance policy on defense and settlement shall be applicable notwithstanding any inconsistent provisions of this chapter. The attorney general shall cooperate with the insurance company.

[C66, 71, 73, 75, 77, 79, 81, §25A.20]
C93, §669.20
2006 Acts, ch 1185, §112

669.21 Employees defended and indemnified.

1. Except as otherwise provided in subsection 2, the state shall defend any employee, and shall indemnify and hold harmless an employee against any claim as defined in section 669.2, subsection 3, paragraph "*b*", including claims arising under the Constitution, statutes, or rules of the United States or of any state.

2. *a.* The duty to indemnify and hold harmless shall not apply and the state shall be entitled to restitution from an employee if the employee fails to cooperate in the investigation or defense of the claim, as defined in this section, or if, in an action commenced by the state against the employee, it is determined that the conduct of the employee upon which a tort claim or demand was based constituted a willful and wanton act or omission or malfeasance in office.

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b. The duty to indemnify and hold harmless shall not apply if, in a suit commenced against the employee, the state has been substituted as the defendant in place of the employee, as provided in section 669.5.

[C77, 79, 81, §25A.21]
84 Acts, ch 1259, §2
C93, §669.21
98 Acts, ch 1086, §2; 2006 Acts, ch 1185, §113
Referred to in §29C.8, 135.24, 135.143, 163.3A, 231E.12

669.22 Actions in federal court.

The state shall defend any employee, and shall indemnify and hold harmless an employee of the state in any action commenced in federal court under 42 U.S.C. §1983 against the employee for acts of the employee while acting in the scope of employment. The duty to indemnify and hold harmless shall not apply and the state shall be entitled to restitution from an employee if the employee fails to cooperate in the investigation or defense of the claim or demand, or if, in an action commenced by the state against the employee, it is determined that the conduct of the employee upon which the claim or demand was based constituted a willful and wanton act or omission or malfeasance in office.

[C77, 79, 81, §25A.22]
84 Acts, ch 1259, §3
C93, §669.22
98 Acts, ch 1086, §3; 2010 Acts, ch 1061, §79

669.23 Employee liability.

Employees of the state are not personally liable for any claim which is exempted under section 669.14.

84 Acts, ch 1259, §4
C85, §25A.23
C93, §669.23

669.24 State volunteers.

A person who performs services for the state government or any agency or subdivision of state government and who does not receive compensation is not personally liable for a claim based upon an act or omission of the person performed in the discharge of the person's duties, except for acts or omissions which involve intentional misconduct or knowing violation of the law, or for a transaction from which the person derives an improper personal benefit. For purposes of this section, *"compensation"* does not include payments to reimburse a person for expenses.

87 Acts, ch 212, §1
CS87, §25A.24
C93, §669.24
Referred to in §147A.1, 231E.12, 461A.81

669.25 Liability.

A person who performs services for a fair, as defined in section 174.1, and is not a full-time employee of the fair is not personally liable for a claim based upon an act or omission of the person performed in the discharge of the person's duties, except for acts or omissions which involve intentional misconduct or knowing violation of the law, or for a transaction from which the person derives an improper personal benefit.

2004 Acts, ch 1019, §30

669.26 Money damages — nonwaiver of rights.

This chapter shall not be construed to be a waiver of sovereign immunity for a claim for money damages under the Constitution of the State of Iowa.

2021 Acts, ch 183, §13, 16

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CHAPTER 670

TORT LIABILITY OF GOVERNMENTAL SUBDIVISIONS

Referred to in §89B.6, 137.109, 229.19, 235A.20, 235B.11, 256I.7, 261I.2, 331.606A, 356.15A, 523I.316, 614.8, 692.6

Comparative fault; see chapter 668

670.1	Definitions.	670.8	Officers and employees defended.
670.2	Liability imposed.	670.9	Compromise and settlement.
670.3	Actual knowledge of defect as defense.	670.10	Tax to pay judgment or settlement.
670.4	Claims exempted.	670.11	Claims not retrospective.
670.4A	Qualified immunity.	670.12	Officers and employees — personal liability.
670.5	Limitation of actions.	670.13	Default judgments.
670.6	Death — claim presented by another.	670.14	Money damages — nonwaiver of rights.
670.7	Insurance.		

670.1 Definitions.

As used in this chapter, the following terms shall have the following meanings:

1. *"Governing body"* means the council of a city, county board of supervisors, board of township trustees, local school board, and other boards and commissions exercising quasi-legislative, quasi-executive, and quasi-judicial power over territory comprising a municipality.

2. *"Municipality"* means city, county, township, school district, a chapter 28E entity as provided in section 670.4, subsection 1, paragraph *"p"*, and any other unit of local government except soil and water conservation districts as defined in section 161A.3, subsection 6.

3. *"Officer"* includes but is not limited to the members of the governing body.

4. *"Tort"* means every civil wrong which results in wrongful death or injury to person or injury to property or injury to personal or property rights and includes but is not restricted to actions based upon negligence; error or omission; nuisance; breach of duty, whether statutory or other duty or denial or impairment of any right under any constitutional provision, statute or rule of law.

[C71, 73, 75, 77, 79, 81, §613A.1]
86 Acts, ch 1172, §2; 86 Acts, ch 1238, §61; 87 Acts, ch 23, §57; 89 Acts, ch 83, §82
C93, §670.1
2015 Acts, ch 132, §48, 51
Referred to in §29C.9, 87.4, 321.231A, 321.231B, 321.424, 321.433, 321.451, 554G.1

670.2 Liability imposed.

1. Except as otherwise provided in this chapter, every municipality is subject to liability for its torts and those of its officers and employees, acting within the scope of their employment or duties, whether arising out of a governmental or proprietary function.

2. For the purposes of this chapter, *"employee"* includes a person who performs services for a municipality whether or not the person is compensated for the services, unless the services are performed only as an incident to the person's attendance at a municipality function.

3. A person who performs services for a municipality or an agency or subdivision of a municipality and who does not receive compensation is not personally liable for a claim based upon an act or omission of the person performed in the discharge of the person's duties, except for acts or omissions which involve intentional misconduct or knowing violation of the law, or for a transaction from which the person derives an improper personal benefit. For purposes of this section, *"compensation"* does not include payments to reimburse a person for expenses.

[C71, 73, 75, 77, 79, 81, §613A.2; 82 Acts, ch 1018, §3]
87 Acts, ch 212, §20
C93, §670.2
2016 Acts, ch 1011, §114
Referred to in §670.4, 670.5, 670.7, 670.9, 670.10

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670.3 Actual knowledge of defect as defense.

In any action subject to the provisions of this chapter, an affirmative showing that the injured party had actual knowledge of the existence of the alleged obstruction, disrepair, defect, accumulation, or nuisance at the time of the occurrence of the injury, and a further showing that an alternate safe route was available and known to the injured party, shall constitute a defense to the action.

[C71, 73, 75, 77, 79, 81, §613A.3]
C93, §670.3

670.4 Claims exempted.

1. The liability imposed by section 670.2 shall have no application to any claim enumerated in this section. As to any of the following claims, a municipality shall be liable only to the extent liability may be imposed by the express statute dealing with such claims and, in the absence of such express statute, the municipality shall be immune from liability:

a. Any claim by an employee of the municipality which is covered by the Iowa workers' compensation law.

b. Any claim in connection with the assessment or collection of taxes.

c. Any claim based upon an act or omission of an officer or employee of the municipality, exercising due care, in the execution of a statute, ordinance, or regulation whether the statute, ordinance or regulation is valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of the municipality or an officer or employee of the municipality, whether or not the discretion is abused.

d. Any claim against a municipality as to which the municipality is immune from liability by the provisions of any other statute or where the action based upon such claim has been barred or abated by operation of statute or rule of civil procedure.

e. Any claim for punitive damages.

f. Any claim for damages caused by a municipality's failure to discover a latent defect in the course of an inspection.

g. Any claim based upon or arising out of a claim of negligent design or specification, negligent adoption of design or specification, or negligent construction or reconstruction of a highway, secondary road, or street as defined in section 321.1, subsection 78, that was constructed or reconstructed in accordance with a generally recognized engineering or safety standard, criteria, or design theory in existence at the time of the construction or reconstruction. A claim under this chapter shall not be allowed for failure to upgrade, improve, or alter any aspect of an existing highway, secondary road, or street, to new, changed, or altered design standards. In respect to highways and roads, sealcoating, asphalting, patching, resurfacing, ditching, draining, repairing, graveling, rocking, blading, or maintaining an existing highway or road does not constitute reconstruction. This paragraph shall not apply to claims based upon gross negligence.

h. Any claim based upon or arising out of a claim of negligent design or specification, negligent adoption of design or specification, or negligent construction or reconstruction of a public improvement as defined in section 384.37, subsection 19, or other public facility that was constructed or reconstructed in accordance with a generally recognized engineering or safety standard, criteria, or design theory in existence at the time of the construction or reconstruction. A claim under this chapter shall not be allowed for failure to upgrade, improve, or alter any aspect of an existing public improvement or other public facility to new, changed, or altered design standards. This paragraph shall not apply to claims based upon gross negligence. This paragraph takes effect July 1, 1984, and applies to all cases tried or retried on or after July 1, 1984.

i. Any claim based upon an act or omission by an officer or employee of the municipality or the municipality's governing body, in the granting, suspension, or revocation of a license or permit, where the damage was caused by the person to whom the license or permit was issued, unless the act of the officer or employee constitutes actual malice or a criminal offense.

j. Any claim based upon an act or omission of an officer or employee of the municipality, whether by issuance of permit, inspection, investigation, or otherwise, and whether the statute, ordinance, or regulation is valid, if the damage was caused by a third party, event, or

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property not under the supervision or control of the municipality, unless the act or omission of the officer or employee constitutes actual malice or a criminal offense.

k. A claim based upon or arising out of an act or omission of a municipality in connection with an emergency response including but not limited to acts or omissions in connection with emergency response communications services. For the purposes of this paragraph, "*municipality*" includes a nonprofit corporation that delivers such emergency response services on behalf of a city, county, township, or benefited fire district pursuant to a written contract. The city, county, township, or benefited fire district shall file the written contract and any amendment, modification, or notice of termination of the contract in an electronic format with the secretary of state within thirty days of the effective date of the contract, amendment, modification, or termination in a manner specified by the secretary of state.

l. A claim relating to a swimming pool or spa as defined in section 135I.1 which has been inspected by a municipality or the state in accordance with chapter 135I, or a swimming pool or spa inspection program which has been certified by the state in accordance with that chapter, whether or not owned or operated by a municipality, unless the claim is based upon an act or omission of an officer or employee of the municipality and the act or omission constitutes actual malice or a criminal offense.

m. A claim based on an act or omission by a county or city pursuant to section 717.2A or chapter 717B relating to either of the following:

(1) Rescuing neglected livestock or another animal by a law enforcement officer.

(2) Maintaining or disposing of neglected livestock or another animal by a county or city.

n. Any claim based upon or arising out of a claim of negligent design or specification, negligent adoption of design or specification, or negligent construction or reconstruction of a public facility designed for recreational activities that was constructed or reconstructed, reasonably and in good faith, in accordance with generally recognized engineering or safety standards or design theories in existence at the time of the construction or reconstruction.

o. Any claim for injuries or damages based upon or arising out of an act or omission of an officer or employee of the municipality or the municipality's governing body and arising out of a recreational activity occurring on public property where the claimed injuries or damages resulted from the normal and expected risks inherent in the recreational activity and the person engaging in the recreational activity was voluntarily on the public property where the injuries or damages occurred and knew or reasonably should have known that the recreational activity created a substantial risk of injuries or damages.

p. Any claim against a chapter 28E entity or an officer or employee of the entity in any way arising out of, or related to, the acts or omissions, operations, or acceptance of waste by the entity, at the request of federal or state agencies, or any political subdivision of this state, in response to a disaster emergency declared by the governor pursuant to section 29C.6, subsection 1, in any way related to an infectious or contagious disease as defined in section 163.2, subsection 5, unless the department of natural resources determines the entity materially deviated from the entity's direct responsibilities and duties under the special waste authorization issued by the department. A chapter 28E entity receiving waste under this paragraph shall not be responsible for actions or inactions of any other parties and shall have no duty to assess, challenge, or evaluate the efficacy or safety of the means of disposal pursuant to any governmental rule, order, special waste authorization, or directive.

q. Any claim relating to a constructed honeybee hive on municipal property, provided the municipality or beehive owner, if not the municipality, acted reasonably and in good faith.

r. Any claim arising from the performance, failure to perform, nature, age, condition, or packaging of any vehicle or equipment used in fire fighting, emergency medical response, or law enforcement which has been donated in good faith without payment to any organization engaged in fire fighting or emergency medical services, or to a law enforcement agency.

2. The remedy against the municipality provided by section 670.2 shall be exclusive of any other civil action or proceeding by reason of the same subject matter against the officer, employee or agent whose act or omission gave rise to the claim, or the officer's, employee's, or agent's estate.

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3. This section does not expand any existing cause of action or create any new cause of action against a municipality.

[C71, 73, 75, 77, 79, 81, §613A.4; 82 Acts, ch 1018, §4, 5]

83 Acts, ch 198, §24 – 27, 29; 86 Acts, ch 1211, §33; 88 Acts, ch 1177, §9, 10; 89 Acts, ch 291, §8

C93, §670.4

94 Acts, ch 1103, §6; 98 Acts, ch 1159, §1; 2003 Acts, ch 162, §2; 2013 Acts, ch 30, §196; 2015 Acts, ch 23, §1; 2015 Acts, ch 132, §49, 51; 2018 Acts, ch 1126, §2; 2019 Acts, ch 153, §1; 2020 Acts, ch 1027, §3; 2020 Acts, ch 1063, §371, 372

Referred to in §468.526A, 670.1, 670.7, 670.12

Exemption for exercise of due care under chapter 89B; see §89B.6

Legislative intent that subsection 1, paragraph g, not apply to areas of litigation other than highway or road construction or reconstruction; applicability of rule of exclusion; see 83 Acts, ch 198, §27

670.4A Qualified immunity.

1. Notwithstanding any other provision of law, an employee or officer subject to a claim brought under this chapter shall not be liable for monetary damages if any of the following apply:

a. The right, privilege, or immunity secured by law was not clearly established at the time of the alleged deprivation, or at the time of the alleged deprivation the state of the law was not sufficiently clear that every reasonable employee would have understood that the conduct alleged constituted a violation of law.

b. A court of competent jurisdiction has issued a final decision on the merits holding, without reversal, vacatur, or preemption, that the specific conduct alleged to be unlawful was consistent with the law.

2. A municipality shall not be liable for any claim brought under this chapter where the employee or officer was determined to be protected by qualified immunity under subsection 1.

3. A plaintiff who brings a claim under this chapter alleging a violation of the law must state with particularity the circumstances constituting the violation and that the law was clearly established at the time of the alleged violation. Failure to plead a plausible violation or failure to plead that the law was clearly established at the time of the alleged violation shall result in dismissal with prejudice.

4. Any decision by the district court denying qualified immunity shall be immediately appealable.

5. This section shall apply in addition to any other statutory or common law immunity.

2021 Acts, ch 183, §14, 16

670.5 Limitation of actions.

Except as provided in section 614.8, a person who claims damages from any municipality or any officer, employee or agent of a municipality for or on account of any wrongful death, loss, or injury within the scope of section 670.2 or section 670.8 or under common law shall commence an action therefor within two years after the alleged wrongful death, loss, or injury.

[C71, 73, 75, 77, 79, 81, §613A.5]

C93, §670.5

2007 Acts, ch 110, §5, 6

670.6 Death — claim presented by another.

When the claim is one for death by wrongful act or omission, the notice may be presented by the personal representative, surviving spouse, or next of kin, or the consular officer of the foreign country of which the deceased was a citizen, within one year after the alleged injury resulting in such death; but if the person for whose death the claim is made has presented a notice that would have been sufficient had the person lived, an action for wrongful death may be brought without additional notice.

[C71, 73, 75, 77, 79, 81, §613A.6]

C93, §670.6

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670.7 Insurance.

1. The governing body of a municipality may purchase a policy of liability insurance insuring against all or any part of liability which might be incurred by the municipality or its officers, employees, and agents under section 670.2 and section 670.8 and may similarly purchase insurance covering torts specified in section 670.4. The governing body of a municipality may adopt a self-insurance program, including but not limited to the investigation and defense of claims, the establishment of a reserve fund for claims, the payment of claims, and the administration and management of the self-insurance program, to cover all or any part of the liability. The governing body of a municipality may join and pay funds into a local government risk pool to protect the municipality against any or all liability, loss of property, or any other risk associated with the operation of the municipality. The governing body of a municipality may enter into insurance agreements obligating the municipality to make payments beyond its current budget year to provide or procure the policies of insurance, self-insurance program, or local government risk pool. The premium costs of the insurance, the costs of a self-insurance program, the costs of a local government risk pool, and the amounts payable under the insurance agreements may be paid out of the general fund or any available funds or may be levied in excess of any tax limitation imposed by statute. However, for school districts, the costs shall be included in the district management levy as provided in section 296.7 if the district has certified a district management levy. If the district has not certified a district management levy, the cost shall be paid from the general fund. Any independent or autonomous board or commission in the municipality having authority to disburse funds for a particular municipal function without approval of the governing body may similarly enter into insurance agreements, procure liability insurance, adopt a self-insurance program, or join a local government risk pool within the field of its operation.

2. The procurement of this insurance constitutes a waiver of the defense of governmental immunity as to those exceptions listed in section 670.4 to the extent stated in the policy but shall have no further effect on the liability of the municipality beyond the scope of this chapter, but if a municipality adopts a self-insurance program or joins and pays funds into a local government risk pool the action does not constitute a waiver of the defense of governmental immunity as to the exceptions listed in section 670.4.

3. The existence of any insurance which covers in whole or in part any judgment or award which may be rendered in favor of the plaintiff, or lack of any such insurance, shall not be material in the trial of any action brought against the governing body of a municipality, or its officers, employees, or agents, and any reference to such insurance, or lack of insurance, is grounds for a mistrial. A self-insurance program or local government risk pool is not insurance and is not subject to regulation under chapters 505 through 523C.

4. The association of Iowa fairs or a fair as defined in section 174.1 and a library district established pursuant to section 336.2 shall each be deemed a municipality as defined in this chapter only for the purpose of joining a local government risk pool as provided in this section.

[C71, 73, 75, 77, 79, 81, §613A.7]

86 Acts, ch 1211, §34; 89 Acts, ch 135, §123

C93, §670.7

94 Acts, ch 1175, §17; 2008 Acts, ch 1139, §3; 2008 Acts, ch 1191, §132; 2018 Acts, ch 1145, §1 – 3

Referred to in §174.8A, 285.10

670.8 Officers and employees defended.

1. The governing body shall defend its officers and employees, whether elected or appointed and shall save harmless and indemnify the officers and employees against any tort claim or demand, whether groundless or otherwise, arising out of an alleged act or omission occurring within the scope of their employment or duties. However, the duty to save harmless and indemnify does not apply to awards for punitive damages. The exception for punitive damages does not prohibit a governing body from purchasing insurance to protect its officers and employees from punitive damages. The duty to save harmless and indemnify does not apply and the municipality is entitled to restitution by an officer or

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employee if, in an action commenced by the municipality against the officer or employee, it is determined that the conduct of the officer or employee upon which the tort claim or demand was based constituted a willful and wanton act or omission. Any independent or autonomous board or commission of a municipality having authority to disburse funds for a particular municipal function without approval of the governing body shall similarly defend, save harmless and indemnify its officers and employees against tort claims or demands.

2. The duties to defend and to save harmless and indemnify shall apply whether or not the municipality is a party to the action and shall include but not be limited to cases arising under 42 U.S.C. §1983.

3. In the event the officer or employee fails to cooperate in the defense against the claim or demand, the municipality shall have a right of indemnification against that officer or employee.

[C71, 73, 75, 77, 79, 81, §613A.8; 82 Acts, ch 1018, §6]
83 Acts, ch 130, §1
C93, §670.8
2010 Acts, ch 1061, §80
Referred to in §256.16, 331.303, 670.5, 670.7, 670.9, 670.10

670.9 Compromise and settlement.

The governing body of any municipality may compromise, adjust, and settle tort claims against the municipality and its officers, employees, and agents for damages under section 670.2 or 670.8 and may appropriate money for the payment of amounts agreed upon.

[C71, 73, 75, 77, 79, 81, §613A.9]
C93, §670.9
2016 Acts, ch 1011, §115; 2017 Acts, ch 29, §163
Referred to in §331.303

670.10 Tax to pay judgment or settlement.

When a final judgment is entered against or a settlement is made by a municipality for a claim within the scope of section 670.2 or 670.8, payment shall be made and the same remedies apply in the case of nonpayment as in the case of other judgments against the municipality. If a judgment or settlement is unpaid at the time of the adoption of the annual budget, the municipality shall budget an amount sufficient to pay the judgment or settlement together with interest accruing on it to the expected date of payment. A tax may be levied in excess of any limitation imposed by statute. However, for school districts the costs of a judgment or settlement under this section shall be included in the district management levy pursuant to section 298.4.

[C71, 73, 75, 77, 79, 81, §613A.10]
89 Acts, ch 135, §124
C93, §670.10

670.11 Claims not retrospective.

This chapter shall have no application to any occurrence or injury claim or action arising prior to January 1, 1968.

[C71, 73, 75, 77, 79, 81, §613A.11]
C93, §670.11

670.12 Officers and employees — personal liability.

All officers and employees of municipalities are not personally liable for claims which are exempted under section 670.4, except claims for punitive damages, and actions permitted under section 85.20. An officer or employee of a municipality is not liable for punitive damages as a result of acts in the performance of a duty, unless actual malice or willful, wanton and reckless misconduct is proven.

[82 Acts, ch 1018, §1]
C83, §613A.12
83 Acts, ch 130, §2; 86 Acts, ch 1211, §35
C93, §670.12

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670.13 Default judgments.

A default judgment shall not be taken against an employee, officer, or agent of a municipality unless the municipality is a party to the action and the time for special appearance, motion or answer by the municipality under rule of civil procedure 1.303 has expired.

[82 Acts, ch 1018, §2]
C83, §613A.13
C93, §670.13

670.14 Money damages — nonwaiver of rights.

This chapter shall not be construed to be a waiver of sovereign immunity for a claim for money damages under the Constitution of the State of Iowa.

2021 Acts, ch 183, §15, 16

CHAPTER 670A

FORCIBLE FELON LIABILITY

670A.1 Definitions. 670A.2 Perpetrator liability.

670A.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Act"* means an act as defined under section 702.2.
2. *"Convicted"* means a finding of guilt, irrespective of imposition or execution of any sentence; a final and valid admission of guilt or a guilty plea; an entry of judgment of conviction; an adjudication of delinquency; a plea of guilty to a delinquency petition; the entry into an informal adjustment agreement or an agreement to the entry of a consent decree regarding a delinquent act.
3. *"Course of criminal conduct"* means an act which when committed constitutes a crime and includes any acts of a victim in defending or attempting to defend against the crime.
4. *"Crime"* means a forcible felony as defined under section 702.11.
5. *"Perpetrator"* means a person who has committed the acts constituting a crime and includes a person who has been convicted of a crime and any person who jointly participates or aids and abets in the commission of a crime.
6. *"Victim"* means a person who is the object of a course of criminal conduct and also includes persons who provide reasonable assistance to or who defend another person who is exposed to or has suffered serious injury at the time of or immediately after the commission of a crime.

98 Acts, ch 1111, §1

670A.2 Perpetrator liability.

1. A perpetrator assumes the risk of and is liable for any loss, injury, or death which results from or arises out of the perpetrator's course of criminal conduct. A crime victim is not liable for any damages caused by any acts of the victim in defending or attempting to defend against the crime if the victim used reasonable force when committing the acts. A perpetrator's assumption of risk and liability does not eliminate a victim's duty to protect against any conditions which the victim knows or has reason to know may create an unreasonable risk of harm. This section shall not apply to perpetrators who, because of mental illness or defect, are incapable of knowing the nature and quality of their acts or are incapable of distinguishing between right and wrong in relation to those acts.
2. For purposes of this section, a certified copy of a guilty plea, an order entering a judgment of guilt, a court record of conviction or adjudication, an order adjudicating a child delinquent, or a record of an informal adjustment agreement shall be conclusive proof of a perpetrator's assumption of risk of and liability for any damage or harm caused to a victim.

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3. In addition to any claim for damages, the court shall award a victim reasonable expenses, including attorney's fees and disbursements, which are incurred in the prosecution of the damages claim.

4. Except as necessary to preserve evidence, the court shall stay any action for damages under this section during the pendency of any criminal action which pertains to the course of criminal conduct which forms the basis for a claim for relief under this section.

98 Acts, ch 1111, §2

CHAPTER 671

LIABILITY OF HOTELKEEPERS AND STEAMBOAT OWNERS

This chapter not enacted as a part of this title;
transferred from chapter 105 in Code 1993

671.1	Liability for precious articles — safe deposit.	671.5	Leaving baggage after registering off.
671.2	Exception.	671.6	Forwarding baggage.
671.3	Nature of liability.	671.7	Nonliability — conveyance.
671.4	Limitation on liability.	671.8	Liability — conveyance.
		671.9	Liability during transit.

671.1 Liability for precious articles — safe deposit.

No keeper of any hotel, inn, or eating house, nor the owner of any steamboat, shall be liable to any guest for more than one hundred dollars for the loss of or injury to any money, jewelry, articles of gold or silver manufacture, precious stones, personal ornaments, documents of any kind, or other similar property, if such keeper or owner at all times provides:

1. A metal safe or vault, in good order and fit for the safekeeping of such property.

2. Locks or bolts on the door and proper fastenings on the transoms and windows of the sleeping quarters used by guests.

3. Printed notices posted up in a conspicuous place in the office or other public room and in the quarters occupied by guests, stating that such places for safe deposit are provided for the use and accommodation of guests and patrons.

[C97, §3138; S13, §3138; C24, 27, 31, 35, 39, §**1685;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §105.1]

C93, §671.1

Referred to in §671.2, 671.3

671.2 Exception.

1. The limited liability provided in section 671.1 shall not apply where:

a. A guest has offered to deliver valuables to the keeper or owner for custody in such metal safe or vault, and

b. The keeper or owner has omitted or refused to receive and deposit the valuables in the safe or vault and give such guest a receipt for the valuables.

2. The keeper or owner shall not be required to receive from any one guest for deposit in the keeper's or owner's safe or vault, property having a market value of more than five hundred dollars.

[C97, §3138; S13, §3138; C24, 27, 31, 35, 39, §**1686;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §105.2]

C93, §671.2

2013 Acts, ch 90, §182

Referred to in §671.3

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671.3 Nature of liability.

The liability of such keeper or owner for loss of or injury to personal property placed by any guest in the keeper's or owner's care, other than that described in sections 671.1 and 671.2, shall be that of a depository for hire.

[C24, 27, 31, 35, 39, §**1687;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §105.3]
C93, §671.3

671.4 Limitation on liability.

In no event shall the liability of such keeper or owner exceed the following amounts:

1. For each trunk and its contents, two hundred fifty dollars.
2. For each valise and its contents, one hundred fifty dollars.
3. For each box, bundle, or package and its contents, fifty dollars.
4. For any and all other miscellaneous effects of each guest, not exceeding one hundred dollars.

[C24, 27, 31, 35, 39, §**1688;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §105.4]
C93, §671.4

671.5 Leaving baggage after registering off.

In case baggage or other personal property of a guest has remained in any hotel, inn, eating house, or steamboat forty-eight hours after the guest has paid the guest's bill and registered off and the relation of keeper and guest has ceased, such keeper or owner may hold such baggage or property at the risk of the owner.

[C24, 27, 31, 35, 39, §**1689;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §105.5]
C93, §671.5

671.6 Forwarding baggage.

In case baggage or other property has been forwarded to any hotel, inn, eating house, or steamboat, and the owner of such baggage or property does not within forty-eight hours become a guest, such keeper or owner may hold such baggage or property at the risk of the owner.

[C24, 27, 31, 35, 39, §**1690;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §105.6]
C93, §671.6

671.7 Nonliability — conveyance.

No keeper or owner of any hotel, inn or eating house shall be liable by reason of the keeper's or owner's liability or responsibility as innkeeper to any guest for the loss of or damage to the automobile or other conveyance of such guest left in any garage not personally owned and operated by such hotel, inn or eating house or the owner or keeper thereof.

[C31, 35, §1690-c1; C39, §**1690.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §105.7]
C93, §671.7

671.8 Liability — conveyance.

The liability of the keeper or owner of any hotel, inn or eating house, for the loss of or damage to the conveyance of any guest or the personal property of such guest left in such conveyance, where said hotel, inn or eating house keeper, is the owner and operator of such garage, shall be that of a bailee for hire, except that such hotel, inn, rooming house or eating house keeper or owner shall not be liable to the guest in an amount in excess of fifty dollars for loss or damage to personal property left in the conveyance unless said guest shall have listed with said hotel, inn, rooming house or eating house, the personal property contained in said automobile or conveyance, at the time the same is left in said garage so owned by and operated by the said hotel, inn, rooming house or eating house.

[C31, 35, §1690-c2; C39, §**1690.2;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §105.8]
C93, §671.8
Referred to in §671.9

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671.9 Liability during transit.

Except as provided in section 671.8 no keeper or owner of any hotel, inn, rooming house or eating house shall be liable for the loss of or damage to the personal property kept therein of any guest, while the said conveyance is in transit between the said hotel, inn, rooming house or eating house and any garage in which the same is temporarily stored, nor for any damage done by said conveyance while in transit, unless in said transit the same is being driven or operated by an employee or agent of the said hotel, inn, rooming house or eating house.

[C31, 35, §1690-c3; C39, §**1690.3;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §105.9]
C93, §671.9

CHAPTER 671A

NEGLIGENT HIRING — LIMITATIONS ON LIABILITY

671A.1 Limitation on liability for negligently hiring an employee, agent, or independent contractor convicted of a public offense.

671A.2 Liability protection not applicable.

671A.1 Limitation on liability for negligently hiring an employee, agent, or independent contractor convicted of a public offense.

1. A cause of action shall not be brought against a private employer, general contractor, or premises owner for negligently hiring an employee, agent, or independent contractor, based solely on evidence that the employee, agent, or independent contractor has been convicted of a public offense as defined in section 701.2.

2. This chapter does not create a cause of action or expand an existing cause of action.

3. This chapter does not apply to employment of prisoners at prisons.

2019 Acts, ch 33, §1

671A.2 Liability protection not applicable.

1. This chapter does not preclude a cause of action for negligent hiring based on evidence that the employee, agent, or independent contractor has been convicted of a public offense as defined in section 701.2, if all of the following criteria are met:

a. The private employer, general contractor, or premises owner knew or should have known of the conviction.

b. The employee, agent, or independent contractor was convicted of any of the following:

(1) A public offense that was committed while performing duties substantially similar to those reasonably expected to be performed in the employment or under the relationship or contract, or under conditions substantially similar to those reasonably expected to be encountered in the employment or under the relationship or contract, taking into consideration all of the following factors:

(a) The nature and seriousness of the public offense.

(b) The extent and nature of the employee, agent, or independent contractor's past criminal activity.

(c) The age of the employee, agent, or independent contractor when the public offense was committed.

(d) The amount of time that has elapsed since the employee, agent, or independent contractor's last criminal activity.

(2) A sexually violent offense as defined in section 229A.2.

(3) The offense of murder in the first degree under section 707.2.

(4) The offense of murder in the second degree under section 707.3.

(5) The offense of assault as defined in section 708.1 that is a felony under section 708.2.

(6) The offense of domestic abuse assault as defined in section 708.2A.

(7) The offense of kidnapping in the first degree under section 710.2.

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(8) The offense of robbery in the first degree under section 711.2.

(9) An offense committed on certain real property for which an enhanced penalty was received under section 124.401A or 124.401B.

(10) A felony offense where the employee, agent, or independent contractor used or exhibited a dangerous weapon as defined in section 702.7 during the commission of or during immediate flight from the scene of the felony offense, or where the employee, agent, or independent contractor used or exhibited the dangerous weapon or was a party to the felony offense and knew that a dangerous weapon would be used or exhibited.

(11) The offense of dependent adult abuse as provided for under section 726.26.

2. The protections provided to a private employer, general contractor, or premises owner under this chapter do not apply in a suit concerning the misuse of funds or property of a person other than the employer, general contractor, or premises owner, by an employee, agent, or independent contractor if, on the date the employee, agent, or independent contractor was hired, the employee, agent, or independent contractor had been convicted of a public offense that included fraud or the misuse of funds or property as an element of the public offense, and it was foreseeable that the position for which the employee, agent, or independent contractor was hired would involve discharging a fiduciary responsibility in the management of funds or property.

2019 Acts, ch 33, §2; 2022 Acts, ch 1132, §15

CHAPTER 672

DONATIONS OF PERISHABLE FOOD

This chapter not enacted as a part of this title;
transferred from chapter 122B in Code 1993

672.1 Donations of perishable food — donor liability — penalty.

672.1 Donations of perishable food — donor liability — penalty.

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

a. "Canned foods" means canned foods that have been hermetically sealed or commercially processed and prepared for human consumption.

b. "Charitable or nonprofit organization" means an organization which is exempt from federal or state income taxation, except that the term does not include organizations which sell or offer to sell donated items of food. The assessment of a nominal fee or request for a donation in connection with the distribution of food by the charitable or nonprofit organization is not a sale.

c. "Gleaner" means a person who harvests, for free distribution, an agriculture crop that has been donated by the owner.

d. "Perishable food" means food which may spoil or otherwise become unfit for human consumption because of its nature or type of physical condition. This term includes, but is not limited to, fresh and processed meats, poultry, seafood, dairy products, eggs in the shell, fresh fruits and vegetables, and foods which have been packaged, refrigerated, or frozen.

2. A gleaner, or a restaurant, food establishment, food service establishment, school, manufacturer of foodstuffs, meat or poultry establishment licensed pursuant to chapter 189A, or other person who, in good faith, donates food to a charitable or nonprofit organization for ultimate free distribution to needy individuals, or to the department of natural resources or a county conservation board for use in a free interpretive educational program, is not subject to criminal or civil liability arising from the condition of the food if the donor reasonably inspects the food at the time of the donation and finds the food fit for human consumption. The immunity provided by this subsection does not extend to a donor or gleaner if damages result from the negligence, recklessness, or intentional misconduct of the donor, or if the

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donor or gleaner has, or should have had, actual or constructive knowledge that the food is tainted, contaminated, or harmful to the health or well-being of the ultimate recipient.

3. A bona fide charitable or nonprofit organization which receives, in good faith, donated food for ultimate distribution to needy individuals either for free or for a nominal fee is not subject to criminal or civil liability arising from the condition of the food, if the charitable or nonprofit organization reasonably inspects the food at the time of donation and at the time of distribution and finds the food fit for human consumption. The immunity provided by this subsection does not extend to a charitable or nonprofit organization if damages result from the negligence, recklessness, or intentional misconduct of the charitable or nonprofit organization or if the charitable or nonprofit organization has or should have had actual or constructive knowledge that the food is tainted, contaminated, or harmful to the health or well-being of the ultimate recipient.

4. The immunity provided by this section is applicable to the good faith donation of canned or perishable food or farm products not readily marketable due to appearance, freshness, grade, surplus or other considerations, but does not apply to canned goods that are defective or cannot be otherwise offered for sale to members of the general public. This does not restrict the authority of a lawful agency to otherwise regulate or ban the use of such food for human consumption. Charitable or nonprofit organizations which regularly accept donated food for distribution pursuant to this section shall request the appropriate local health authorities to inspect the food at regular intervals.

5. A person, including an employee or volunteer for a charitable or nonprofit organization, who sells, or offers to sell, for profit, food that the person knows to be donated pursuant to this section is guilty of a simple misdemeanor. For purposes of this subsection, the assessment of a nominal fee or request for a donation by the charitable or nonprofit organization is not a sale.

[82 Acts, ch 1168, §1]
C83, §122B.1
89 Acts, ch 181, §1
C93, §672.1
2001 Acts, ch 23, §2; 2002 Acts, ch 1050, §52; 2008 Acts, ch 1081, §1

CHAPTER 673

DOMESTICATED ANIMAL ACTIVITIES

Referred to in §461C.10, 673A.5

673.1 Definitions.
673.2 Liability.
673.3 Notice required.
673.4 Fairs — domesticated animal premises — liability.
673.5 Warning sign — notice.
673.6 Limitation on liability.

673.1 Definitions.

1. *"Claim"* means a claim, counterclaim, cross-claim, complaint, or cause of action recognized by the Iowa rules of civil procedure and brought in court on account of damage to or loss of property or on account of personal injury or death.

2. *"Domesticated animal"* means an animal commonly referred to as a bovine, swine, sheep, goat, domesticated deer, llama, poultry, rabbit, horse, pony, mule, jenny, donkey, or hinny.

3. *"Domesticated animal activity"* means any of the following:

a. Riding or driving a domesticated animal.

b. Riding as a passenger on a vehicle powered by a domesticated animal.

c. Teaching or training a person to ride or drive a domesticated animal or a vehicle powered by a domesticated animal.

d. Participating in an activity sponsored by a domesticated animal activity sponsor.

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e. Participating or assisting a participant in a domesticated animal event.

f. Managing or assisting in managing a domesticated animal in a domesticated animal event.

g. Inspecting or assisting an inspection of a domesticated animal for the purpose of purchase.

h. Providing hoof care including, but not limited to, horseshoeing.

i. Providing or assisting in providing veterinary care to a domesticated animal.

j. Boarding or keeping a domesticated animal, by the owner of the domesticated animal or on behalf of another person.

k. Loading, hauling, or transporting a domesticated animal.

l. Breeding domesticated animals.

m. Participating in racing.

n. Showing or displaying a domesticated animal.

4. *"Domesticated animal activity sponsor"* means a person who owns, organizes, manages, or provides facilities for a domesticated animal activity, including, but not limited to, any of the following:

a. Clubs involved in riding, hunting, competing, or performing.

b. Youth clubs, including 4-H clubs.

c. Educational institutions.

d. Owners, operators, instructors, and promoters of a domesticated animal event or domesticated animal facility, including, but not limited to, stables, boarding facilities, clubhouses, rides, fairs, and arenas.

e. Breeding farms.

f. Training farms.

5. *"Domesticated animal event"* means an event in which a domesticated animal activity occurs, including, but not limited to, any of the following:

a. A fair.

b. A rodeo.

c. An exposition.

d. A show.

e. A competition.

f. A 4-H event.

g. A sporting event.

h. An event involving driving, pulling, or cutting.

i. Hunting.

j. An equine event or discipline including, but not limited to, dressage, a hunter or jumper show, polo, steeplechasing, English or western performance riding, a western game, or trail riding.

6. *"Domesticated animal pathogen"* or *"pathogen"* means a microorganism, biological agent, or toxin causing disease, illness, or death to a human, if the microorganism, biological agent, or toxin is primarily transmitted by human contact with a domesticated animal, manure from a domesticated animal, or other excretions or body fluids from a domesticated animal.

7. *"Domesticated animal premises"* or *"premises"* means a location under the management or control of a domesticated animal activity sponsor where domesticated animals are regularly kept for three or more consecutive hours.

8. *"Domesticated animal professional"* means a person who receives compensation for engaging in a domesticated animal activity by doing one of the following:

a. Instructing a participant.

b. Renting the use of a domesticated animal to a participant for the purposes of riding, driving, or being a passenger on a domesticated animal or a vehicle powered by a domesticated animal.

c. Renting equipment or tack to a participant.

9. *"Fair authority"* means the Iowa state fair authority established in section 173.1 or a fair as defined in section 174.1.

10. *"Fairgrounds"* means real estate under the management or control of a fair authority,

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including land, buildings, and improvements, and which includes but is not limited to areas reserved for domesticated animal events or domesticated animal activities.

11. *"Inherent risks of a domesticated animal activity"* means a danger or condition which is an integral part of a domesticated animal activity, including, but not limited to, the following:

a. The propensity of a domesticated animal to behave in a manner that is reasonably foreseeable to result in damages to property, or injury or death to a person.

b. Risks generally associated with an activity which may include injuries caused by bucking, biting, stumbling, rearing, trampling, scratching, pecking, falling, kicking, or butting.

c. The unpredictable reaction by a domesticated animal to unfamiliar conditions, including, but not limited to, a sudden movement; loud noise; an unfamiliar environment; or the introduction of unfamiliar persons, animals, or objects.

d. A collision by the domesticated animal with an object or animal.

e. The failure of a participant to exercise reasonable care, take adequate precautions, or use adequate control when engaging in the activity, including failing to maintain reasonable control or failing to act in a manner consistent with the person's abilities.

12. *"Participant"* means a person who engages in a domesticated animal activity, regardless of whether the person receives compensation.

13. *"Spectator"* means a person who is in the vicinity of a domesticated animal activity, but who is not a participant.

97 Acts, ch 61, §1; 2017 Acts, ch 80, §1
Referred to in §673C.1

673.2 Liability.

A person, including a domesticated animal professional, domesticated animal activity sponsor, the owner of the domesticated animal, or a person exhibiting the domesticated animal, is not liable for the damages, injury, or death suffered by a participant or spectator resulting from the inherent risks of a domesticated animal activity. This section shall not apply to the extent that the claim for damages, injury, or death is caused by any of the following:

1. An act committed intentionally, recklessly, or while under the influence of an alcoholic beverage or other drug or a combination of such substances which causes damages, injury, or death.

2. The use of equipment or tack used in the domesticated animal activity which the defendant provided to a participant, if the defendant knew or reasonably should have known that the equipment or tack was faulty or defective.

3. The failure to notify a participant of a dangerous latent condition on real property in which the defendant holds an interest, which is known or should have been known. The notice may be made by posting a clearly visible warning sign on the property.

4. A domesticated animal activity which occurs in a place designated or intended by an animal activity sponsor as a place for persons who are not participants to be present.

5. A domesticated animal activity which causes damages, injury, or death to a spectator who is in a place where a reasonable person who is alert to inherent risks of domesticated animal activities would not expect a domesticated animal activity to occur.

97 Acts, ch 61, §2

673.3 Notice required.

1. A domesticated animal professional shall post and maintain a sign on real property in which the professional holds an interest, if the professional conducts domesticated animal activities on the property. The location of the sign may be near or on a stable, corral, or arena owned or controlled by the domesticated animal professional. The sign must be clearly visible to a participant. This section does not require a sign to be posted on a domesticated animal or a vehicle powered by a domesticated animal. The notice shall appear in black letters a minimum of one inch high and in the following form:

UNOFFICIAL VERSION. 2017 LEGISLATIVE RELEASE

WARNING

Under Iowa law, a domesticated animal professional is not liable for damages suffered by, an injury to, or the death of a participant resulting from the inherent risks of domesticated animal activities, pursuant to Iowa Code chapter 673. You are assuming inherent risks of participating in this domesticated animal activity.

2. If a written contract is executed between a domesticated animal professional and a participant involving domesticated animal activities, the contract shall contain the same notice in clearly readable print. In addition, the contract shall include the following disclaimer:

A number of inherent risks are associated with a domesticated animal activity. A domesticated animal may behave in a manner that results in damages to property or an injury or death to a person. Risks associated with the activity may include injuries caused by bucking, biting, stumbling, rearing, trampling, scratching, pecking, falling, or butting.

The domesticated animal may react unpredictably to conditions, including but not limited to a sudden movement, loud noise, an unfamiliar environment, or the introduction of unfamiliar persons, animals, or objects.

The domesticated animal may also react in a dangerous manner when a condition or treatment is considered hazardous to the welfare of the animal; a collision occurs with an object or animal; or a participant fails to exercise reasonable care, take adequate precautions, or use adequate control when engaging in a domesticated animal activity, including failing to maintain reasonable control of the animal or failing to act in a manner consistent with the person's abilities.

97 Acts, ch 61, §3; 98 Acts, ch 1100, §80; 2015 Acts, ch 29, §112

673.4 Fairs — domesticated animal premises — liability.

1. A fair authority is not liable for damages arising from a claim by a participant or spectator alleging injury or death caused by a domesticated animal pathogen transmitted at a domesticated animal premises located on its fairgrounds. This subsection applies regardless of whether a domesticated animal is present on the domesticated animal premises, when the domesticated animal pathogen is transmitted, or whether a domesticated animal present on the domesticated animal premises is engaged in a domesticated animal activity.

2. Subsection 1 does not apply to the extent that the participant or spectator proves that the fair authority failed to post a warning sign at a conspicuous place at the domesticated animal premises as required in section 673.5.

2017 Acts, ch 80, §2

673.5 Warning sign — notice.

A fair authority shall post a warning sign at a conspicuous place on any domesticated animal premises located on the fairgrounds. The warning sign shall be clearly visible to a person visiting the premises for the first time. The sign shall have a white background and the sign's notice shall be printed in black letters a minimum of one inch high in the following form:

WARNING

DOMESTICATED ANIMAL PREMISES

Under Iowa Code chapter 673, the fair is not liable for a domesticated animal pathogen transmitted from this domesticated animal premises. Take necessary sanitary precautions including by not touching your face or consuming food or water until thoroughly cleansing and drying your hands after your visit. As soon as

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possible after your visit, thoroughly cleanse your hands using an appropriate soap and water and thoroughly dry them after cleansing.

2017 Acts, ch 80, §3
Referred to in §673.4

673.6 Limitation on liability.

The limitation on legal liability provided in this chapter is in addition to any other limitation of legal liability otherwise provided by law, including as provided in chapters 461C and 673A.

2021 Acts, ch 104, §2

CHAPTER 673A

IOWA AGRICULTURAL TOURISM PROMOTION ACT

Referred to in §461C.10, 673.6

673A.1 Short title.
673A.2 Purpose.
673A.3 Definitions.
673A.4 Limitation on liability — inherent risk of farming.
673A.5 Limitation on liability — affirmative defense.
673A.6 Limitation on liability — notice required.
673A.7 Limitation on liability — exceptions.

673A.1 Short title.

This chapter shall be known and may be cited as the *"Iowa Agricultural Tourism Promotion Act"*.

2021 Acts, ch 104, §3

673A.2 Purpose.

1. The general assembly finds all of the following:

a. Agriculture is a vital part of this state's economy, culture, and history.

b. An increasing number of Iowans are removed from day-to-day farm life and associated agricultural experiences.

c. Agricultural tourism provides a valuable opportunity for the general public to understand farm life and associated agricultural experiences.

d. Farming includes a number of hazards which cannot be removed for the benefit of visitors to a farm without detracting from the farm experience visitors receive, including the daily experience of working on a farm.

2. The general assembly declares that uncertainty regarding the potential liability associated with places on a farm and the inherent risks of farming have a negative impact upon the establishment and success of agricultural tourism and its benefits to the people of this state.

2021 Acts, ch 104, §4

673A.3 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Agricultural tourism farm"* means a farm to which members of the public are invited to visit by or on behalf of an agricultural tourism farmer or agricultural tourism professional, for the purpose of allowing members of the public to experience places on a farm and participate in farming activities, regardless of whether a member of the public pays for the visit.

2. *"Agricultural tourism farmer"* means a farmer who owns or leases an agricultural tourism farm.

3. *"Agricultural tourism professional"* means a person who is engaged in managing a visit by a member of the public to an agricultural tourism farm, including any agricultural tourism

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activity conducted on the premises of an agricultural tourism farm, regardless of whether the person receives compensation.

4. *a. "Agricultural tourist"* means a person who enters on to the premises of an agricultural tourism farm as a visitor to experience places on the farm and participate in farming activities pursuant to an invitation by or on behalf of an agricultural tourism farmer or agricultural tourism professional, regardless of whether the person provides compensation in exchange for the visit.

b. "Agricultural tourist" does not mean any of the following:

(1) An employee of, agent of, or person receiving compensation from an agricultural tourism farmer, agricultural tourism professional, or person engaged in farming the agricultural tourism farm.

(2) (a) A family member of an agricultural tourism farmer, agricultural tourism professional, or person engaged in farming the agricultural tourism farm.

(b) As used in subparagraph division (a), *"family member"* means a spouse, child, grandchild, parent, sibling, niece, or nephew, or the spouse of a child, grandchild, parent, sibling, niece, or nephew.

(3) A social guest of an agricultural tourism farmer, agricultural tourism professional, or person engaged in farming the agricultural tourism farm.

5. *"Claim"* means a claim, counterclaim, cross-claim, complaint, cross-complaint, or cause of action recognized by the Iowa rules of civil procedure and brought in court on account of allegation of an injury, loss, or death.

6. *a. "Farm"* means land, including buildings or other structures, and improvements used to produce or process a farm commodity, if all of the following apply:

(1) The land is owned or leased by a farmer.

(2) At least ten thousand dollars was generated from the production of farm commodities produced on the land in the last year.

b. "Farm" includes but is not limited to a farm field, orchard, tree farm, nursery, greenhouse, garden, elevator, seedhouse, barn, warehouse, animal feeding operation structure, winery, brewery, distillery, or any personal property located on the land including machinery or equipment used in the production of a farm commodity.

7. *"Farm animal"* means any of the following:

a. An animal belonging to the bovine, caprine, ovine, or porcine species; farm deer as defined in section 170.1; ostriches, rheas, or emus; turkeys, chickens, or other poultry; fish or other aquatic organisms confined in private waters for human consumption; or bees.

b. A horse, pony, mule, jenny, donkey, or hinny.

8. *"Farm commodity"* means a farm crop or farm animal produced or maintained on a farm.

9. *"Farm crop"* means a plant or fungus used for food, animal feed, fiber, oil, energy, or decoration, including any of the following:

a. A forage or cereal plant, including but not limited to alfalfa, barley, buckwheat, corn, flax, forage, millet, oats, popcorn, rye, sorghum, soybeans, sunflowers, wheat, and grasses used for forage or silage.

b. Edible or ornamental produce, including but not limited to fruit such as apples, cherries, peaches, pears, berries, and grapes; vegetables such as asparagus, broccoli, and carrots; lentils; tubers; squashes and pumpkins; gourds; nuts; maple syrup; mushrooms; Christmas trees; and flowers.

c. Honey.

10. *"Farmer"* means a person who holds any of the following:

a. An ownership or leasehold interest in land used for farming.

b. An equity interest in a business entity that holds land for use in farming as any of the following:

(1) A family farm corporation, authorized farm corporation, family farm limited partnership, limited partnership, family farm limited liability company, authorized limited liability company, family trust, or authorized trust, all as defined in section 9H.1.

(2) A limited liability partnership as defined in section 486A.101.

11. *"Farming"* means to do any of the following:

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a. Produce a farm commodity, including by doing any of the following:

(1) Planting, nurturing, maintaining, inspecting, exhibiting, harvesting, handling, storing, or moving a farm crop.

(2) Producing, breeding, maintaining, handling, confining, moving, inspecting, or exhibiting a farm animal.

b. Engage in an on-farm processing operation in which the form or condition of a farm commodity originating from the farm is changed and prepared or packaged for human use, including but not limited to a dairy, creamery, winery, brewery, distillery, cannery, bakery, butcher shop, smokehouse, or tannery.

12. *a. "Inherent risk of farming"* means a danger or hazard that is an integral part of being in a particular place on a farm or participating in a specific farming activity, if the danger or hazard would be reasonably foreseeable by a person generally familiar with that type of farm or farming activity.

b. "Inherent risk of farming" includes but is not limited to a condition or use of the land, including improvements, and any machinery, equipment, or tack, employed in the production or maintenance of farm commodities on the land, the processing of commodities on the same land as they were produced, and the behavior of farm animals or other domestic or wild animals which are present on the land.

13. *"Person engaged in farming"* means an individual contributing physical labor or making management decisions related to any of the following:

a. The production or maintenance of a farm commodity on a farm.

b. The on-farm processing of a farm commodity produced or maintained on that same farm.

2021 Acts, ch 104, §5; 2026 Acts, ch 1139, §46, 47
Referred to in §673B.1
Subsection 6, paragraph b amended
Subsection 9 amended

673A.4 Limitation on liability — inherent risk of farming.

1. Subject to the conditions of this chapter, an agricultural tourism farmer, an agricultural tourism professional, or a person engaged in farming the agricultural tourism farm is not liable for any act or omission causing injury, loss, or death suffered by an agricultural tourist if all of the following apply:

a. The injury, loss, or death was caused while the agricultural tourist was visiting the agricultural tourism farm.

b. The act or omission that caused the injury, loss, or death was associated with an inherent risk of farming.

2. Subject to the conditions of this chapter, an agricultural tourism farmer, an agricultural tourism professional, or a person engaged in farming on the agricultural tourism farm is not liable for any injury, loss, or death suffered by an agricultural tourist, if any of the following apply:

a. The agricultural tourist contributed to the injury, loss, or death of that agricultural tourist or to another agricultural tourist.

b. The agricultural tourist failed to comply with reasonable verbal or written instructions or warnings provided by the agricultural tourism farmer, the agricultural tourism professional, or a person engaged in farming.

c. The injury, loss, or death occurred at a place where a reasonable person would not enter as part of a visit to the agricultural tourism farm. A legible and conspicuous notice that the place is not part of a visit is sufficient to satisfy this requirement.

2021 Acts, ch 104, §6
Referred to in §673A.5, 673A.7

673A.5 Limitation on liability — affirmative defense.

1. In any claim alleging an act or omission causing injury, loss, or death suffered by an agricultural tourist on an agricultural tourism farm, it is an affirmative defense that an agricultural tourism farmer, an agricultural tourism professional, or a person engaged in farming the agricultural tourism farm is not liable pursuant to section 673A.4.

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2. The affirmative defense described in subsection 1 is in addition to any other limitation of legal liability otherwise provided by law, including as provided in chapters 461C and 673.

2021 Acts, ch 104, §7

Referred to in §673A.6, 673A.7

673A.6 Limitation on liability — notice required.

1. As a condition of being able to plead an affirmative defense as provided in section 673A.5, a notice of the inherent risk of farming must have been provided to an agricultural tourist prior to an alleged injury, loss, or death caused by the agricultural tourism farmer, agricultural tourism professional, or person engaged in farming the agricultural tourism farm.

2. A notice required by this section must have been posted on the premises of an agricultural tourism farm. The notice must have been posted in a conspicuous location where the agricultural tourist was first allowed to enter the premises of an agricultural tourism farm. The notice must have appeared in black letters a minimum of one inch high and in the following form:

IOWA AGRICULTURAL TOURISM PROMOTION ACT
IOWA CODE CHAPTER 673A

You are visiting a working farm as a participant who is either observing or contributing to the success of farming activities. Under Iowa law you are assuming liability for any hazard that you may encounter. A hazard includes the inherent risk of participating in a farming activity or disregarding written or verbal instructions. Farming includes dangerous conditions present on land and in structures, unpredictable behavior of farm animals, dangers associated with the operation of equipment and machinery, and potential wrongful acts of another visitor. Be careful.

3. A notice required by this section must have been included in any written contract entered into by the agricultural tourist and either the agricultural tourism farmer or agricultural tourism professional. A notice required by this section must have been included in any written waiver which must be signed and dated by an agricultural tourist. The notice must have included the same language provided in subsection 2 and printed in twelve point boldface type.

2021 Acts, ch 104, §8; 2022 Acts, ch 1021, §169

673A.7 Limitation on liability — exceptions.

The limitation on liability provided in section 673A.4 and the affirmative defense authorized under section 673A.5 do not apply to the extent that all of the following conditions are met:

1. An injury, loss, or death suffered by an agricultural tourist was caused by the act or omission of an agricultural tourism farmer, an agricultural tourism professional, or a person engaged in farming on the agricultural tourism farm.

2. The act or omission described in subsection 1 was any of the following:

a. Illegal.

b. Intentional.

c. The result of willful misconduct, gross negligence or incompetence amounting to such lack of care as to amount to wanton neglect for the safety of another, or recklessness.

d. Due to intoxication by alcohol, a drug, or a combination of such substances.

e. The result of a failure to notify an agricultural tourist of a dangerous latent condition on the farm, including a building or other structure, or equipment or machinery regardless of whether it was operational, if the dangerous latent condition was known or should have been known by the agricultural tourism farmer or agricultural tourism professional.

f. A condition or event existing at the agricultural tourism farm that was not reasonably foreseeable by a person generally familiar with farming, even though such condition or farming activity would have been foreseeable at another type of agricultural tourism farm.

2021 Acts, ch 104, §9

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CHAPTER 673B

DAMAGES OR INJURY FROM EFFECT ON CLIMATE CAUSED BY GREENHOUSE GAS EMISSIONS — LIMITATIONS ON LIABILITY

673B.1 Definitions.
673B.2 Action based on climate — limitation on liability.
673B.3 Action based on climate — applicability.
673B.4 Statutory construction.

673B.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Agricultural commodity"* means a farm animal or farm crop as each is defined in section 673A.3.

2. *a. "Agricultural source"* means the location where an agricultural commodity is produced, handled, housed, stored, preserved, processed, distributed, or sold.

b. "Agricultural source" includes the location where an agricultural retailer or agricultural service provider conducts an activity.

3. *"Greenhouse gas"* means a gas derived from human activity or a natural source that is any of the following:

a. Originating from any of the following:

(1) An agricultural source.
(2) A petroleum source.
(3) A renewable fuel source.

b. Any of the following gases:

(1) Carbon dioxide.
(2) Hydrofluorocarbons.
(3) Methane.
(4) Nitrogen trifluoride.
(5) Nitrous oxide.
(6) Sulfur hexafluoride.
(7) Perfluorocarbons.

4. *"Petroleum source"* means a location where petroleum or a petroleum product is manufactured, stored, or dispensed.

5. *"Regulatory authority"* means the department of natural resources or a federal agency regulating greenhouse gas emissions, including the United States environmental protection agency.

6. *"Renewable fuel source"* means a location where renewable fuel, as defined in section 214A.1, is manufactured, stored, or dispensed.

2026 Acts, ch 1061, §1
NEW section

673B.2 Action based on climate — limitation on liability.

1. Subject to section 673B.3, in any civil or criminal action, a defendant is not liable, and is not subject to any judicial remedy, under any principle of law or equity, for damages or injury from any alleged actual or potential effect on climate caused wholly or partly by a greenhouse gas emission.

2. Subsection 1 applies regardless of the civil or criminal action brought or type of relief sought, whether legal or equitable.

3. A person bringing a civil or criminal action that alleges damages or injury as described in subsection 1 must do all of the following:

a. Specify each greenhouse gas emitted by the defendant that as asserted gives rise to the civil or criminal action.

b. Show by clear and convincing evidence that unavoidable and identifiable damage or injury has resulted or will result as a direct cause of the defendant's violation of an enforceable

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statutory limitation or restriction or a valid, enforceable operating, air, or other permit issued to the defendant by a regulatory authority.

2026 Acts, ch 1061, §2
Referred to in §673B.3
NEW section

673B.3 Action based on climate — applicability.

Section 673B.2 applies unless the district court in the civil or criminal case finds by clear and convincing evidence that the defendant has violated any of the following:

1. An enforceable statutory limitation or restriction governing the emission of a specific greenhouse gas originating within this state.

2. An express term of a valid, enforceable operating, air, or other permit issued to the defendant by a regulatory authority that has jurisdiction over the defendant's greenhouse gas emissions.

2026 Acts, ch 1061, §3
Referred to in §673B.2
NEW section

673B.4 Statutory construction.

This chapter shall not be construed to create either a right to bring any civil or criminal action, or a judicial remedy, under any principle of law or equity, based on the potential effect on climate caused wholly or partly by a greenhouse gas emission.

2026 Acts, ch 1061, §4
NEW section

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CHAPTER 673C

MOTOCROSS FACILITIES — LIMITATION ON LIABILITY

673C.1 Motocross facility — immunity.

673C.1 Motocross facility — immunity.

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

a. "Facility operator" means any individual, group, club, partnership, corporation, or business entity, whether or not operating for profit or not for profit, or any employee or agent, which sponsors, organizes, rents, or provides to the general public the opportunity to use a motocross vehicle by a participant on a motocross facility. *"Facility operator"* includes a fair authority as defined in section 673.1.

b. "Inherent risks of motocross activities" means those dangers, hazards, or conditions that are an integral part of motocross activities, including all of the following:

(1) Operator error.

(2) Cold weather or heat-related injuries and illnesses, including hypothermia, frostbite, heat exhaustion, heat stroke, and dehydration.

(3) An act of nature which may include rock fall, inclement weather, thunder and lightning, severe or varied temperature, weather conditions, and winds including tornadoes.

(4) Attack or bite by animals.

(5) The aggravation of injuries or illnesses because they occurred in remote places where there are no available medical facilities.

c. "Motocross activity" means riding on, training in or on, using, or being a passenger on a motocross vehicle as follows:

(1) A competition, exercise, or undertaking that involves a motocross vehicle.

(2) Training or teaching activities regarding the operation of a motocross vehicle at a motocross facility.

d. "Motocross facility" means an area created and maintained for the operation of motocross vehicles on natural or man-made terrain.

e. *"Motocross vehicle"* means a motorized two-wheel or four-wheel vehicle being operated over terrain created and maintained for recreational use.

f. *"Participant"* means a person, whether amateur or professional, whether or not a fee is paid, which rents, leases, or uses a motocross vehicle or is a passenger on a rented, leased, or used motocross vehicle while participating in a motocross activity.

2. Except as provided in subsection 4, a motocross facility shall not be liable for any injury to or the death of a participant resulting from the inherent risks of motocross activities and, except as provided in subsection 4, a participant or a participant's representative shall not make any claim against, maintain any action against, or recover from a facility operator, owner, or its agents, servants, or employees for injury, loss, damage, or death of the participant resulting from any of the inherent risks of motocross activities which injury, loss, damage, or death occurred at a motocross facility.

3. This section shall not apply to any employer and employee relationship governed by the provisions of chapter 87.

4. The provisions of subsection 2 shall not prevent or limit the liability of a facility operator of a motocross facility that does any of the following:

a. Intentionally injures the participant.

b. Commits an act or omission that constitutes negligence for the safety of a participant in a motocross activity and that negligence is a proximate cause of the injury or death of a participant.

c. Provides unsafe equipment to a participant and knew or should have known that use of the furnished equipment was unsafe.

d. Fails to use that degree of care that a reasonably prudent person would use under the same or similar circumstances.

5. Every facility operator shall post and maintain signs which contain the warning notice specified in this subsection. Such signs shall be placed in a clearly visible location on or near areas where the facility operator conducts motocross activities. The warning notice specified in this subsection shall appear on the sign in black letters on a white background with each letter to be a minimum of one inch in height. The signs described in this subsection shall contain the following warning notice:

> WARNING
> Under Iowa law, a facility operator is not liable for an injury to or the death of a participant in motocross activities resulting from the inherent risks of motocross activities pursuant to Iowa Code chapter 673C.

6. This section shall not be construed to affect, limit, or modify any claim or defense existing in statute or common law or to affect any claim against a motocross facility for any injury to or the death of a participant that occurred at a motocross facility prior to July 1, 2026.

2026 Acts, ch 1122, §1
NEW section

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CHAPTER 674

CHANGING NAMES

Referred to in §144.39, 598.37, 602.8102(118)

674.1	Authorization.	674.8	Copy to counties.
674.2	Petition to court.	674.9	Former name indicated.
674.3	Petition copy.	674.10	Fee.
674.4	When granted.	674.11	County clerk's record. Repealed by 2007 Acts, ch 71, §6.
674.5	Contents of decree.		
674.6	Notice — consent.	674.12	Reserved.
674.7	Copy to department of health and human services.	674.13	Further change barred.
		674.14	Indexing in real property record.

674.1 Authorization.

A person who has attained the age of majority and who does not have any civil disabilities may apply to the court to change the person's name by filing a verified petition as provided in this chapter. The verified petition may request a name change for minor children of the petitioner as well as the petitioner or a parent may file a verified petition requesting a name change on behalf of a minor child of the parent.

[C51, §2256 – 2260; R60, §3844 – 3848; C73, §3502 – 3506; C97, §4471 – 4475; S13, §4471-b; C24, 27, 31, 35, 39, §**12645;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §674.1; 81 Acts, ch 201, §1]

674.2 Petition to court.

The verified petition shall be addressed to the district court of the county where the applicant resides and shall state and provide for each person seeking a name change:

1. The name at the time the petition is filed of the person whose name is to be changed and the person's county of residence. If the person whose name is to be changed is a minor child, the petition shall state the name of the petitioner and the petitioner's relationship to the minor child.
2. A description including height, weight, color of hair, color of eyes, race, sex, and date and place of birth.
3. Residence at time of petition and any prior residences for the past five years.
4. Reason for change of name, briefly and concisely stated.
5. A legal description of all real property in this state owned by the petitioner.
6. The name the petitioner proposes to take.
7. A certified copy of the birth certificate to be attached to the petition. If a certified copy of the birth certificate is not available, the reason for the unavailability shall be stated and another form of identification, which may include documents provided by the United States department of immigration and naturalization service, shall be attached in lieu of the certified copy of the birth certificate.

[S13, §4471-c; C24, 27, 31, 35, 39, §**12646, 12647;** C46, 50, 54, 58, 62, 66, 71, §674.2, 674.3; C73, 75, 77, 79, 81, §674.2, 674.6; 81 Acts, ch 201, §2]

90 Acts, ch 1008, §1, 2; 99 Acts, ch 150, §2

674.3 Petition copy.

A copy of the petition shall be filed by the clerk of court with the state registrar of vital statistics of the department of health and human services.

[C73, 75, 77, 79, 81, §674.3]

2023 Acts, ch 19, §1288

674.4 When granted.

A decree of change of name may be granted any time after thirty days of the filing of the petition.

[S13, §4471-h; C24, 27, 31, 35, 39, §**12653;** C46, 50, 54, 58, 62, 66, 71, §674.9; C73, 75, 77, 79, 81, §674.4]

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674.5 Contents of decree.

The decree shall describe the petitioner, giving the petitioner's name and former name, height, weight, color of hair, color of eyes, race, sex, date and place of birth, and the given name of the spouse and any minor children affected by the change. The decree shall also give a legal description of all real property owned by the petitioner.

[C73, 75, 77, 79, 81, §674.5]

674.6 Notice — consent.

1. If the petitioner is married, the petitioner must give legal notice to the spouse, in the manner of an original notice, of the filing of the petition.

2. If the petition includes or is filed on behalf of a minor child fourteen years of age or older, the child's written consent to the change of name of that child is required.

3. If the petition includes or is filed on behalf of a minor child under fourteen, both parents as stated on the birth certificate of the minor child shall file their written consent to the name change. If one of the parents does not consent to the name change, a hearing shall be set on the petition on twenty days' notice to the nonconsenting parent pursuant to the rules of civil procedure. At the hearing the court may waive the requirement of consent as to one of the parents if it finds any of the following:

a. That the parent has abandoned the child.

b. That the parent has been ordered to contribute to the support of the child or to financially aid in the child's birth and has failed to do so without good cause.

c. That the parent does not object to the name change after having been given due and proper notice.

[C73, 75, 77, 79, 81, §674.6; 81 Acts, ch 201, §3]

85 Acts, ch 99, §12; 2018 Acts, ch 1041, §113

674.7 Copy to department of health and human services.

When the court grants a decree of change of name, the clerk of the court shall furnish the petitioner with a certified copy of the decree and mail an abstract of a decree requiring a name change to be reflected on a birth certificate to the state registrar of vital statistics of the department of health and human services on a form provided by the state registrar.

[C73, 75, 77, 79, 81, §674.7]

2023 Acts, ch 19, §1289

674.8 Copy to counties.

The clerk of the court shall send a certified copy of the decree to the recorder's office in every county in this state where real property is owned by the petitioner.

[S13, §4471-i; C24, 27, 31, 35, 39, §**12656;** C46, 50, 54, 58, 62, 66, 71, §674.12; C73, 75, 77, 79, 81, §674.8]

674.9 Former name indicated.

Any new birth certificate issued to a person granted a change of name shall reflect the former name of the person issued the new birth certificate.

[C73, 75, 77, 79, 81, §674.9; 81 Acts, ch 201, §4]

674.10 Fee.

For filing a petition for change of name, the clerk shall collect a fee in the amount collected for filing and docketing a petition under section 602.8105, subsection 1, paragraph *"a"*.

[S13, §4471-g; C24, 27, 31, 35, 39, §**12651, 12652;** C46, 50, 54, 58, 62, 66, 71, §674.7, 674.8; C73, 75, 77, 79, 81, §674.10]

94 Acts, ch 1074, §14

674.11 County clerk's record. Repealed by 2007 Acts, ch 71, §6.

674.12 Reserved.

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674.13 Further change barred.

A person shall not change the person's name more than once under this chapter unless just cause is shown. However, in a decree dissolving a person's marriage, the person's name may be changed back to the name appearing on the person's original birth certificate or to a legal name previously acquired in a former marriage.

[S13, §4471-h; C24, 27, 31, 35, 39, §**12655;** C46, 50, 54, 58, 62, 66, 71, §674.11; C73, 75, 77, 79, 81, §674.13]

88 Acts, ch 1158, §98

674.14 Indexing in real property record.

The county recorder and county auditor of each county in which the petitioner owns real property shall collect fees in the amounts specified in sections 331.604 and 331.507, subsection 2, paragraph *"b"*, for indexing a change of name for each parcel of real estate.

[S13, §4471-i; C24, 27, 31, 35, 39, §**12656;** C46, 50, 54, 58, 62, 66, 71, §674.12; C73, 75, 77, 79, 81, §674.14]

85 Acts, ch 159, §12; 2009 Acts, ch 27, §38

CHAPTER 675

EXERCISE OF RELIGION — STATE AND LOCAL GOVERNMENT ACTION RESTRICTIONS

675.1 Short title.
675.2 Legislative purpose and intent.
675.3 Definitions.
675.4 Free exercise of religion protected.

675.1 Short title.

This chapter shall be known and may be cited as the *"Religious Freedom Restoration Act"*.

2024 Acts, ch 1003, §3, 7, 8

675.2 Legislative purpose and intent.

The purpose and intent of this chapter is all of the following:

1. To restore the compelling governmental interest test and to guarantee its application in all cases where the free exercise of religion is substantially burdened by state action.

2. To provide a claim or defense to a person whose exercise of religion is substantially burdened by state action.

2024 Acts, ch 1003, §4, 7, 8

675.3 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Compelling governmental interest"* means a governmental interest of the highest order that cannot otherwise be achieved without burdening the exercise of religion.

2. *"Exercise of religion"* means the practice or observance of religion. *"Exercise of religion"* includes but is not limited to the ability to act or refuse to act in a manner substantially motivated by one's sincerely held religious belief, whether or not the exercise is compulsory or central to a larger system of religious belief.

3. *"Person"* means any individual, association, partnership, corporation, church, religious institution, estate, trust, foundation, or other legal entity.

4. *"State action"* means the implementation or application of any law, including but not limited to state and local laws, ordinances, rules, regulations, and policies, whether statutory or otherwise, or other action by the state or a political subdivision, including a local government, municipality, instrumentality, or public official authorized by law.

5. *"Substantially burden"* means any action that directly or indirectly constrains, inhibits, curtails, or denies the exercise of religion by any person or compels any action contrary to a person's exercise of religion and includes but is not limited to withholding of benefits;

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assessment of criminal, civil, or administrative penalties; or exclusion from governmental programs or access to governmental facilities.

2024 Acts, ch 1003, §5, 7, 8

675.4 Free exercise of religion protected.

1. State action shall not substantially burden a person's exercise of religion, even if the burden results from a rule of general applicability, unless the government demonstrates that applying the burden to that person's exercise of religion is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest.

2. A person whose exercise of religion has been substantially burdened in violation of this chapter may assert such violation as a claim or defense in a judicial or administrative proceeding and obtain appropriate relief, including damages, injunctive relief, or other appropriate redress. Standing to assert a claim or defense under this chapter shall be governed by the general rules of standing under state and federal law. The plaintiff, if the prevailing party, may also recover reasonable attorney fees and costs.

2024 Acts, ch 1003, §6 – 8

Referred to in §331.301, 364.1

CHAPTER 676

JUDGMENT BY CONFESSION

Referred to in §537.3306, 602.8105, 677.1

676.1 Judgment by confession — how entered.
676.2 For money only — contingent liability.
676.3 Statement.
676.4 Judgment — execution.

676.1 Judgment by confession — how entered.

A judgment by confession, without action, may be entered by the clerk of the district court.

[C51, §1837; R60, §3397; C73, §2894; C97, §3813; C24, 27, 31, 35, 39, §**12668;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §676.1]

676.2 For money only — contingent liability.

The judgment can be only for money due or to become due, or to secure a person against contingent liabilities on behalf of the defendant, and must be for a specified sum.

[C51, §1838; R60, §3398; C73, §2895; C97, §3814; C24, 27, 31, 35, 39, §**12669;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §676.2]

676.3 Statement.

A statement in writing must be made, signed, and verified by the defendant, and filed with the clerk, to the following effect:

1. If for money due or to become due, it must state concisely the facts out of which the indebtedness arose, and that the sum confessed therefor is justly due, or to become due, as the case may be.

2. If for the purpose of securing the plaintiff against a contingent liability, it must state concisely the facts constituting such liability, and must show that the sum confessed therefor does not exceed the same.

[C51, §1839; R60, §3399; C73, §2896; C97, §3815; C24, 27, 31, 35, 39, §**12670;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §676.3]

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676.4 Judgment — execution.

The clerk shall thereupon make an entry of judgment in the clerk's court record for the amount confessed and costs, and shall issue execution thereon as in other cases, when ordered by the party entitled thereto.

[C51, §1840; R60, §3400; C73, §2897; C97, §3816; C24, 27, 31, 35, 39, §**12671;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §676.4]

Referred to in §602.8102(120)

CHAPTER 677

OFFER TO CONFESS JUDGMENT

677.1	Offer to confess before action brought.	677.7	Offer to confess after action brought.
677.2	Nonacceptance — costs.	677.8	Acceptance — judgment.
677.3	Effect of nonaccepted offer.	677.9	Effect of nonaccepted offer.
677.4	Offer to confess judgment after action brought.	677.10	Costs.
677.5	Nonacceptance — costs.	677.11	Conditional offer.
677.6	Effect of nonaccepted offer.	677.12	Acceptance — effect.
		677.13	Nonacceptance — effect.
		677.14	No cause for continuance.

677.1 Offer to confess before action brought.

Before an action for the recovery of money is brought against any person, the person may go before the clerk of the county of the person's residence, or of that in which the person having the cause of action resides, and offer to confess judgment in favor of such person for a specified sum on such cause of action, as provided for in chapter 676.

[R60, §3403; C73, §2898; C97, §3817; C24, 27, 31, 35, 39, §**12672;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §677.1]

677.2 Nonacceptance — costs.

If such person, having had the same notice as if the person was a defendant in an action that the offer would be made, of its amount, and of the time and place of making it, refuses to accept it, and afterwards commences an action upon such cause, and does not recover more than the amount so offered to be confessed, the person to whom the offer was made shall pay all the costs of the action.

[R60, §3403; C73, §2898; C97, §3817; C24, 27, 31, 35, 39, §**12673;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §677.2]

677.3 Effect of nonaccepted offer.

On the trial thereof the offer shall not be treated as an admission of the cause of action or amount to which the plaintiff was entitled, nor be given in evidence.

[R60, §3403; C73, §2898; C97, §3817; C24, 27, 31, 35, 39, §**12674;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §677.3]

677.4 Offer to confess judgment after action brought.

After an action for the recovery of money is brought, the defendant may offer in court to confess judgment for part of the amount claimed, or part of the causes involved in the action.

[R60, §3404; C73, §2899; C97, §3818; C24, 27, 31, 35, 39, §**12675;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §677.4]

677.5 Nonacceptance — costs.

If the plaintiff, being present, refuses to accept judgment for such sum in full of the plaintiff's demands in the action, or, having had three days' notice that the offer would be made, of its amount, and of the time of making it, fails to attend, and on the trial does

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not recover more than was offered to be confessed, the plaintiff shall pay the costs of the defendant incurred after the offer.

[R60, §3404; C73, §2899; C97, §3818; C24, 27, 31, 35, 39, §**12676;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §677.5]

677.6 Effect of nonaccepted offer.

The offer shall not be treated as an admission of the cause of action or amount to which the plaintiff was entitled nor be given in evidence upon the trial.

[R60, §3404; C73, §2899; C97, §3818; C24, 27, 31, 35, 39, §**12677;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §677.6]

677.7 Offer to confess after action brought.

The defendant in an action for the recovery of money only may, at any time after service of notice and before the trial, serve upon the plaintiff or the plaintiff's attorney an offer in writing to allow judgment to be taken against the defendant for a specified sum with costs.

[R60, §3405; C73, §2900; C97, §3819; C24, 27, 31, 35, 39, §**12678;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §677.7]

677.8 Acceptance — judgment.

If the plaintiff accepts the offer, and gives notice thereof to the defendant or the defendant's attorney within five days after the offer is made, the offer, and an affidavit that the notice of acceptance was delivered in the time limited, may be filed by the plaintiff, or the defendant may file the acceptance with a copy of the offer, verified by affidavit; and in either case a minute of the offer and acceptance shall be entered upon the judge's calendar, and judgment shall be rendered by the court accordingly.

[R60, §3405; C73, §2900; C97, §3819; C24, 27, 31, 35, 39, §**12679;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §677.8]

677.9 Effect of nonaccepted offer.

If the notice of acceptance is not given in the period limited, the offer shall be treated as withdrawn, and shall not be given in evidence or mentioned on the trial.

[R60, §3405; C73, §2900; C97, §3819; C24, 27, 31, 35, 39, §**12680;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §677.9]

677.10 Costs.

If the plaintiff fails to obtain judgment for more than was offered by the defendant, the plaintiff cannot recover costs, but shall pay the defendant's costs from the time of the offer.

[R60, §3405; C73, §2900; C97, §3819; C24, 27, 31, 35, 39, §**12681;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §677.10]

677.11 Conditional offer.

In an action for the recovery of money only, the defendant, having answered, may serve upon the plaintiff or the plaintiff's attorney an offer in writing that, if the defendant fails in the defendant's defense, the amount of recovery shall be assessed at a specified sum.

[R60, §3406; C73, §2901; C97, §3820; C24, 27, 31, 35, 39, §**12682;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §677.11]

677.12 Acceptance — effect.

If the plaintiff accepts the offer, and gives notice thereof to the defendant or the defendant's attorney within five days after it was served, or within three days if served in term time, and the defendant fails in the defendant's defense, the judgment shall be for the amount so agreed upon.

[R60, §3406; C73, §2901; C97, §3820; C24, 27, 31, 35, 39, §**12683;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §677.12]

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677.13 Nonacceptance — effect.

If the plaintiff does not accept the offer, the plaintiff shall prove the amount to be recovered as if the offer had not been made, and the offer shall not be given in evidence or mentioned on the trial, and if the amount recovered by the plaintiff does not exceed the sum mentioned in the offer, the defendant shall recover the defendant's costs incurred in the defense.

[R60, §3406; C73, §2901; C97, §3820; C24, 27, 31, 35, 39, §**12684;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §677.13]

677.14 No cause for continuance.

The making of any offer pursuant to the provisions of this chapter shall not be cause for a continuance of the action or a postponement of the trial.

[R60, §3407; C73, §2902; C97, §3821; C24, 27, 31, 35, 39, §**12685;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §677.14]

CHAPTER 678

SUBMITTING CONTROVERSIES WITHOUT ACTION OR IN ACTION

678.1 Agreed statement of facts.
678.2 Affidavit.
678.3 Judgment.
678.4 Record.
678.5 Judgment enforced.
678.6 Submission of cause pending.
678.7 Pleadings abandoned — lien and custody of property.
678.8 Submission of question of law — agreement as to judgment.
678.9 Costs.

678.1 Agreed statement of facts.

Parties to a question in difference, which might be the subject of a civil action, may, without action, present an agreed statement of the facts to any court having jurisdiction of the subject matter.

[C51, §1843; R60, §3408; C73, §3408; C97, §4377; C24, 27, 31, 35, 39, §**12686;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §678.1]

678.2 Affidavit.

It must be shown by affidavit that the controversy is real, and that the proceeding is in good faith to determine the rights of the parties thereto.

[C51, §1844; R60, §3409; C73, §3409; C97, §4378; C24, 27, 31, 35, 39, §**12687;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §678.2]

678.3 Judgment.

The court shall hear and determine the case and render judgment as if an action were pending.

[C51, §1845; R60, §3410; C73, §3410; C97, §4379; C24, 27, 31, 35, 39, §**12688;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §678.3]

678.4 Record.

The statement, the submission, and the judgment shall constitute the record.

[R60, §3411; C73, §3411; C97, §4380; C24, 27, 31, 35, 39, §**12689;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §678.4]

678.5 Judgment enforced.

The judgment shall be with costs, and it may be enforced and shall be subject to review in the same manner as if it had been rendered in an action, unless otherwise provided for in the submission.

[R60, §3412; C73, §3412; C97, §4381; C24, 27, 31, 35, 39, §**12690;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §678.5]

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678.6 Submission of cause pending.

The same may also be done at any time before trial in an action pending, subject to the same requirements and attended by the same results as in a case without action.

[R60, §3413; C73, §3413; C97, §4382; C24, 27, 31, 35, 39, §**12691;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §678.6]

678.7 Pleadings abandoned — lien and custody of property.

Such submission of a stated case shall be an abandonment by both parties of all pleadings filed in such cause, and the cause shall stand on the agreed case alone, which must provide for any lien created for attachment, and for any property in the custody of the law, else such lien and custody will be held to be waived.

[R60, §3413; C73, §3413; C97, §4382; C24, 27, 31, 35, 39, §**12692;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §678.7]

678.8 Submission of question of law — agreement as to judgment.

The parties may, if they think fit, enter into an agreement in writing that, upon the judgment of the court being given on the question of law raised, particular property therein described, or a sum of money fixed by the parties or to be ascertained by the court or in such manner as the court may direct, shall be delivered to and vested in one of the parties by the other, or, in case of money, shall be paid by one of such parties to the other of them, either with or without costs of the action; and the judgment of the court may be entered for the transfer and delivery of such property, or for such sum as shall be so agreed or ascertained, with or without costs, as the case may be.

[R60, §3414; C73, §3414; C97, §4383; C24, 27, 31, 35, 39, §**12693;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §678.8]

678.9 Costs.

In case no agreement is entered into as to the costs, they shall follow the event of the action, and be recovered by the successful party.

[R60, §3415; C73, §3415; C97, §4384; C24, 27, 31, 35, 39, §**12694;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §678.9]

CHAPTER 679

INFORMAL DISPUTE RESOLUTION

Chapter repealed by 2012 Acts, ch 1011, §2

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CHAPTER 679A

ARBITRATION

Referred to in §523H.6, 598A.4, 598A.10

679A.1 Validity of arbitration agreement.
679A.2 Proceedings to compel or stay arbitration.
679A.3 Appointment of arbitrators by district court.
679A.4 Majority action by arbitrators.
679A.5 Hearing.
679A.6 Representation by attorney.
679A.7 Witnesses, subpoenas, depositions.
679A.8 Award.
679A.9 Change of award by arbitrators.
679A.10 Fees and expenses of arbitration.
679A.11 Confirmation of an award.
679A.12 Vacating an award.
679A.13 Modification or correction of award.
679A.14 Judgment or decree on award.
679A.15 Applications to district court.
679A.16 Venue.
679A.17 Appeals.
679A.18 Chapter not retroactive.
679A.19 Disputes between governmental agencies.
679A.20 Limitations of arbitration proceedings.

679A.1 Validity of arbitration agreement.

1. A written agreement to submit to arbitration an existing controversy is valid, enforceable, and irrevocable unless grounds exist at law or in equity for the revocation of the written agreement.

2. A provision in a written contract to submit to arbitration a future controversy arising between the parties is valid, enforceable, and irrevocable unless grounds exist at law or in equity for the revocation of the contract. This subsection shall not apply to any of the following:

a. A contract of adhesion.

b. A contract between employers and employees.

c. Unless otherwise provided in a separate writing executed by all parties to the contract, any claim sounding in tort whether or not involving a breach of contract.

[C51, §2098, 2101; R60, §3675, 3678; C73, §3416, 3418; C97, §4385, 4387; C24, 27, 31, 35, 39, §**12695, 12697;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §679.1, 679.3; 81 Acts, ch 202, §1]

C83, §679A.1

Referred to in §679A.2

679A.2 Proceedings to compel or stay arbitration.

1. On application of a party showing an agreement described in section 679A.1 and the opposing party's refusal to arbitrate, the district court shall order the parties to proceed with arbitration. However, if the opposing party denies the existence of a valid and enforceable agreement to arbitrate, the district court shall proceed to the determination of the issue and shall order arbitration if a valid and enforceable agreement is found to exist. If no such agreement exists, the court shall deny the application.

2. On application, the district court may stay an arbitration proceeding commenced or threatened on a showing that there is no valid and enforceable agreement to arbitrate. The issue, when in substantial and bona fide dispute, shall be tried and the stay ordered if a valid and enforceable agreement to arbitrate does not exist. If an agreement is found to exist, the court shall order the parties to proceed to arbitration.

3. If an issue referable to arbitration under the alleged agreement is involved in an action or proceeding pending in a district court, the application shall be made to that court. Otherwise, the application may be made in a district court as provided in section 679A.16.

4. An action or proceeding involving an issue subject to arbitration shall be stayed if an order for arbitration or an application for an order to arbitrate has been made under this section or, if the issue is severable, the stay may be made with respect to the part of the issue which is subject to arbitration only. When the application is made in such an action or proceeding, the order for arbitration shall include the stay.

5. An order for arbitration shall not be refused on the ground that the claim in issue lacks

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merit or because any fault or grounds for the claim sought to be arbitrated have not been shown.

[C51, §2102; R60, §3679; C73, §3419; C97, §4388; C24, 27, 31, 35, 39, §**12698;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §679.4; 81 Acts, ch 202, §2]

C83, §679A.2

Referred to in §679A.12, 679A.17

679A.3 Appointment of arbitrators by district court.

If the arbitration agreement provides a method of appointment of arbitrators, this method shall be followed. In the absence of a method of appointing, or if the agreed method fails or for any reason cannot be followed, or when an arbitrator appointed fails or is unable to act and a successor has not been appointed, the district court on application of a party shall appoint one or more arbitrators. An arbitrator appointed by the district court has the same powers as an arbitrator specifically named in the agreement.

[C97, §4395; C24, 27, 31, 35, 39, §**12712;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §679.18; 81 Acts, ch 202, §3]

C83, §679A.3

Referred to in §679A.12

679A.4 Majority action by arbitrators.

The powers of the arbitrators may be exercised by a majority unless otherwise provided by the agreement or by this chapter.

[81 Acts, ch 202, §4]

679A.5 Hearing.

Unless otherwise provided by the agreement:

1. The arbitrators shall determine a time and place for the hearing and cause notification to the parties to be served personally or by registered mail not less than five days before the hearing. Appearance at the hearing waives the notice. The arbitrators may adjourn the hearing as necessary and, on request of a party and for good cause, or upon their own motion, may postpone the hearing to a time not later than the date fixed by the agreement for making the award. The arbitrators may hear and determine the controversy upon the evidence produced even if a party duly notified fails to appear.

2. The parties are entitled to be heard, to present evidence material to the controversy, and to cross-examine witnesses appearing at the hearing.

3. The hearing shall be conducted by all the arbitrators. If, during the course of the hearing, an arbitrator for any reason ceases to act, the remaining arbitrator or arbitrators may continue with the hearing and determination of the controversy.

[C51, §2105; R60, §3682; C73, §3422; C97, §4391; C24, 27, 31, 35, 39, §**12701;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §679.7; 81 Acts, ch 202, §5]

C83, §679A.5

Referred to in §679A.12

679A.6 Representation by attorney.

A party has the right to be represented by an attorney at any proceeding or hearing under this chapter. A waiver of this right before the proceeding or hearing is ineffective.

[81 Acts, ch 202, §6]

679A.7 Witnesses, subpoenas, depositions.

1. The arbitrators may issue subpoenas for the attendance of witnesses and for the production of books, records, documents, and other evidence, and may administer oaths. Subpoenas shall be served, and upon application to the district court by a party or the arbitrators, enforced in the manner provided by law for the service and enforcement of subpoenas in a civil action.

2. On application of a party and for use as evidence, the arbitrators may permit a deposition to be taken, in the manner and upon the terms designated by the arbitrators, of a witness who cannot be subpoenaed or is unable to attend the hearing.

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3. All provisions of the law compelling a person under subpoena to testify are applicable.

4. Unless otherwise agreed, fees for attendance as a witness shall be the same as for a witness in the district court.

[C51, §2103; R60, §3680; C73, §3420; C97, §4389; C24, 27, 31, 35, 39, §**12699;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §679.5; 81 Acts, ch 202, §7]

C83, §679A.7

679A.8 Award.

1. The award shall be in writing and signed by the arbitrators joining in the award. The arbitrators shall deliver a copy to each party personally, by registered mail, or as provided in the agreement.

2. A party waives the objection that an award was not made within the proper time unless the party notifies the arbitrators of the party's objection before the award is received.

3. Unless otherwise agreed, an award shall be made within thirty days after the arbitration hearing.

[C51, §2106 – 2108; R60, §3683 – 3685; C73, §3423 – 3425; C97, §4392 – 4394; C24, 27, 31, 35, 39, §**12702 – 12704;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §679.8 – 679.10; 81 Acts, ch 202, §8]

C83, §679A.8

679A.9 Change of award by arbitrators.

On application of a party or, if an application to the district court is pending under sections 679A.11 through 679A.13, on submission to the arbitrators by the district court under the conditions the district court orders, the arbitrators may modify or correct the award upon the grounds stated in section 679A.13, subsection 1, paragraphs *"a"* and *"c"*, or for the purpose of clarifying the award. The application shall be made within twenty days after delivery of the award to the applicant. Written notice of the application shall be given to the opposing party, stating that the opposing party must serve any objections to the application within ten days from the notice. The modified or corrected award is subject to sections 679A.11 through 679A.13.

[C51, §2110; R60, §3687; C73, §3427; C97, §4397; C24, 27, 31, 35, 39, §**12706;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §679.12; 81 Acts, ch 202, §9]

C83, §679A.9

2021 Acts, ch 80, §373

679A.10 Fees and expenses of arbitration.

Unless otherwise provided in the agreement to arbitrate, and except for counsel fees, the arbitrators' expenses and fees and any other expenses incurred in the conduct of the arbitration shall be paid as provided in the award.

[C51, §2114; R60, §3691; C73, §3834; C97, §3873; C24, 27, 31, 35, 39, §**12711;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §679.17; 81 Acts, ch 202, §10]

C83, §679A.10

87 Acts, ch 115, §81

679A.11 Confirmation of an award.

Upon application of a party, the district court shall confirm an award, unless within the time limits imposed under sections 679A.12 and 679A.13 grounds are urged for vacating, modifying, or correcting the award, in which case the district court shall proceed as provided in sections 679A.12 and 679A.13.

[81 Acts, ch 202, §11]

Referred to in §679A.9

679A.12 Vacating an award.

1. Upon application of a party, the district court shall vacate an award if any of the following apply:

a. The award was procured by corruption, fraud, or other illegal means.

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b. There was evident partiality by an arbitrator appointed as a neutral, corruption in any of the arbitrators, or misconduct prejudicing the rights of a party.

c. The arbitrators exceeded their powers.

d. The arbitrators refused to postpone the hearing upon sufficient cause being shown for the postponement, refused to hear evidence material to the controversy, or conducted the hearing contrary to the provisions of section 679A.5, in a manner which prejudiced substantially the rights of a party.

e. There was no arbitration agreement, the issue was not adversely determined in proceedings under section 679A.2, and the party did not participate in the arbitration hearing without raising the objection.

f. Substantial evidence on the record as a whole does not support the award. The court shall not vacate an award on this ground if a party urging the vacation has not caused the arbitration proceedings to be reported, if the parties have agreed that a vacation shall not be made on this ground, or if the arbitration has been conducted under the auspices of the American arbitration association.

2. The fact that the relief awarded could not or would not be granted by a court of law or equity is not ground for vacating or refusing to confirm the award.

3. An application under this section shall be made within ninety days after delivery of a copy of the award to the applicant. However, if the application to vacate an award is predicated upon corruption, fraud, or other illegal means, it shall be made within ninety days after those grounds are known or should have been known.

4. In vacating the award on grounds other than stated in subsection 1, paragraph *"e"*, the district court may order a rehearing before new arbitrators chosen as provided in the agreement, or in the absence of a method in the agreement, by the district court in accordance with section 679A.3, or if the award is vacated on grounds set forth in subsection 1, paragraph *"c"* or *"d"* of this section, the district court may order a rehearing before the arbitrators who made the award or their successors appointed in accordance with section 679A.3. The time within which the agreement requires the award to be made is applicable to the rehearing and commences from the date of the order.

[C51, §2110; R60, §3617; C73, §3427; C97, §4397; C24, 27, 31, 35, 39, §**12706;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §679.12; 81 Acts, ch 202, §12]

C83, §679A.12

Referred to in §679A.9, 679A.11

679A.13 Modification or correction of award.

1. Upon application made within ninety days after delivery of a copy of the award to the applicant, the district court shall modify or correct the award if any of the following apply:

a. There is an evident miscalculation of figures or an evident mistake in the description of a person, thing, or property referred to in the award.

b. The arbitrators have awarded upon a matter not submitted to them and the award may be corrected without affecting the merits of the decision upon the issues submitted.

c. The award is imperfect in a matter of form, not affecting the merits of the controversy.

2. If the application is granted, the district court shall modify and correct the award to effect its intent and shall confirm the award as modified and corrected.

[81 Acts, ch 202, §13]

Referred to in §679A.9, 679A.11

679A.14 Judgment or decree on award.

Upon the granting of an order confirming, modifying, or correcting an award, a judgment or decree shall be entered in conformity with the order enforced as any other judgment or decree. Costs of the application and the subsequent proceedings and disbursements may be awarded by the district court.

[C51, §2111, 2113; R60, §3688, 3690; C73, §3428, 3430; C97, §4398, 4400; C24, 27, 31, 35, 39, §**12707, 12709;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §679.13, 679.15; 81 Acts, ch 202, §14]

C83, §679A.14

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679A.15 Applications to district court.

Except as otherwise provided, an application to the district court under this chapter shall be by motion and shall be heard in the manner and upon the notice provided by law or rule of civil procedure, for the making and hearing of motions. Unless the parties have agreed otherwise, notice of an initial application for an order shall be served in the manner provided by the Iowa rules of civil procedure for the service of original notice in an action.

[81 Acts, ch 202, §15]
Referred to in §598A.6, 598A.15

679A.16 Venue.

An initial application shall be made to the district court of the county in which the agreement provides the arbitration hearing shall be held or, if the hearing has been held, in the county in which it was held. Otherwise the application shall be made in the district court of the county where the adverse party resides or has a place of business or, if the adverse party has no residence or place of business in this state, to the district court of any county. All subsequent applications shall be made to the district court hearing the initial application unless the district court otherwise directs.

[81 Acts, ch 202, §16]
Referred to in §679A.2

679A.17 Appeals.

1. An appeal may be taken from:

a. An order denying an application to compel arbitration made under section 679A.2.

b. An order granting an application to stay arbitration made under section 679A.2, subsection 2.

c. An order confirming or denying confirmation of an award.

d. An order modifying or correcting an award.

e. An order vacating an award without directing a rehearing.

f. A judgment or decree entered pursuant to the provisions of this chapter.

2. The appeal shall be taken in the manner and to the same extent as from orders or judgments in a civil action.

[C51, §2112; R60, §3689; C73, §3429; C97, §4399; C24, 27, 31, 35, 39, §**12708;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §679.14; 81 Acts, ch 202, §17]
C83, §679A.17

679A.18 Chapter not retroactive.

This chapter applies only to arbitration agreements made on or after July 1, 1981.

[81 Acts, ch 202, §18]
2012 Acts, ch 1011, §1

679A.19 Disputes between governmental agencies.

1. Any litigation between constitutional and statutory offices, administrative departments, commissions or boards of the executive branch of state government is prohibited. All disputes between said governmental offices and agencies shall be submitted to a board of arbitration of three members to be composed of two members to be appointed by the offices or departments involved in the dispute and a third member to be appointed by the governor. The decision of the board shall be final.

2. A board of arbitration established under this section shall resolve any dispute submitted to it within sixty days after submission of the dispute.

[C62, 66, 71, 73, 75, 77, 79, 81, §679.19; 81 Acts, ch 202, §19]
C83, §679A.19
2023 Acts, ch 103, §6
Referred to in §11.52

679A.20 Limitations of arbitration proceedings.

If, at the time a demand for arbitration was made or notice of intention to arbitrate was served, the claim sought to be arbitrated would have been barred by limitation of time

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pursuant to chapter 614 had it been asserted in a court of this state, a party may assert the limitation as a bar to the arbitration on an application to the court.

2022 Acts, ch 1118, §1, 2

Section applies to all arbitration proceedings commenced on or after July 1, 2022, and any arbitration proceeding that is pending on July 1, 2022, where asserting a statute of limitation is not expressly prohibited by the rules governing the arbitration proceeding; 2022 Acts, ch 1118, §2

CHAPTER 679B

BOARDS OF ARBITRATION AND CONCILIATION

Referred to in §331.324

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APPOINTMENT — POWERS AND DUTIES

679B.1 Petition for appointment.

When any dispute arises between any person, firm, corporation, or association of employers and their employees or association of employees, of this state, except employers or employees having trade relations directly or indirectly based upon interstate trade relations operating through or by state or international boards of conciliation, which has or is likely to cause a strike or lockout, involving ten or more wage earners, and which does or is likely to interfere with the due and ordinary course of business, or which menaces the public peace, or which jeopardizes the welfare of the community, and the parties thereto are unable to adjust the same, either or both parties to the dispute, or the mayor of the city, or the chairperson of the board of supervisors of the county in which said employment is carried on, or on petition of any twenty-five citizens thereof over the age of eighteen years, or the labor commissioner, after investigation, may make written application to the governor for the appointment of a board of arbitration and conciliation, to which board such dispute may be referred under the provisions of this chapter; and the manager of the business of any person, firm, corporation, or association of such employers, or any organization representing such employees, or if such employees are not members of any organization, then a majority of such employees affected may make the application as provided in this chapter, but in no case shall more than twenty employees be required to join in such application.

[S13, §2477-n; C24, 27, 31, 35, 39, §**1496;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §90.1]

86 Acts, ch 1245, §944

C87, §679B.1

Referred to in §679B.2

679B.2 Notification by governor.

The governor shall at once upon application made to the governor as herein provided, and upon the governor's satisfaction that the dispute comes within the provisions of section 679B.1, notify the parties to the dispute of the application for the appointment of a board of arbitration and conciliation and make request upon each party to the dispute that each of them recommend within three days from the date of notice, the names of five persons who have no direct interest in such dispute and are willing and ready to act as members of the board, and the governor shall appoint from each list submitted one of such persons recommended.

[S13, §2477-n1; C24, 27, 31, 35, 39, §**1497;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §90.2]

86 Acts, ch 1245, §944

C87, §679B.2

679B.3 Governor to appoint for parties.

Should either of the parties fail or neglect to make any recommendation within the said period, the governor shall, as soon thereafter as possible, appoint a fit person who shall be deemed to be appointed on the recommendation of the parties in default.

[S13, §2477-n1; C24, 27, 31, 35, 39, §**1498;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §90.3]

86 Acts, ch 1245, §944

C87, §679B.3

679B.4 Third appointee.

The members of the board so appointed shall within five days of their appointment recommend to the governor the name of one person who is ready and willing to act as a third member of the board, and upon failure or neglect upon their part to make such recommendation within the said period, or upon the failure or refusal of the person so recommended to act, the governor shall as soon thereafter as possible appoint some person to act as the third member of the board.

[S13, §2477-n1; C24, 27, 31, 35, 39, §**1499;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §90.4]

86 Acts, ch 1245, §944

C87, §679B.4

679B.5 Agreement to be bound by decision.

In all cases when the application is made by both parties to the dispute, they shall set forth in the application whether or not they agree to be bound by the decision of the board of arbitration and conciliation; and if both parties agree to be so bound by such decision, then the same shall be binding and enforceable as set out in section 679B.12.

[S13, §2477-n2; C24, 27, 31, 35, 39, §**1500;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §90.5]

86 Acts, ch 1245, §944

C87, §679B.5

679B.6 Oath — organization.

Each member of the board shall, before entering upon the duties of the member's office, be sworn to a faithful and impartial discharge thereof; they shall organize at once by the choice of one of their number as chairperson, and one of their number as secretary, and shall have power to employ all necessary clerks and stenographers to properly carry out the duties of their appointment.

[S13, §2477-n3; C24, 27, 31, 35, 39, §**1501;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §90.6]

86 Acts, ch 1245, §944

C87, §679B.6

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679B.7 Compensation and expenses.

The members of the board shall be paid a per diem as specified in section 7E.6 and shall be reimbursed for actual and necessary expenses, these moneys to be payable out of the state treasury upon warrants drawn by the director of the department of administrative services.

[S13, §2477-n3; C24, 27, 31, 35, 39, §**1502;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §90.7]

86 Acts, ch 1245, §944

C87, §679B.7

90 Acts, ch 1256, §55; 2003 Acts, ch 145, §286

679B.8 Evidence — witnesses.

For the purpose of this inquiry the board shall have all the powers of summoning before it and enforcing the attendance of witnesses, of administering oaths, and of requiring witnesses to give evidence, to produce books, papers, and other documents or things as the board may deem requisite to the full investigation of the matters into which it is inquiring, as are vested in the district court in civil cases.

[S13, §2477-n4; C24, 27, 31, 35, 39, §**1503;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §90.8]

86 Acts, ch 1245, §944

C87, §679B.8

679B.9 Oath — rule of evidence.

Any member of the board may administer an oath, and the board may accept, admit, and call for such evidence as in equity and good conscience it thinks material and proper, whether strictly legal evidence or not.

[S13, §2477-n4; C24, 27, 31, 35, 39, §**1504;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §90.9]

86 Acts, ch 1245, §944

C87, §679B.9

679B.10 Subpoenas — by whom served — fees.

A subpoena or any notice may be delivered or sent to any sheriff, constable, or any police officer who shall forthwith serve the same, and make due return thereof, according to directions. Witnesses in attendance and officers serving subpoenas or notices shall receive the same fees as are allowed in the district court, payable from the state treasury, upon the certificate of the board that such fees are due and correct. The board shall have the same power and authority to maintain and enforce order at the hearings and obedience to its writs of subpoena as is by law conferred upon the district court for like purposes.

[S13, §2477-n4; C24, 27, 31, 35, 39, §**1505;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §90.10]

86 Acts, ch 1245, §944

C87, §679B.10

Referred to in §331.653
Contempts, chapter 665
Witness fees, §622.69 – 622.75

679B.11 Investigation — report filed — public inspection.

The board shall as soon as practical visit the place where the controversy exists and make careful inquiry into the cause, and the said board may, with the consent of the governor, conduct such inquiry beyond the limits of the state. The board shall hear all persons interested who come before it, advise the respective parties what ought to be done or submitted to by either or both of the parties to the dispute to adjust said controversy, and make a written decision thereof, which shall at once be made public and open to public inspection and shall

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be recorded by the secretary of the board, and a copy of such report shall be filed in the office of the clerk of the city in which the controversy arose and shall be open for public inspection.

[S13, §2477-n5; C24, 27, 31, 35, 39, §**1506;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §90.11]

86 Acts, ch 1245, §944

C87, §679B.11

679B.12 Investigation — decision.

The board of arbitration and conciliation shall within ten days from the date of their appointment, unless such time shall be extended by the governor, complete the investigation of any controversy submitted to them, and during the pendency of such period neither party shall engage in any strike or lockout. Any decision made by the board shall date from the date of the appointment of the board and shall be binding upon the parties who join in the application as herein provided for a period of one year.

[S13, §2477-n6; C24, 27, 31, 35, 39, §**1507;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §90.12]

86 Acts, ch 1245, §944

C87, §679B.12

Referred to in §679B.5

679B.13 Decision — report to governor.

Within five days after the completion of the investigation, unless the time is extended by the governor for good cause shown, the board or a majority thereof shall render a decision, stating such details as will clearly show the nature of the controversy and the point disposed of by them, and make a written report to the governor of their findings of fact and of their recommendation to each party to the controversy.

[S13, §2477-n7; C24, 27, 31, 35, 39, §**1508;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §90.13]

86 Acts, ch 1245, §944

C87, §679B.13

679B.14 Decision filed and published.

1. Every decision and report shall be filed in the office of the governor, and a copy served upon each party to the controversy, and a copy furnished to the labor commissioner for publication in the report of the commissioner, who shall cause such decision and report to be published at a rate of not to exceed thirty-three and one-third cents per ten lines of eight point type in two newspapers of general circulation in the county in which the business is located upon which the dispute arose.

2. All evidence taken and exhibits and documents offered shall be carefully preserved and at the close of the investigation shall be filed in the office of the governor of the state and shall only be subject to inspection upon the governor's order.

[S13, §2477-n7; C24, 27, 31, 35, 39, §**1509;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §90.14]

86 Acts, ch 1245, §944

C87, §679B.14

2021 Acts, ch 76, §150; 2022 Acts, ch 1021, §170

FIRE DEPARTMENT DISPUTES IN CERTAIN CITIES

679B.15 Board of arbitration.

When any dispute arises between a city having a population of ten thousand or more, or a city under civil service of whatever population, and any city-recognized association of employees of the paid fire department of such city, and the parties are unable to adjust the dispute, either or both parties may make written application to a judge of the district court

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of the county in which the dispute arises for the appointment of a board of arbitration and conciliation, to which board such dispute may be referred under the provisions of this chapter.

[C62, 66, 71, 73, 75, 77, 79, 81, §90.15]
86 Acts, ch 1245, §944
C87, §679B.15

679B.16 Recommendations for appointees.

The judge shall, within ten days after application is made to the judge as provided, notify the parties to the dispute of the application for the appointment of a board of arbitration and conciliation, and shall request each party to recommend within ten days from the date of receipt of notice, the name of a person who has no direct interest in the dispute and is willing and ready to act as a member of the board.

[C62, 66, 71, 73, 75, 77, 79, 81, §90.16]
86 Acts, ch 1245, §944
C87, §679B.16
Referred to in §679B.17, 679B.18

679B.17 Failure to act.

Should either of the parties fail or neglect to make any recommendation within the ten-day period, or if the person recommended fails or refuses to act, the judge shall, as soon thereafter as possible, appoint a person who meets the qualifications provided in section 679B.16. Such person shall be deemed to be appointed on the recommendation of the party in default.

[C62, 66, 71, 73, 75, 77, 79, 81, §90.17]
86 Acts, ch 1245, §944
C87, §679B.17

679B.18 Third member of board.

The parties to the dispute and the members of the board so appointed shall, within five days of the appointment, recommend to the judge the name of an additional person who is willing and ready to act as the third member of the board. The person recommended shall meet the qualifications provided in section 679B.16. If the recommendation is not made within the period, or if the person recommended refuses or fails to act, the judge shall as soon thereafter as possible appoint a qualified person to act as the third member of the board.

[C62, 66, 71, 73, 75, 77, 79, 81, §90.18]
86 Acts, ch 1245, §944
C87, §679B.18

679B.19 Organization of board.

Each member of the board shall, before entering upon the duties of the member's office, be sworn to a faithful and impartial discharge thereof. The board shall organize at once by the choice of one of their number as chairperson, and one of their number as secretary, and shall have the power to employ all clerks and stenographers necessary to properly carry out the duties of their appointment.

[C62, 66, 71, 73, 75, 77, 79, 81, §90.19]
86 Acts, ch 1245, §944
C87, §679B.19

679B.20 Costs.

Each party to the dispute shall assume its own costs of the arbitration proceedings and shall share equally the costs of the third member as well as the general expenses of the board of arbitration and conciliation.

[C62, 66, 71, 73, 75, 77, 79, 81, §90.20]
86 Acts, ch 1245, §944
C87, §679B.20

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679B.21 Powers of board.

For the purpose of this inquiry the board shall have all the powers vested in the district court in civil cases which the board deems necessary to a full investigation of the dispute, including but not limited to the power to summon and enforce the attendance of witnesses, to administer oaths, and to require witnesses to give evidence and produce books and papers. Any member of the board may administer oaths.

[C62, 66, 71, 73, 75, 77, 79, 81, §90.21]
86 Acts, ch 1245, §944
C87, §679B.21

679B.22 Witnesses.

A subpoena or any notice may be delivered or sent to any sheriff, or any police officer who shall forthwith serve it and make due return thereof according to direction. Every person who is summoned by an arbitration board and who duly attends as a witness, except witnesses summoned at the request of a party, shall be entitled to an allowance for expenses determined in accordance with the scale in effect at the time with respect to witnesses in the district court in civil cases, and the allowance paid shall be a part of the general expenses of the arbitration board. The board shall have the same power and authority to maintain and enforce order at the hearings and obedience to its writs of subpoena as is by law conferred upon the district court for like purposes.

[C62, 66, 71, 73, 75, 77, 79, 81, §90.22]
86 Acts, ch 1245, §944
C87, §679B.22

679B.23 Findings and report.

The board shall as soon as practical visit the place where the dispute exists and make careful inquiry into its cause. The board shall hear all interested persons who come before it and advise the respective parties concerning courses of action to adjust the dispute, and shall put in writing its findings and recommendations. A copy of such report shall be filed by the board secretary in the office of the clerk of the city in which the dispute arose and shall be open for public inspection. All hearings shall be open to the public and press.

[C62, 66, 71, 73, 75, 77, 79, 81, §90.23]
86 Acts, ch 1245, §944
C87, §679B.23

679B.24 Time limit.

The board of arbitration and conciliation shall within twenty days from the date of their appointment, unless such time shall be extended by the judge, complete the investigation of any dispute submitted to them.

[C62, 66, 71, 73, 75, 77, 79, 81, §90.24]
86 Acts, ch 1245, §944
C87, §679B.24

679B.25 Decision.

Within five days after the completion of the investigation, unless the time is extended by the judge for good cause shown, the board or a majority thereof shall render a decision, stating such details as will clearly show the nature of the controversy and the point disposed of by them, and make a written report to the judge of their findings of fact and of their recommendation to each party to the controversy.

[C62, 66, 71, 73, 75, 77, 79, 81, §90.25]
86 Acts, ch 1245, §944
C87, §679B.25

679B.26 Filing.

Every decision and report shall be filed in the office of the clerk of the district court of the county in which the dispute arose, and a copy served upon each party to the controversy, and

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a copy furnished to the labor commissioner for publication in the report of the commissioner, who shall cause such decision and report to be published in at least one newspaper in the city in which the dispute arose. All evidence taken and exhibits and documents offered shall be carefully preserved and at the close of the investigation shall be filed in the office of the clerk of the district court.

[C62, 66, 71, 73, 75, 77, 79, 81, §90.26]
86 Acts, ch 1245, §944
C87, §679B.26

679B.27 Nature of decision.

A decision or report shall be advisory only and shall not be binding on either party.

[C62, 66, 71, 73, 75, 77, 79, 81, §90.27]
86 Acts, ch 1245, §944
C87, §679B.27

CHAPTER 679C

MEDIATION

Referred to in §357A.21, 523A.804, 598.7, 633.560A

Former ch 679C repealed by 2005 Acts, ch 68, §21

679C.101 Short title.
679C.102 Definitions.
679C.103 Scope.
679C.104 Privilege against disclosure — admissibility — discovery.
679C.105 Waiver and preclusion of privilege.
679C.106 Exceptions to privilege.
679C.107 Prohibited mediator reports.
679C.108 Confidentiality.
679C.109 Mediator's disclosure of conflicts of interest — background.
679C.110 Participation in mediation.
679C.111 Relation to Electronic Signatures in Global and National Commerce Act.
679C.112 Uniformity of application and construction.
679C.113 Severability clause.
679C.114 Application to existing agreements or referrals.
679C.115 Mediator immunity.

679C.101 Short title.

This chapter shall be known as the "*Uniform Mediation Act*".

2005 Acts, ch 68, §6

679C.102 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "*Mediation*" means a process in which a mediator facilitates communication and negotiation between parties to assist them in reaching a voluntary agreement regarding their dispute.

2. "*Mediation communication*" means a statement, whether oral or in a record, verbal or nonverbal, that occurs during a mediation or is made for purposes of considering, conducting, participating in, initiating, continuing, or reconvening a mediation or retaining a mediator.

3. "*Mediation party*" means an individual who participates in a mediation and whose agreement is necessary to resolve the dispute.

4. "*Mediator*" means an individual who conducts a mediation.

5. "*Nonparty participant*" means a person, other than a mediation party or mediator, that participates in a mediation.

6. "*Person*" means an individual; corporation; business trust; estate; trust; partnership; limited liability company; association; joint venture; government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.

7. "*Proceeding*" means any of the following:

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a. A judicial, administrative, arbitral, or other adjudicative process, including related prehearing and posthearing motions, conferences, and discovery.

b. A legislative hearing or similar process.

8. *"Record"* means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

9. *"Sign"* means any of the following:

a. To execute or adopt a tangible symbol with the present intent to authenticate a record.

b. To attach or logically associate an electronic symbol, sound, or process to or with a record with the present intent to authenticate a record.

2005 Acts, ch 68, §7
Referred to in §22.7(37)

679C.103 Scope.

1. Except as otherwise provided for in subsections 2 and 3, this chapter applies to a mediation that occurs under any of the following circumstances:

a. The mediation parties are required to mediate by statute or court or administrative agency rule or referred to mediation by a court, administrative agency, or arbitrator.

b. The mediation parties and the mediator agree to mediate in a record that demonstrates an expectation that mediation communications will be privileged against disclosure.

c. The mediation parties use as a mediator a person who holds oneself out as a mediator or the mediation is provided by a person who holds oneself out as providing mediation.

2. This chapter shall not apply to a mediation relating to or conducted under any of the following circumstances:

a. Relating to the establishment, negotiation, administration, or termination of a collective bargaining relationship.

b. Relating to a dispute that is pending under or is part of the processes established by a collective bargaining agreement, except that this chapter applies to a mediation arising out of a dispute that has been filed with an administrative agency or court.

c. Conducted by a judge who might make a ruling on the case.

d. Conducted at any of the following:

(1) A primary or secondary school if all the parties are students.

(2) A correctional institution for youths if all the parties are residents of that institution.

3. If the mediation parties agree in advance in a signed record, or a record of proceeding reflects agreement by the mediation parties, that all or part of a mediation is not privileged, the privileges under sections 679C.104 through 679C.106 do not apply to the mediation or part agreed upon. However, sections 679C.104 through 679C.106 apply to a mediation communication made by a person that has not received actual notice of the agreement before the communication is made.

2005 Acts, ch 68, §8; 2006 Acts, ch 1010, §157

679C.104 Privilege against disclosure — admissibility — discovery.

1. Except as otherwise provided in section 679C.106, a mediation communication is privileged as provided in subsection 2 and is not subject to discovery or admissible in evidence in a proceeding unless the privilege is waived or precluded as provided by section 679C.105.

2. In a proceeding, the following privileges shall apply:

a. A mediation party may refuse to disclose, and may prevent any other person from disclosing, a mediation communication.

b. A mediator may refuse to disclose a mediation communication, and may prevent any other person from disclosing a mediation communication of the mediator.

c. A nonparty participant may refuse to disclose, and may prevent any other person from disclosing, a mediation communication of the nonparty participant.

3. Evidence or information that is otherwise admissible or subject to discovery does not

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become inadmissible or protected from discovery solely by reason of its disclosure or use in a mediation.

2005 Acts, ch 68, §9; 2006 Acts, ch 1010, §158
Referred to in §679C.103, 679C.105, 679C.106, 679C.109

679C.105 Waiver and preclusion of privilege.

1. A privilege under section 679C.104 may be waived in a record or orally during a proceeding if it is expressly waived by all mediation parties and if all of the following apply:

a. In the case of the privilege of a mediator, the privilege is expressly waived by the mediator.

b. In the case of the privilege of a nonparty participant, the privilege is expressly waived by the nonparty participant.

2. A person that discloses or makes a representation about a mediation communication which prejudices another person in a proceeding is precluded from asserting a privilege under section 679C.104, but only to the extent necessary for the person prejudiced to respond to the disclosure or representation.

3. A person that intentionally uses a mediation to plan, to attempt to commit, or to commit a crime, or to conceal an ongoing crime or ongoing criminal activity is precluded from asserting a privilege pursuant to section 679C.104.

2005 Acts, ch 68, §10
Referred to in §679C.103, 679C.104

679C.106 Exceptions to privilege.

1. No privilege exists under section 679C.104 for a mediation communication that involves any of the following:

a. An agreement evidenced by a record signed by all mediation parties to the agreement.

b. A communication that is available to the public under chapter 22 or made during a session of a mediation which is open, or is required by law to be open, to the public.

c. A threat or statement of a plan to inflict bodily injury or commit a crime of violence.

d. A plan to commit or attempt to commit a crime, the commission of a crime, or activity to conceal an ongoing crime or ongoing criminal activity.

e. A communication that is sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a mediator.

f. Except as otherwise provided in subsection 3, a communication that is sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a mediation party, nonparty participant, or representative of a mediation party based on conduct occurring during a mediation.

g. A communication that is sought or offered to prove or disprove abuse, neglect, abandonment, or exploitation in a proceeding in which a child or adult protective services agency is a party, unless the child or adult protection case is referred by a court to mediation and a public agency participates.

2. There is no privilege under section 679C.104 if a court, administrative agency, or arbitrator finds, after a hearing in camera, that the party seeking discovery or the proponent of the evidence has shown that the evidence is not otherwise available, that there is a need for the evidence that substantially outweighs the interest in protecting confidentiality, and that the mediation communication is sought or offered in any of the following situations:

a. A court proceeding involving a felony or misdemeanor.

b. Except as otherwise provided in subsection 3, a proceeding to prove a claim to rescind or reform a contract or a defense to avoid liability on a contract arising out of the mediation.

3. A mediator shall not be compelled to provide evidence of a mediation communication referred to in subsection 1, paragraph *"f"*, or subsection 2, paragraph *"b"*.

4. If a mediation communication is not privileged under subsection 1 or 2, only the portion of the communication necessary for the application of the exception from nondisclosure may be admitted. Admission of evidence under subsection 1 or 2 does not render the evidence, or any other mediation communication, discoverable or admissible for any other purpose.

2005 Acts, ch 68, §11
Referred to in §679C.103, 679C.104, 679C.107

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679C.107 Prohibited mediator reports.

1. Except as required in subsection 2, a mediator shall not make a report, assessment, evaluation, recommendation, finding, or other communication regarding a mediation to a court, administrative agency, or other authority that may make a ruling on the dispute that is the subject of the mediation.

2. A mediator may disclose any of the following:

a. Whether the mediation occurred or has terminated, whether a settlement was reached, and attendance.

b. A mediation communication as permitted under section 679C.106.

c. A mediation communication evidencing abuse, neglect, abandonment, or exploitation of an individual to a public agency responsible for protecting individuals against such mistreatment.

3. A communication made in violation of subsection 1 shall not be considered by a court, administrative agency, or arbitrator.

2005 Acts, ch 68, §12

679C.108 Confidentiality.

Unless subject to chapter 21 or 22, mediation communications are confidential to the extent agreed to by the parties or provided by other law or rule of this state.

2005 Acts, ch 68, §13

Referred to in §13.14, 216.15B, 654A.13

679C.109 Mediator's disclosure of conflicts of interest — background.

1. Before accepting a mediation, an individual who is requested to serve as a mediator shall do all of the following:

a. Make an inquiry that is reasonable under the circumstances to determine whether there are any known facts that a reasonable individual would consider likely to affect the impartiality of the mediator, including a financial or personal interest in the outcome of the mediation and an existing or past relationship with a mediation party or foreseeable participant in the mediation.

b. Disclose any such known fact to the mediation parties as soon as is practicable before accepting a mediation.

2. If a mediator learns any fact described in subsection 1 after accepting a mediation, the mediator shall disclose it as soon as is practicable.

3. At the request of a mediation party, an individual who is requested to serve as a mediator shall disclose the mediator's qualifications to mediate a dispute.

4. A person that violates subsection 1, 2, or 7 is precluded by the violation from asserting a privilege under section 679C.104.

5. Subsections 1, 2, 3, and 7 do not apply to an individual acting as a judge.

6. This chapter does not require that a mediator have a special qualification by background or profession.

7. A mediator must be impartial, unless after disclosure of the facts required in subsections 1, 2, and 3 to be disclosed, the parties agree otherwise.

2005 Acts, ch 68, §14; 2006 Acts, ch 1030, §79

679C.110 Participation in mediation.

An attorney or other individual designated by a mediation party may accompany the mediation party to and participate in a mediation. A waiver of participation given before the mediation may be rescinded.

2005 Acts, ch 68, §15

679C.111 Relation to Electronic Signatures in Global and National Commerce Act.

The provisions of this chapter modify or supersede the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §7001 et seq., but this chapter does not modify,

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limit, or supersede section 101c of that Act or authorize electronic delivery of any of the notices described in section 103b of that Act.

2005 Acts, ch 68, §16

679C.112 Uniformity of application and construction.

In applying and construing this chapter, consideration should be given to the need to promote uniformity of the law among states that enact the uniform mediation Act.

2005 Acts, ch 68, §17

679C.113 Severability clause.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are severable.

2005 Acts, ch 68, §18

679C.114 Application to existing agreements or referrals.

1. This chapter governs a mediation pursuant to a referral or an agreement to mediate made on or after July 1, 2005.

2. On or after July 1, 2005, this chapter governs an agreement to mediate whenever made.

2005 Acts, ch 68, §19

679C.115 Mediator immunity.

A mediator or a mediation program shall not be liable for civil damages for a statement, decision, or omission made in the process of mediation unless the act or omission by the mediator or mediation program is made in bad faith, with malicious purpose, or in a manner exhibiting willful or wanton disregard of human rights, safety, or property. This section shall apply to mediation conducted before the workers' compensation commissioner and mediation conducted pursuant to chapter 216.

2005 Acts, ch 68, §20

CHAPTER 680

RECEIVERS

Referred to in §421.59, 523I.212, 639.39, 717.5, 910.15

Receiver for enforcement of lien interest, §626.33

680.1 Appointment.
680.2 Permissible proofs.
680.3 Oath and bond.
680.4 Powers.
680.5 Priority of liens.
680.6 Taxes as prior claim — nonnecessity to file.
680.7 Claims entitled to priority.
680.8 Nonapplicability.
680.9 Legislative intent.
680.10 Discovery of assets.
680.11 Contempt.

680.1 Appointment.

On the petition of either party to a civil action or proceeding, wherein the party shows that the party has a probable right to, or interest in, any property which is the subject of the controversy, and that such property, or its rents or profits, are in danger of being lost or materially injured or impaired, and on such notice to the adverse party as the court shall prescribe, the court, if satisfied that the interests of one or both parties will be thereby promoted, and the substantial rights of neither unduly infringed, may appoint a receiver

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to take charge of and control such property under its direction during the pendency of the action, and may order and coerce the delivery of it to the receiver.

[C51, §1656; R60, §3216, 3419; C73, §2903, 2970; C97, §3822; C24, 27, 31, 35, 39, §**12713;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §680.1]

Service of pleadings and orders, R.C.P. 1.442, 1.453
Attachment of interest, chapters 639, 640

680.2 Permissible proofs.

Upon the hearing of the application, affidavits, and such other proof as the court or judge permits, may be introduced, and upon the whole case such order made as will be for the best interest of all parties concerned.

[C73, §2903; C97, §3822; C24, 27, 31, 35, 39, §**12714;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §680.2]

680.3 Oath and bond.

Before entering upon the discharge of the receiver's duties, the receiver must be sworn faithfully to discharge the trust to the best of the receiver's ability, and must also file with the clerk a bond with sureties, to be approved by the clerk, in a penalty to be fixed by the court, and conditioned for the faithful discharge of the receiver's duties, and that the receiver will obey the orders of the court in respect thereto.

[C51, §1657; R60, §3420; C73, §2904; C97, §3823; C24, 27, 31, 35, 39, §**12715;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §680.3]

Referred to in §523I.212, 602.8102(121)

680.4 Powers.

Subject to the control of the court, a receiver has power to bring and defend actions, to take and keep possession of property, to collect debts, to receive the rents and profits of real property, and, generally, to do such acts in respect to the property committed to the receiver as may be authorized by law or ordered by the court.

[C51, §1658; R60, §3421; C73, §2905; C97, §3824; C24, 27, 31, 35, 39, §**12716;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §680.4]

Referred to in §717.5

680.5 Priority of liens.

Persons having liens upon the property placed in the hands of a receiver shall, if there is a contest as to their priority, submit them to the court for determination.

[C97, §3825; S13, §3825; C24, 27, 31, 35, 39, §**12717;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §680.5]

680.6 Taxes as prior claim — nonnecessity to file.

When the assets of any corporation, partnership, or person shall be placed in the hands of a receiver, all taxes against said corporation, partnership, or person, whether levied under the laws of the state or ordinances of municipal corporations, shall be entitled to priority and be first paid in full by the receiver and claims therefor need not be filed with said receiver.

[S13, §3825; C24, 27, 31, 35, 39, §**12718;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §680.6]

680.7 Claims entitled to priority.

When the property of any person, partnership, company, or corporation has been placed in the hands of a receiver for distribution, after the payment of all costs the following claims shall be entitled to priority of payment in the order named:

1. Taxes or other debts entitled to preference under the laws of the United States.
2. Debts due or taxes assessed and levied for the benefit of the state, county, or other municipal corporation in this state.

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3. Debts owing to employees for labor or work performed or services rendered as provided in section 626.69.

[S13, §3825-a; C24, 27, 31, 35, 39, §**12719;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §680.7]

2006 Acts, ch 1025, §3

Referred to in §680.8, 680.9
Bank receivership, see §524.1301, et seq.
Labor or wage claims preferred, §626.69, 633.425

680.8 Nonapplicability.

The provisions of section 680.7 shall not apply to the receivership of state banks, as defined in section 524.105, trust companies, or private banks. In addition, in the receivership of such state banks and trust companies, or private banks, no preference or priority shall be allowed as is provided in section 680.7 except for labor or wage claims as provided by statute.

[C27, 31, 35, §12719-a1; C39, §**12719.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §680.8]

2006 Acts, ch 1025, §4; 2007 Acts, ch 22, §104

Referred to in §680.9
Labor or wage claims preferred, §626.69, 633.425

680.9 Legislative intent.

The provisions of section 680.8 are declaratory of the intent of the legislature and of its interpretation of the provisions of section 680.7.

[C27, 31, 35, §12719-a2; C39, §**12719.2;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §680.9]

680.10 Discovery of assets.

The court having direction or control of a receiver may, on its own motion, or on motion of the receiver, require any person suspected of having taken wrongful possession of any of the effects of any person, corporation, or partnership for which said receiver has been appointed, or of having had such effects under the person's control, or any officer or agent of any such suspected person, to appear and submit to an examination, under oath, touching such matters, and if, on such examination, it appears that the person examined has the wrongful possession of any such property, the court may order the delivery thereof to the receiver.

[C27, 31, 35, §12719-b1; C39, §**12719.3;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §680.10]

Analogous provisions, §630.19, 633.112

680.11 Contempt.

If, on being served with the order of the court requiring the person to do so, any person fails to appear in accordance therewith, or if, having appeared, the person refuses to answer any questions which the court thinks proper to be put to the person in the course of such examination, or if the person fails to comply with the order of the court requiring the person to deliver any such property or effects to the receiver, the person may be committed to the jail of the county until the person does.

[C27, 31, 35, §12719-b2; C39, §**12719.4;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §680.11]

CHAPTER 681

ASSIGNMENT FOR BENEFIT OF CREDITORS

Repealed by 2026 Acts, ch 1165, §27, 32
2026 repeal of chapter effective January 1, 2027; 2026 Acts, ch 1165, §32

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CHAPTER 681A

UNIFORM ASSIGNMENT FOR BENEFIT OF CREDITORS ACT

Referred to in §428A.2, 523H.7, 537A.10, 602.8102(122)

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681A.4 Requirements for assignee and assignment agreement.
681A.5 Effect of assignment — when assignment agreement effective.
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681A.23 Provisions variable by agreement.
681A.24 Uniformity of application and construction.
681A.25 Relation to Electronic Signatures in Global and National Commerce Act.
681A.26 Transitional provision.

681A.1 Title.

This chapter may be cited as the *"Uniform Assignment for Benefit of Creditors Act"*.

2026 Acts, ch 1165, §1, 32
Section effective January 1, 2027; 2026 Acts, ch 1165, §32
NEW section

681A.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Affiliate"* means any of the following:

a. A person that directly or indirectly owns, controls, or holds, with power to vote, twenty percent or more of the outstanding voting interests of another person, other than a person that holds the interests as any of the following:

(1) In a fiduciary or agency capacity without sole discretionary power to vote the interests.

(2) Solely to secure a debt, if the person has not in fact exercised the power to vote.

b. A person with twenty percent or more of the person's outstanding voting interests directly or indirectly owned, controlled, or held, with power to vote, by another person.

c. A person whose business is operated under a lease or operating agreement by another person, or a person substantially all of whose assets are controlled by the other person.

d. A person that operates the business or substantially all the assets of another person under a lease or operating agreement.

2. *a. "Asset"* means a legal or equitable interest in property of an assignor, regardless of the person holding or in possession, custody, or control of the property or where the property is located.

b. "Asset" does not include any of the following:

(1) A legal or equitable interest in property restricted from assignment if the restriction is effective under other law, unless the other law permits assignment with the consent of another person and the person consents to the assignment in a manner permitted by the other law.

(2) If the assignor is an individual, a legal or equitable interest in property to the extent it is exempt from legal process under other law.

3. *"Assigned asset"* means an asset transferred under an assignment.

4. *"Assignee"* means a person to which assets are transferred under an assignment.

5. *"Assignment"* means a transfer by a person of all the person's assets to another person for the benefit of the transferor's creditors.

6. *"Assignment agreement"* means an agreement that transfers or provides for a transfer of all the assignor's assets.

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7. *"Assignment estate"* means the assets held at a given time by the assignee under an assignment.

8. *"Assignor"* means a person whose assets are transferred under an assignment.

9. *"Claim"* means a creditor's right to payment or to an equitable remedy, regardless of whether the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.

10. *"Cohabitant"* means each of two individuals not married to each other who live together as a couple after each has reached the age of majority or been emancipated.

11. *"Creditor"* means a person that has a claim against an assigned asset or the assignor.

12. *"Electronic"* means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

13. *"Good faith"* means honesty in fact and the observance of reasonable commercial standards of fair dealing.

14. *"Insider"* includes any of the following:

a. In the case of an individual, any of the following:

(1) A relative of the individual.

(2) A partnership or limited liability company in which the individual is a general partner or managing member.

(3) An organization of which the individual is a director, officer, or person in control.

b. In the case of an organization, any of the following:

(1) A director, officer, manager, or other person in control of or with controlling equity interest in the organization.

(2) A partnership or limited liability company in which the organization is a general partner or managing member.

(3) A general partner or managing member of the organization.

(4) A relative of a general partner, managing member, director, officer, manager, or other person in control of or with controlling equity interest in the organization.

c. An affiliate.

d. A managing agent of an organization.

15. *"Lien"* means an interest in an asset that secures payment or performance of an obligation.

16. *"Organization"* means a person other than an individual.

17. *"Perfected lien"* means a lien on any of the following:

a. Real property other than fixtures on which a bona fide purchaser of the property cannot acquire an interest superior to the interest of the lienholder.

b. Fixtures or property other than real property on which a creditor cannot acquire a lien by attachment, levy, or the like that is superior to the interest of the lienholder.

18. *a. "Person"* means an individual, estate, business or nonprofit entity, government or governmental subdivision, agency, or instrumentality, or other legal entity.

b. "Person" includes a protected series, however denominated, of an entity if the protected series is established under law that limits, or limits if conditions specified under law are satisfied, the ability of a creditor of the entity or of any other protected series of the entity to satisfy a claim from assets of the protected series.

19. *"Proof of claim"* means a record a creditor submits to an assignee to evidence the creditor's claim.

20. *"Record"* means information that is any of the following:

a. Inscribed on a tangible medium.

b. Stored in an electronic or other medium and retrievable in perceivable form.

21. *"Relative"* means an individual related by affinity or consanguinity within the third degree or a cohabitant.

22. *"Security interest"* means a lien created by an agreement.

23. *"Send"*, in connection with a record or notification, means any of the following:

a. To deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances.

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b. To cause the record or notification to be received within the time it would have been received if properly sent under paragraph *"a"*.

24. *"Sign"* means, with present intent to authenticate or adopt a record by doing any of the following:

a. To execute or adopt a tangible symbol.

b. To attach to or logically associate with the record an electronic symbol, sound, or process.

25. *a. "State"* means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any other territory or possession subject to the jurisdiction of the United States.

b. "State" includes a federally recognized Indian tribe.

26. *"Transfer"* means disposing of or parting with an asset or with an interest in an asset, regardless of whether the disposition or parting is indirect, conditional, or involuntary.

2026 Acts, ch 1165, §2, 32
Section effective January 1, 2027; 2026 Acts, ch 1165, §32
NEW section

681A.3 Scope.

This chapter applies to an assignment made by an assignor that is any of the following:

1. An organization whose principal place of business is in this state.
2. An organization whose internal affairs are governed by other law of this state.
3. An individual whose principal residence is in this state.
4. An organization wholly owned, directly or indirectly, by an assignor that satisfies subsection 1, 2, or 3.
5. An organization, if all of the following apply:

a. It is partly owned, directly or indirectly, and controlled by an assignor that satisfies subsection 1, 2, or 3.

b. It has no place of business or employees.

c. It relies on the services the organization receives from an assignor that satisfies subsection 1, 2, or 3.

2026 Acts, ch 1165, §3, 32
Section effective January 1, 2027; 2026 Acts, ch 1165, §32
NEW section

681A.4 Requirements for assignee and assignment agreement.

1. An assignee must be all of the following:

a. A person that is not a creditor, affiliate, or insider of the assignor.

b. A person that is not an affiliate or insider of a creditor of the assignor.

c. A person that does not have a claim against the assignment estate, other than a claim for fees and expenses to be paid under the assignment agreement.

d. A person that does not have a material financial interest in the outcome of the assignment, other than a claim for fees and expenses to be paid under the assignment agreement.

e. A person that does not hold an equity interest in the assignor other than a noncontrolling interest in a publicly traded company.

f. A person that is not an affiliate of a person that fails to satisfy paragraph *"a"*, *"b"*, *"c"*, *"d"*, or *"e"*.

2. A person that satisfies subsection 1 is not precluded from being an assignee merely because the person performed services for the assignor before the assignment.

3. An assignment agreement must be in a record signed by the assignor and the assignee. The record must do all of the following:

a. State the name and address of the assignor and of the assignee.

b. Transfer or provide for a transfer of all the assignor's assets.

c. Describe the assigned assets in sufficient detail to identify the assets.

d. Provide for the distribution of the assignment estate.

e. Describe the fees to be charged by the assignee in connection with the assignment, including the basis on which they are to be calculated.

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f. Include a representation by the assignor, under penalty of perjury, that the assignor is assigning all the assignor's assets.

4. If an assignee relies in good faith on the assignor's representation made under subsection 3, paragraph *"f"*, all the assignor's assets are deemed to be assigned, even if the representation is inaccurate.

2026 Acts, ch 1165, §4, 32
Referred to in §681A.18, 681A.22
Section effective January 1, 2027; 2026 Acts, ch 1165, §32
NEW section

681A.5 Effect of assignment — when assignment agreement effective.

1. An assignee obtains the rights, title, and interests of the assignor in the assigned assets.

2. If the assignor is an organization, an assignee obtains the rights, title, and interests of the assignor in assets acquired after the assignment.

3. Except as provided in section 681A.10, subsection 2, paragraph *"l"*, an assignee takes each assigned asset subject to an existing interest in the asset held by another person.

4. An assignee holds the assigned assets subject to the assignee's duties under section 681A.9.

5. An assignment is subject to other law under which the assignment may be fraudulent or otherwise voidable.

6. The effective date of an assignment agreement is the date the agreement is signed by the last party to the agreement that is required to sign the agreement unless a later date is identified in the agreement as the effective date.

2026 Acts, ch 1165, §5, 32
Section effective January 1, 2027; 2026 Acts, ch 1165, §32
NEW section

681A.6 Filing, recording, and title transfer requirements.

1. In this section, *"financing statement"* has the same meaning as defined in section 554.9102, subsection 1.

2. An assignee of a legal or equitable interest in personal property shall file a financing statement in the filing office of any of the following:

a. This state established for purposes of section 554.9501, subsection 1, paragraph *"b"*.

b. Any other state in which any of the following apply:

(1) The assignor would be located under section 554.9307 if the assignor were a debtor for the purpose of that section.

(2) An asset of the assignment estate may be located.

3. A financing statement filed under subsection 2 must indicate that it is filed in connection with an assignment.

4. When filing a financing statement under subsection 2, the assignee must do any of the following:

a. Attach a copy of the assignment agreement to the financing statement.

b. State on the financing statement that a copy of the assignment agreement is available on request to the assignee.

5. A financing statement filed under subsection 2 may do any of the following:

a. Designate the assignor as "debtor" and the assignee as "secured party".

b. Use the terms "assignor" and "assignee" or words of similar import.

6. The filing of a financing statement under subsection 2 is not itself a factor in determining whether an asset secures an obligation. The rights of the assignee under the assignment are not affected if the assignee does not file a financing statement under subsection 2.

7. An assignee of a legal or equitable interest in real property shall record the assignment of the interest or notice of the assignment under the real estate recording law of the jurisdiction where the property is located.

8. An assignee shall comply with other law governing the transfer of title to an asset.

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9. By signing an assignment agreement, the assignor authorizes the assignee to take the actions required by this section.

2026 Acts, ch 1165, §6, 32
Referred to in §681A.8, 681A.19
Section effective January 1, 2027; 2026 Acts, ch 1165, §32
NEW section

681A.7 Notification to creditors.

1. Unless a creditor waives in a signed record the right to notification, an assignee shall send a notification of the assignment to each creditor known to the assignee within a reasonable time not to exceed thirty days after the effective date of the assignment agreement.

2. The notification must satisfy all of the following requirements:

a. Be in a record signed by the assignee.

b. Include the assignee's name, address, and other contact information reasonably necessary to communicate with the assignee.

c. Provide reasonable instructions for submitting a proof of claim using the method established by the assignee under section 681A.9, subsection 2, paragraph "*e*".

d. Identify the date established under section 681A.9, subsection 2, paragraph "*f*", by which each creditor whose claim is not otherwise allowed without a timely proof of claim under this chapter must submit a proof of claim.

3. An assignee shall use reasonable means to provide the information in subsection 2 to unknown creditors, including by any means the assignor regularly used to do any of the following:

a. Provide information to the assignor's creditors.

b. Communicate information about the assignor, other than advertising, to the public.

2026 Acts, ch 1165, §7, 32
Referred to in §681A.23
Section effective January 1, 2027; 2026 Acts, ch 1165, §32
NEW section

681A.8 Duties of assignor.

1. Subject to section 681A.23, an assignor has a duty to take all reasonable actions necessary for the assignee to administer the assignment, the assigned assets, and the assignment estate.

2. In furtherance of the duty under subsection 1, the assignor shall do all of the following:

a. Preserve and turn over to the assignee the assigned assets in the assignor's possession or control.

b. Provide to the assignee information reasonably necessary to administer the assignment, the assigned assets, and the assignment estate.

c. Sign any record reasonably necessary to transfer an assigned asset and comply with any notarization required under other law.

d. Designate, and provide the assignee with the name, address, and other contact information reasonably necessary to communicate with, an appropriate person willing and able to act as a representative on behalf of the assignor as may be reasonably necessary to administer the assignment, the assigned assets, and the assignment estate.

e. If the assignment includes a legal or equitable interest in real property or titled personal property, cooperate with the assignee in taking actions under section 681A.6.

f. On or as soon as practicable after the effective date of the assignment agreement, provide the assignee with all of the following:

(1) A list of all assets.

(2) A list of all the assignor's employees, including those whose employment is terminated in connection with the assignment.

(3) A list of all the assignor's known creditors, including, for each creditor, the creditor's address and other contact information reasonably necessary to communicate with the creditor.

g. A verification under penalty of perjury the accuracy of the lists required under paragraph "*f*".

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h. With respect to a legal or equitable interest in property restricted from assignment, cooperate with the assignee to obtain consent from a person whose consent to assign the interest is necessary under other law.

i. Provide assistance to the assignee as required by the assignment agreement.

3. The duties in this section also apply to a representative designated under subsection 2, paragraph *"d"*.

2026 Acts, ch 1165, §8, 32
Referred to in §681A.9, 681A.17, 681A.23
Section effective January 1, 2027; 2026 Acts, ch 1165, §32
NEW section

681A.9 Duties of assignee.

1. Subject to section 681A.23, an assignee has a fiduciary duty to the assignment estate for the benefit of creditors to do all of the following:

a. Provide a duty of loyalty, including the duty to manage the assignment in good faith.

b. Use reasonable care to maximize distributions under section 681A.15.

c. Wind up the assignment under section 681A.19 in a manner compatible with the best interests of the assignment estate and creditors.

2. Without limitation on the duties under subsection 1, and subject to section 681A.23, the assignee also has a duty to do all of the following:

a. Maintain a separate deposit account for funds related to the assignment.

b. Collect on or dispose of each assigned asset, unless the assignee determines it is more economically efficient to abandon the asset.

c. Prepare and retain appropriate business records, including a record of each receipt, disbursement, and collection on or disposition of an assigned asset.

d. Pay administrative expenses of the assignment estate, to the extent the assignment estate has sufficient unencumbered assets.

e. Establish a method that is reasonably designed to permit a creditor to submit a proof of claim.

f. Establish a single date by which creditors whose claims are not otherwise allowed without timely proofs of claim under this chapter must submit proofs of claim, which must be one hundred twenty days after the effective date of the assignment agreement.

g. Unless a claim would receive minimal or no distribution without regard to the claim's validity or asserted priority, examine the validity and priority of claims against the assignment estate and, if necessary, consult with the representative designated by the assignor under section 681A.8, subsection 2, paragraph *"d"*.

h. At least every six months, provide to each creditor a summary of the assets, liabilities, and expenses of the assignment estate.

i. Comply with all requirements of the United States internal revenue service and state and local taxing authorities.

j. Send a notification to each creditor of the assignee's compensation and any change in the method of determining the assignee's compensation from the method provided in the assignment agreement.

k. Send a final accounting under section 681A.19, subsection 1.

l. Comply with the other requirements imposed on the assignee under this chapter.

2026 Acts, ch 1165, §9, 32
Referred to in §681A.5, 681A.7, 681A.10, 681A.11, 681A.13, 681A.17, 681A.23
Section effective January 1, 2027; 2026 Acts, ch 1165, §32
NEW section

681A.10 Powers of assignee.

1. An assignee has the powers necessary or appropriate to perform the assignee's duties.

2. Unless the assignment agreement expressly provides otherwise, the assignee has power to do any of the following:

a. Operate an existing business that uses an assigned asset, including preservation of the asset and collection on, or the sale, lease, license, or other disposition of, the asset.

b. Incur secured or unsecured debt and pay expenses incidental to the exercise of the power under subsection 1.

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c. Assert a right, claim, cause of action, or defense the assignor could have asserted that relates to the assignment estate.

d. Engage professionals, including a professional previously engaged by the assignor, to give advice, to prosecute or defend litigation, or for other purposes as the assignee considers appropriate, and pay professionals reasonable fees for services from the assignment estate.

e. Collect on, or sell, lease, license, or otherwise dispose of, an asset of the assignment estate regardless of whether the asset is subject to a lien or other encumbrance.

f. Exercise a right to redeem an asset of the assignment estate that is subject to a mortgage, deed of trust, security interest, or other encumbrance.

g. Settle a matter involving a debtor of the assignor.

h. Prosecute or defend a litigation pending on the effective date of the assignment agreement in favor of or against the assignor in the manner and with the same effect as the assignor could have done if the assignment had not been made.

i. Recover an asset in the manner and with the same effect as the assignor could have done if the assignment had not been made.

j. Settle claims against the assignment estate.

k. Abandon an assigned asset.

l. Subject to subsections 3 and 5, avoid a transfer or the incurrence of an obligation which a creditor that has filed a proof of claim could have avoided under other law if the assignment had not been made.

m. Invest funds, subject to applicable prudent investor standards under other law.

3. The power under subsection 2, paragraph *"1"*, is exclusive to the assignee with respect to a creditor that submits a proof of claim. A recovery by the assignee in the exercise of this power must be for the benefit of the assignment estate but may not exceed the amount, asset, or other value the creditor could have obtained by the avoidance.

4. For the purpose of exercising the assignee's power under subsection 2, paragraph *"1"*, exercising a voidable-transaction remedy, or otherwise establishing the priority of the assignee's interest, an assignee has a lien on the assignment estate and the status of all of the following:

a. A lien creditor under section 554.9102, subsection 1, paragraph *"be"*, subparagraph (2), as to an asset that is a legal or equitable interest in personal property or fixtures.

b. A bona fide purchaser as to an asset that is a legal or equitable interest in real property, other than fixtures, located in this state.

c. A bona fide purchaser under the law of another state as to an asset that is a legal or equitable interest in real property, other than fixtures, located in the other state.

5. An assignee's power under subsection 2, paragraph *"1"*, to avoid a transfer made before the effective date of the assignment agreement, under or in connection with a swap agreement, securities contract, commodity contract, forward contract, repurchase agreement, or master netting agreement, is limited to the extent a trustee would not have the power to avoid the transfer under the federal bankruptcy code, 11 U.S.C. §101 et seq., as amended.

6. An assignee shall exercise the powers under this section consistent with the assignee's fiduciary duty under section 681A.9, subsection 1.

2026 Acts, ch 1165, §10, 32
Referred to in §681A.5, 681A.15, 681A.23
Section effective January 1, 2027; 2026 Acts, ch 1165, §32
NEW section

681A.11 Allowed claim.

1. An assignee shall allow a creditor's claim if all of the following apply:

a. The creditor submits a proof of claim in compliance with section 681A.13.

b. The assignee does not dispute the claim under section 681A.12 before final distribution.

2. An assignee may do any of the following:

a. Allow a claim, pay a known liquidated claim, or accept a notice to the assignee of a claim received by the date established by the assignee under section 681A.9, subsection 2, paragraph *"f"*, even if the creditor does not submit a proof of claim.

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b. Allow and pay a claim evidenced by a late-filed proof of claim, if the assignee determines there is a reasonable basis for excusing the late filing.

3. Any unsecured portion of an allowed claim shall be valued as of the effective date of the assignment agreement.

4. A creditor's claim is allowed if the creditor succeeds in a dispute under section 681A.12, subsection 2.

5. Subject to subsection 6, after expiration of the time for submitting a proof of claim, the assignee shall create a complete list of creditors that have submitted a proof of claim in compliance with section 681A.13. For each creditor's claim, the list must state all of the following:

a. The amount of the claim, if the amount is known to the assignee.

b. Whether the claim is secured or unsecured and, if secured, describe the collateral for the claim.

6. If a class of creditors will receive no distribution on account of allowed claims, the assignee shall send a notice in a record to each creditor in that class that the creditor will receive no distribution instead of the list required in subsection 5.

7. If requested by a creditor or other party with an interest in the assignment estate, the assignee shall provide the list created under subsection 5 to the person making the request to the extent permitted by privacy laws and subject to any privacy safeguards the assignee determines in the assignee's business judgment are reasonably necessary.

2026 Acts, ch 1165, §11, 32
Referred to in §681A.12, 681A.15, 681A.19
Section effective January 1, 2027; 2026 Acts, ch 1165, §32
NEW section

681A.12 Disputed and disallowed claims.

1. An assignee may dispute a creditor's claim before final distribution by sending notification in a record stating the nature of the assignee's dispute to the creditor.

2. If a dispute cannot be resolved consensually, the assignee may commence a proceeding under section 681A.21 to disallow the claim. The assignee must commence the proceeding before final distribution under section 681A.15. If the proceeding is not filed before final distribution, the assignee shall allow the claim under section 681A.11.

3. An assignee shall create a dollar-for-dollar reserve for the estimated amount of the potential distribution on a disputed claim.

4. Subject to subsection 2, an assignee shall disallow a claim for reimbursement or contribution of a person that is liable with the assignor on, or that has secured, the claim, to the extent:

a. The claim against the assignment estate is disallowed.

b. The claim for reimbursement or contribution is contingent as of the time of allowance or disallowance.

c. The person asserts a right of subrogation to the rights of a creditor.

5. A claim for reimbursement or contribution of a person liable with the assignor on, or that has secured, the claim that becomes fixed after the effective date of the assignment agreement shall be determined, and shall be allowed or disallowed, subject to subsection 2, as if the claim had become fixed before the effective date of the assignment agreement.

6. An assignee may reconsider the assignee's decision to allow or disallow a claim for cause. If a reconsidered claim is allowed under section 681A.11, before the assignee makes additional payments or transfers to other creditors that are equal or junior in priority under section 681A.15 to the reconsidered claim, the creditor with the reconsidered claim shall receive a payment or transfer in an amount proportionate in value to the payments or transfers already received by the other creditors. This subsection does not modify the assignee's right under other law to recover from a creditor an excess payment or transfer made to the creditor. If a reconsidered claim is disallowed, the assignee shall comply with subsections 2 and 3.

2026 Acts, ch 1165, §12, 32
Referred to in §681A.11, 681A.15
Section effective January 1, 2027; 2026 Acts, ch 1165, §32
NEW section

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681A.13 Proof of claim.

1. A proof of claim must do all of the following:

a. State the name, address, and other contact information reasonably necessary to communicate with the creditor.

b. State the amount of the claim.

c. Briefly state the nature of the claim.

d. Identify any asset of the assignment estate securing the claim.

e. Be signed by the creditor under penalty of perjury.

f. Include a copy of a record, if any, on which the claim is based.

g. Be submitted using the method established under section 681A.9, subsection 2, paragraph *"e"*.

h. Be submitted by the date established by the assignee under section 681A.9, subsection 2, paragraph *"f"*.

2. A proof of claim submitted in compliance with this section is prima facie evidence of the validity and amount of the claim.

3. The submission by a creditor of a proof of claim in compliance with this section constitutes all of the following:

a. The creditor's consent to the jurisdiction of the court under section 681A.21.

b. Assignment to the assignee of any right of the creditor to bring a voidable transaction action relating to the creditor's claim.

2026 Acts, ch 1165, §13, 32
Referred to in §681A.11
Section effective January 1, 2027; 2026 Acts, ch 1165, §32
NEW section

681A.14 Rights of transferees.

1. An assignee's disposition of an asset does all of the following:

a. Transfers to a transferee for value all of the assignee's rights in the asset.

b. Discharges the assignee's lien and, to the extent the assignment creates a security interest in favor of the assignee, the assignee's security interest.

c. Discharges any subordinate security interest or other lien subordinate to the assignee's lien.

2. A transferee that acts in good faith takes free of the rights and interests described in subsection 1, even if the assignee fails to comply with this chapter or the requirements of a judicial proceeding.

3. If a transferee does not take free of the rights and interests described in subsection 1, the transferee takes the asset subject to all of the following:

a. The assignee's rights in the assets of the assignment estate.

b. The assignee's lien and, if applicable, security interest.

c. Any other security interest or other lien.

4. Unless otherwise provided in a record, any warranty arising by operation of other law is disclaimed to the extent permitted by other law.

5. If a subordinate security interest or other lien is discharged under this section, the assignee may file a record with the official or office responsible for maintaining an official filing, recording, registration, or certificate-of-title system covering the asset secured by the security interest or other lien. The record must state that the security interest or other lien is discharged as a subordinate security interest or other lien in connection with a disposition under an assignment for the benefit of creditors of the assignor whose asset is subject to the security interest or other lien.

2026 Acts, ch 1165, §14, 32
Section effective January 1, 2027; 2026 Acts, ch 1165, §32
NEW section

681A.15 Distributions.

1. In this section, *"protected secured creditor"* means a secured creditor, if all of the following apply to the secured creditor's lien:

a. It is a perfected lien.

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b. It cannot be avoided by the assignee under section 681A.10, subsection 2, paragraph *"l"*.

c. It is not subordinate to the assignee's lien.

2. Except as provided in section 681A.16, the assignee shall pay claims from the assignment estate allowed under section 681A.11 in the order of priority stated in this section.

3. Unless otherwise agreed between the assignee and a protected secured creditor, before distributions under subsections 4, 5, 6, and 7, and in accordance with the priorities of creditors with liens under other law, the protected secured creditor shall receive the asset or the proceeds from the collection on or disposition of the asset to the extent of the value of the protected secured creditor's interest in the asset, less the assignee's reasonable and necessary expenses of preserving or disposing of the asset to the extent the expenses benefit the protected secured creditor and are incurred with the protected secured creditor's consent or acquiescence. The protected secured creditor has an unsecured claim under subsection 7, paragraph *"b"*, for the amount of the claim that remains after deducting the amount or value of an asset the protected secured creditor receives under this subsection. To the extent a claim is secured by an asset the value of which, after the deductions provided under this subsection, is greater than the amount of the claim, the protected secured creditor may receive interest on the claim and any reasonable fees, costs, or charges provided for under the agreement or other law under which the claim arose.

4. After the distributions under subsection 3, the assignee shall pay the necessary costs of the administration of the assignment estate. The costs include all of the following:

a. Fees and reimbursements of the expenses of the assignee and any professionals engaged by the assignee.

b. Post-assignment taxes incurred by the assignee.

c. Post-assignment rent incurred by the assignee in occupying premises on which assets of the assignment estate are located or the business of the assignor is conducted.

d. Post-assignment lease payments incurred by the assignee in renting personal property used in the business of the assignor.

e. Amounts required to be paid under the assignment agreement for expenses of winding up the assignment under section 681A.19.

5. After the distributions under subsections 3 and 4, the assignee shall pay claims entitled to priority under federal law including under 31 U.S.C. §3713, as amended, from the assignment estate.

6. After the distributions under subsections 3, 4, and 5, the assignee shall pay claims from the assignment estate for wages, salaries, or commissions earned not more than one hundred eighty days before the earlier of the effective date of the assignment agreement or the cessation of the assignor's business. Payment shall be limited to the greater of the following:

a. The amount of the claim allowed as a priority claim ahead of claims of other unsecured creditors under the federal bankruptcy code, 11 U.S.C. §101 et seq., as amended.

b. The amount allowed as a priority claim ahead of claims of other unsecured creditors under applicable nonbankruptcy law.

7. After the distributions under subsections 3, 4, 5, and 6, each creditor shall receive a distribution of the assets of the assignment estate in the following order of priority:

a. Unsecured claims entitled to priority ahead of claims of other unsecured creditors under other law.

b. Unsecured claims not entitled to priority.

8. If the assets available for distribution to claims with equal priority under subsection 7 are insufficient to pay the total amount of the claims with that priority, each creditor with a claim with that priority shall receive a pro rata distribution of the available assets based on the proportion the amount of the creditor's claim bears to the total amount of the claims with that priority.

9. If the claims entitled to the distribution under subsections 3, 4, 5, 6, and 7 are paid in full, the residue shall be distributed to allowed claims evidenced by a late-filed proof of claim, other than a late-filed claim allowed by the assignee under section 681A.11, subsection

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2, paragraph *"b"*, and, after the allowed claims evidenced by a late-filed proof of claim have been paid in full, as provided in the assignment agreement.

10. An assignee may make interim distributions after considering future expenses and the reserves for disputed claims established under section 681A.12, subsection 3.

2026 Acts, ch 1165, §15, 32
Referred to in §681A.9, 681A.12, 681A.19, 681A.20
Section effective January 1, 2027; 2026 Acts, ch 1165, §32
NEW section

681A.16 Claim subordination.

1. A subordination agreement is enforceable under this chapter to the same extent the agreement is enforceable under other law.

2. Subject to subsection 3, all of the following claims are subordinate to a claim or interest that is senior or equal in priority to a claim or interest represented by a security or other equity interest in the assignor or an affiliate of the assignor:

a. A claim arising from rescission of a purchase or sale of the security or other equity interest.

b. A claim for damages arising from the purchase or sale of the security or other equity interest.

c. A claim for reimbursement or contribution allowed on account of the rescission or damage claim.

3. If the security is common stock or another common equity interest, a claim subject to subordination under subsection 2 has the same priority as common stock or another common equity interest.

2026 Acts, ch 1165, §16, 32
Referred to in §681A.15
Section effective January 1, 2027; 2026 Acts, ch 1165, §32
NEW section

681A.17 Liability.

1. An assignor is not personally liable for an act or omission by the assignee.

2. An assignee is not personally liable for an act or omission by the assignor.

3. A representative designated by an assignor under section 681A.8, subsection 2, paragraph *"d"*, is exculpated to the same extent as a person acting on behalf of the assignor under other law had there been no assignment, except for an act or omission resulting from the representative's gross negligence or willful misconduct.

4. A term of an assignment agreement relieving the assignee of liability is unenforceable to the extent the agreement relieves the assignee of liability for an act or omission committed in bad faith or with reckless indifference to the purposes of the assignment or the interests of the creditors of the assignment estate.

5. Subject to subsection 6, an assignee is personally liable for breach of a fiduciary duty under section 681A.9, subsection 1. If the assignee is liable all of the following apply:

a. The assignee is personally liable to a creditor for an individualized harm to the creditor if the harm is not shared by all creditors or a class of creditors.

b. The assignee is personally liable to the assignment estate for a harm shared by all creditors or a class of creditors.

6. An assignee is not liable if, in the performance of the assignee's duties and exercise of the assignee's powers, the assignee relies in good faith on any of the following:

a. A record of the assignor.

b. Information, an opinion, a report, or a statement presented to the assignee by the assignor's officer or employee, a committee of the assignor's board of directors, an independent director or manager of the assignor, or another representative of the assignor.

c. Information, an opinion, a report, or a statement presented to the assignee by another person that has been selected with reasonable care by or on behalf of the assignee as to a

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matter the assignee reasonably believes is within the other person's professional or expert competence.

2026 Acts, ch 1165, §17, 32
Referred to in §681A.18, 681A.23
Section effective January 1, 2027; 2026 Acts, ch 1165, §32
NEW section

681A.18 Assignee removal — successor assignee.

1. The assignor or a creditor may request the district court to remove the assignee, if the assignor or creditor has a reasonable belief grounds for removal exist under subsection 2.

2. After a request under subsection 1 or on the district court's initiative in an action pending before the court under section 681A.21, the court may remove an assignee based on any of the following:

a. For cause, including the assignee's fraud, dishonesty, incompetence, gross mismanagement, or failure to comply with this chapter.

b. If removal of the assignee best serves the interests of the creditors.

3. After an assignee resigns, or is removed, dies, or becomes incapacitated, a successor assignee provided for in the assignment agreement becomes the assignee, unless the successor assignee is not eligible to be an assignee under section 681A.4, subsection 1, or is subject to removal under subsection 2. A court shall appoint a successor assignee if any of the following apply:

a. The assignment agreement does not provide for a successor assignee.

b. The successor assignee provided for in the assignment agreement is ineligible to be an assignee under section 681A.4, subsection 1, or is subject to removal under subsection 2.

4. Subject to section 681A.17, an assignee that resigns, or is removed, dies, or becomes incapacitated, is discharged from the assignee's duties under this chapter when the assignee, or a representative of a deceased or incapacitated assignee does all of the following:

a. Accounts for and turns over to the successor assignee all assets of the assignment estate.

b. Submits to creditors a report summarizing the receipts and disbursements made during the service of the assignee.

5. Subject to an applicable privilege, a court may order an attorney, accountant, or other person that has information in a record relating to the assignment estate or the assignor's financial affairs to turn over or disclose the record to the successor assignee.

2026 Acts, ch 1165, §18, 32
Section effective January 1, 2027; 2026 Acts, ch 1165, §32
NEW section

681A.19 Winding up.

1. On completion of an assignee's duties, the assignee shall send a creditor whose claim is allowed under section 681A.11, and not satisfied in full, a final accounting sufficient to inform the creditor of all material aspects of the assignment, including all of the following:

a. A description of the actions taken by the assignee under the assignment.

b. A summary of the assets received by the assignee at the commencement of the assignment and the assets received by the assignee during the assignment.

c. A summary of disbursements made by the assignee during the assignment for the purpose of administering the assignment estate, including the fees charged by the assignee, and payments to professionals, for rent, and for business purchases.

d. A summary of collections and dispositions of assets by the assignee.

e. A summary of distributions made or proposed to be made by the assignee for creditor claims.

f. A description of additional work to be done by the assignee to complete the administration of the assignment estate and the distributions under section 681A.15.

g. Other information considered reasonably necessary by the assignee.

2. Except as otherwise provided in the final accounting or if the assignee has not fulfilled the assignee's duties under this chapter, the assignee is discharged from the assignee's duties

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under this chapter when the assignee sends the final accounting and distributes all the assets of the assignment estate.

3. If the final accounting describes additional work under subsection 1, paragraph *"f"*, the assignee shall exercise the powers appropriate to complete the work.

4. Upon completion of the assignee's duties, the assignor is entitled to obtain or effect the termination of any financing statement filed by the assignee under section 681A.6 to the same extent that a debtor would be entitled to obtain or effect the filing of a termination statement under section 554.9509, subsection 4, paragraph *"b"*, or section 554.9513 upon satisfaction of the secured obligations.

2026 Acts, ch 1165, §19, 32
Referred to in §681A.9, 681A.15
Section effective January 1, 2027; 2026 Acts, ch 1165, §32
NEW section

681A.20 Interstate matters.

1. Subject to subsection 2, an assignment made under the law of another state must be recognized and enforced on an issue if the result for the issue would be substantially similar to the result for the issue if the assignment had been made under this chapter.

2. If a claim for wages, salaries, or commissions or a claim of a governmental unit exists in another state, for the purpose of determining the priority of the claim under section 681A.15, subsection 6, paragraph *"b"*, the assignee shall use the amount asserted or determined under the law of the other state.

3. If an assignee determines that a creditor should receive the treatment the creditor would receive under an assignment made under the law of another state, the assignee may treat the creditor as the creditor would be treated in the other state.

2026 Acts, ch 1165, §20, 32
Section effective January 1, 2027; 2026 Acts, ch 1165, §32
NEW section

681A.21 Court action.

1. A district court may hear and resolve a matter involving the administration of an assignment or the exercise of an assignee's powers and duties, including a request for instructions or approval or to declare rights.

2. Without limiting the rights of the assignee or a creditor or other interested person to request the court to hear or resolve a matter under subsection 1, on request of the assignee, the court may issue an order relating to the administration of the assignment or the exercise of the assignee's powers and duties, including an order for disposition of an asset or the incurrence of an obligation.

3. Acceptance of the assignment by the assignee constitutes the assignee's consent to the jurisdiction of the court.

2026 Acts, ch 1165, §21, 32
Referred to in §681A.12, 681A.13, 681A.18
Section effective January 1, 2027; 2026 Acts, ch 1165, §32
NEW section

681A.22 Ancillary assignee.

1. Subject to other law of this state governing a person from another state serving as a fiduciary in this state, the district court may appoint a person serving as an assignee in an assignment in another state, or the person's nominee, as an ancillary assignee relating to assigned assets located in this state or subject to the jurisdiction of a court in this state, if all of the following apply:

a. The person or nominee would be eligible to serve as an assignee under section 681A.4.

b. The appointment furthers the person's possession, custody, control, or disposition of an assigned asset under the assignment in the other state.

2. The court may issue an order that implements an order entered in another state appointing or directing an assignee or otherwise concerning an assignment in the other state.

3. Unless the court orders otherwise, an ancillary assignee appointed under subsection 1 has the rights, powers, and duties of an assignee appointed under this chapter.

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4. A person in possession, custody, or control of an assigned asset in this state, other than a creditor holding a lien or a right of setoff or recoupment relating to the asset, shall, on notification in a record by an ancillary assignee appointed under subsection 1, turn over the asset to the ancillary assignee.

2026 Acts, ch 1165, §22, 32
Section effective January 1, 2027; 2026 Acts, ch 1165, §32
NEW section

681A.23 Provisions variable by agreement.

1. Except as provided in this section and section 681A.10, subsection 2, the provisions of this chapter shall not be varied by agreement.

2. The duties under section 681A.8, subsection 1, and section 681A.9, subsection 1, shall not be disclaimed by agreement. An assignor and the assignee may determine by agreement the standards measuring the fulfillment of the duties of the assignor under section 681A.8 and the assignee under section 681A.9 if the standards are not manifestly unreasonable.

3. Except as provided in section 681A.17, subsection 4, the assignment agreement may limit the assignee's liability under section 681A.17 and may require the assignee be indemnified by the assignment estate.

4. Except as provided under section 681A.7, subsection 1, whenever this chapter requires an action to be taken within a reasonable time, a time not manifestly unreasonable may be fixed by agreement.

5. The assignment agreement may provide for duties of the assignee in addition to those in this chapter.

2026 Acts, ch 1165, §23, 32
Referred to in §681A.8, 681A.9
Section effective January 1, 2027; 2026 Acts, ch 1165, §32
NEW section

681A.24 Uniformity of application and construction.

In applying and construing this uniform act, a court shall consider the promotion of uniformity of the law among states that enact it.

2026 Acts, ch 1165, §24, 32
Section effective January 1, 2027; 2026 Acts, ch 1165, §32
NEW section

681A.25 Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §7001 et seq., as amended, but does not modify, limit, or supersede 15 U.S.C. §7001(c), or authorize electronic delivery of any of the notices described in 15 U.S.C. §7003(b).

2026 Acts, ch 1165, §25, 32
Section effective January 1, 2027; 2026 Acts, ch 1165, §32
NEW section

681A.26 Transitional provision.

This chapter applies to an assignment made on or after January 1, 2027.

2026 Acts, ch 1165, §26, 32
Section effective January 1, 2027; 2026 Acts, ch 1165, §32
NEW section

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CHAPTER 682

STRUCTURED SETTLEMENT PROTECTION

682.1	Short title.	682.5	Effects of transfer of structured settlement payment rights.
682.2	Definitions.	682.6	Procedure for approval of transfers.
682.3	Required disclosures to payee.	682.7	General provisions — construction — penalties.
682.4	Approval of transfers of structured settlement payment rights.		

682.1 Short title.

This chapter shall be known and may be cited as the *"Structured Settlement Protection Act"*.

2001 Acts, ch 85, §1, 8

682.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Annuity issuer"* means an issuer that has issued an insurance contract used to fund periodic payments under a structured settlement.

2. *"Dependents"* means a payee's spouse and minor children and all other family members and other persons for whom the payee is legally obligated to provide support, including alimony.

3. *"Discounted present value"* means the fair present value of future payments, as determined by discounting such payments to the present using the most recently published applicable federal rate for determining the present value of an annuity, as issued by the United States internal revenue service.

4. *"Gross advance amount"* means the sum payable to the payee or for the payee's account as consideration for a transfer of structured settlement payment rights before any reductions for transfer expenses or other deductions to be made from such consideration.

5. *"Independent professional advice"* means advice of an attorney, certified public accountant, actuary, or other licensed professional advisor.

6. *"Interested parties"* means, with respect to a structured settlement, the payee, a beneficiary irrevocably designated under the annuity contract to receive payments following the payee's death, the annuity issuer, the structured settlement obligor, and any other party that has continuing rights or obligations under the structured settlement.

7. *"Net advance amount"* means the gross advance amount less the aggregate amount of the actual and estimated transfer expenses required to be disclosed under section 682.3, subsection 5.

8. *"Payee"* means an individual who is receiving tax-free payments under a structured settlement and proposes to make a transfer of payment rights.

9. *"Periodic payments"* means both recurring payments and scheduled future lump sum payments.

10. *"Qualified assignment agreement"* means an agreement providing for a qualified assignment within the meaning of section 130 of the Internal Revenue Code.

11. *"Responsible administrative authority"* means, with respect to a structured settlement, any government authority vested by law with exclusive jurisdiction over the settled claim resolved by the structured settlement.

12. *"Settled claim"* means the original tort claim or workers' compensation claim resolved by a structured settlement.

13. *"Structured settlement"* means an arrangement for periodic payment of damages for personal injuries established by settlement or judgment in resolution of a tort claim or for periodic payments in settlement of a workers' compensation claim.

14. *"Structured settlement agreement"* means the agreement, judgment, stipulation, or release embodying the terms of a structured settlement.

15. *"Structured settlement obligor"* means, with respect to a structured settlement, the

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party that has the continuing periodic payment obligation to the payee under a structured settlement agreement or a qualified assignment agreement.

16. *"Structured settlement payment rights"* means rights to receive periodic payments under a structured settlement, whether from the structured settlement obligor or the annuity issuer, if any of the following exists:

a. One of the following is true:

(1) The payee is domiciled in this state.

(2) The domicile or principal place of business of a structured settlement obligor or the annuity issuer is located in this state.

b. The structured settlement agreement was approved by a court or responsible administrative authority in this state.

c. The structured settlement agreement is expressly governed by the laws of this state.

17. *"Terms of the structured settlement"* means, with respect to a structured settlement, the terms of the structured settlement agreement, the annuity contract, any qualified assignment agreement, and any order or approval of any court or responsible administrative authority or other government authority authorizing or approving the structured settlement.

18. *"Transfer"* means any sale, assignment, pledge, hypothecation, or other alienation or encumbrance of structured settlement payment rights made by a payee for consideration. *"Transfer"* does not include the creation or perfection of a security interest in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution, in the absence of any action to redirect the structured settlement payments to such insured depository institution, or an agent or successor in interest thereof, or otherwise to enforce such blanket security interest against the structured settlement payment rights.

19. *"Transfer agreement"* means the agreement providing for transfer of structured settlement payment rights.

20. *"Transferee"* means a party acquiring or proposing to acquire structured settlement payment rights through a transfer.

21. *"Transfer expenses"* means all expenses of a transfer that are required under the transfer agreement to be paid by the payee or deducted from the gross advance amount, including, without limitation, court filing fees, attorney fees, escrow fees, lien recordation fees, judgment and lien search fees, finders' fees, commissions, and other payments to a broker or other intermediary. *"Transfer expenses"* does not include preexisting obligations of the payee payable for the payee's account from the proceeds of a transfer.

2001 Acts, ch 85, §2, 8
Referred to in §633.555

682.3 Required disclosures to payee.

Not less than three days prior to the date on which a payee signs a transfer agreement, the transferee shall provide to the payee a separate disclosure statement, in bold type no smaller than fourteen points, setting forth all of the following:

1. The amounts and due dates of the structured settlement payments to be transferred.

2. The aggregate amount of the structured settlement payments.

3. The discounted present value of the payments to be transferred which shall be identified as the *"calculation of current value of the transferred structured settlement payments under federal standards for valuing annuities"*, and the amount of the applicable federal rate used in calculating the discounted present value.

4. The gross advance amount.

5. An itemized listing of all applicable transfer expenses, other than attorney fees and related disbursements payable in connection with the transferee's application for approval of the transfer, and the transferee's best estimate of the amount of any such fees and disbursements.

6. The net advance amount.

7. The amount of any penalties or liquidated damages payable by the payee in the event of any breach of the transfer agreement by the payee.

8. A statement that the payee has the right to cancel the transfer agreement, without

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penalty or further obligation, not later than the third business day after the agreement is signed by the payee.

2001 Acts, ch 85, §3, 8
Referred to in §682.2, 682.6, 682.7

682.4 Approval of transfers of structured settlement payment rights.

1. A transfer of structured settlement payment rights shall not be effective and a structured settlement obligor or annuity issuer shall not be required to make any payment directly or indirectly to a transferee of structured settlement payment rights unless the transfer has been approved in advance in a final court order or order of a responsible administrative authority based on express findings by such court or responsible administrative authority regarding all of the following:

a. The transfer is in the best interest of the payee, taking into account the welfare and support of the payee's dependents.

b. The payee has been advised in writing by the transferee to seek independent professional advice regarding the transfer and has either received such advice or knowingly waived such advice in writing.

c. The transfer does not contravene any applicable statute or the order of any court or other government authority.

2. If the structured settlement agreement or transfer agreement includes a provision requiring the terms of the structured settlement agreement or transfer agreement to remain confidential, the court or responsible administrative authority shall conduct in camera proceedings relating to the approval of the transfer agreement and shall not include any financial terms from the structured settlement agreement or the transfer agreement in the order required under subsection 1.

2001 Acts, ch 85, §4, 8
Referred to in §682.6, 682.7

682.5 Effects of transfer of structured settlement payment rights.

1. The structured settlement obligor and the annuity issuer shall, as to all parties except the transferee, be discharged and released from any and all liability for the transferred payments.

2. The transferee shall be liable to the structured settlement obligor and the annuity issuer for all of the following:

a. If the transfer contravenes the terms of the structured settlement, any taxes incurred by the structured settlement obligor and the annuity issuer as a consequence of the transfer.

b. Any other liabilities or costs, including reasonable costs and attorney fees, arising from compliance by such parties with the order of the court or responsible administrative authority or arising as a consequence of the transferee's failure to comply with this chapter.

3. An annuity issuer and the structured settlement obligor shall not be required to divide any periodic payment between the payee and any transferee or assignee or between two or more transferees or assignees.

4. Any further transfer of structured settlement payment rights by the payee may be made only after compliance with all of the requirements of this chapter.

2001 Acts, ch 85, §5, 8

682.6 Procedure for approval of transfers.

1. An application under this chapter for approval of a transfer of structured settlement payment rights shall be made by the transferee and may be brought in the county in which the payee resides, in the county in which the structured settlement obligor or the annuity issuer maintains its principal place of business, or in any court or before any responsible administrative authority which approved the structured settlement agreement.

2. Not less than twenty days prior to the scheduled hearing on any application for approval of a transfer of structured settlement payment rights under section 682.4, the transferee shall file with the court or responsible administrative authority and serve on all interested parties a notice of the proposed transfer and the application for its authorization. All of the following shall be included with the notice:

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a. A copy of the transferee's application.

b. A copy of the transfer agreement.

c. A copy of the disclosure statement required under section 682.3.

d. A listing of each of the payee's dependents, together with each dependent's age.

e. Notification that any interested party is entitled to support, oppose, or otherwise respond to the transferee's application, either in person or by counsel, by submitting written comments to the court or responsible administrative authority, or by participating in the hearing.

f. Notification of the time and place of the hearing and notification of the manner in which and the time by which written responses to the application must be filed, which shall not be less than fifteen days after service of the transferee's notice, in order to be considered by the court or responsible administrative authority.

3. If a structured settlement agreement or transfer agreement includes a provision requiring the terms of the structured settlement agreement or transfer agreement to remain confidential, the financial terms of the structured settlement agreement and the transfer agreement shall be made available to the court or responsible administrative authority for purposes of any in camera proceedings, but shall not be disclosed in the copies of the transfer agreement and disclosure statement filed as a part of the public record.

2001 Acts, ch 85, §6, 8

682.7 General provisions — construction — penalties.

1. The provisions of this chapter shall not be waived by a payee.

2. A transfer agreement entered into on or after the thirtieth day after July 1, 2001, by a payee who resides in this state shall provide that disputes under the transfer agreement, including any claim that the payee has breached the agreement, shall be determined under the laws of this state. A transfer agreement shall not authorize the transferee or any other party to confess judgment or consent to entry of judgment against the payee.

3. A transfer of structured settlement payment rights shall not extend to any payments that are life-contingent unless, prior to the date on which the payee signs the transfer agreement, the transferee has established and has agreed to maintain procedures reasonably satisfactory to the annuity issuer and the structured settlement obligor for both of the following:

a. Periodically confirming the payee's survival.

b. Giving the annuity issuer and the structured settlement obligor prompt written notice in the event of the payee's death.

4. A payee who proposes to make a transfer of structured settlement payment rights shall not incur any penalty, forfeit any application fee or other payment, or otherwise incur any liability to the proposed transferee or any assignee based on any failure of the transfer to satisfy the conditions of this chapter.

5. This chapter shall not be construed to authorize any transfer of structured settlement payment rights in contravention of any law or to imply that any transfer under a transfer agreement entered into prior to July 1, 2001, is valid or invalid.

6. Compliance with the requirements set forth in section 682.3 and fulfillment of the conditions set forth in section 682.4 shall be solely the responsibility of the transferee in any transfer of structured settlement payment rights, and neither the structured settlement obligor nor the annuity issuer shall bear any responsibility for, or any liability arising from, noncompliance with the requirements or failure to fulfill the conditions.

2001 Acts, ch 85, §7

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CHAPTER 683

ACTIONS RELATED TO FIREARMS, FIREARM ACCESSORIES, AND AMMUNITION

683.1 Prohibition of certain actions resulting from criminal or unlawful use of firearm, firearm accessory, or ammunition by third party — definitions.

683.2 Fees and costs awarded for prohibited actions.

683.3 Allowable actions.

683.4 Firearm hold agreements — liability.

683.1 Prohibition of certain actions resulting from criminal or unlawful use of firearm, firearm accessory, or ammunition by third party — definitions.

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

a. "Ammunition" means any projectile capable of being expelled or propelled from any firearm by the action of a propellant, any cartridge or shotshell designed for the purpose of expelling such a projectile from a firearm, and any component parts thereof.

b. "Federal firearms licensee" means any person engaged in the business of importing, manufacturing, or dealing in firearms as defined by the federal National Firearms Act, 26 U.S.C. §5841, and who currently holds a valid license according to provisions of the federal Gun Control Act of 1968, 18 U.S.C. §921.

c. "Firearm" means any weapon that is capable of expelling, designed to expel, or that may readily be converted to expel ammunition.

d. "Firearm hold agreement" means a private transaction between a federal firearms licensee and an individual owner where the licensee takes possession of the owner's lawfully possessed firearm at the owner's request, holds the firearm for an agreed period of time, and returns the firearm according to the terms of the transaction.

2. A person shall not bring or maintain an action against a firearm, firearm accessory, or ammunition manufacturer, importer, distributor, trade association, seller, or dealer for any of the following:

a. Recovery of damages resulting from, or injunctive relief or abatement of a nuisance, statutory or in common law, relating to, the lawful design, manufacture, marketing, or sale of a firearm, firearm accessory, or ammunition.

b. Recovery of damages resulting from the criminal or unlawful use of a firearm, firearm accessory, or ammunition by a third party. All defenses provided for in section 668.12 shall apply to actions under this section.

2021 Acts, ch 34, §1; 2024 Acts, ch 1113, §1; 2024 Acts, ch 1154, §19

Referred to in §683.2, 683.3

683.2 Fees and costs awarded for prohibited actions.

If a court finds that a party has brought an action under a theory of recovery described in section 683.1, subsection 2, the finding constitutes conclusive evidence that the action is groundless, and the court shall dismiss the claim or action and award to the defendant any reasonable attorney fee and costs incurred in defending the claim or action.

2021 Acts, ch 34, §2

683.3 Allowable actions.

This chapter shall not be construed to prohibit a person from bringing or maintaining an action against a firearm, firearm accessory, or ammunition manufacturer, importer, distributor, trade association, seller, or dealer for recovery of damages for any of the following:

1. Breach of contract or warranty concerning firearms, firearms accessories, or ammunition purchased by a person.

2. Damage or harm to a person or to property owned or leased by a person caused by a defective firearm, firearm accessory, or ammunition.

3. Injunctive relief to enforce a valid statute, rule, or ordinance. However, a person shall

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not bring an action seeking injunctive relief if that action is barred under section 683.1, subsection 2.

2021 Acts, ch 34, §3

683.4 Firearm hold agreements — liability.

1. A person shall not have a cause of action against a federal firearms licensee operating lawfully in the state for any act or omission arising from or subsequent to a firearm hold agreement and resulting in personal injury or death of any natural person, including the return of a firearm to the individual firearm owner by a federal firearms licensee at the termination of a firearm hold agreement.

2. Subsection 1 shall not apply to any action arising from a firearm hold agreement if such action was the result of otherwise unlawful conduct on the part of the federal firearms licensee.

2024 Acts, ch 1113, §2

CHAPTER 684

VOIDABLE TRANSACTIONS

Referred to in §252B.6A, 521I.8

2016 amendments apply to a transfer made or an obligation incurred, as provided in §684.6, on or after July 1, 2016; 2016 Acts, ch 1040, §15

684.1	Definitions.	684.9	Extinguishment of claim for relief.
684.2	Insolvency.	684.10	Governing law.
684.3	Value.	684.11	Application to series organization.
684.4	Transfer or obligation voidable as to present or future creditor.	684.12	Supplementary provisions.
684.5	Transfer or obligation voidable as to present creditor.	684.13	Uniformity of application and construction.
684.6	When transfer is made or obligation is incurred.	684.14	Relation to Electronic Signatures in Global and National Commerce Act.
684.7	Remedies of creditors.	684.15	Short title.
684.8	Defenses, liability, and protection of transferee or obligee.		

684.1 Definitions.

As used in this chapter:

1. *"Affiliate"* means any of the following:

a. A person that directly or indirectly owns, controls, or holds with power to vote, twenty percent or more of the outstanding voting securities of the debtor, other than a person that holds the securities as either of the following:

(1) As a fiduciary or agent without sole discretionary power to vote the securities.

(2) Solely to secure a debt, if the person has not in fact exercised the power to vote.

b. A corporation twenty percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor or a person that directly or indirectly owns, controls, or holds with power to vote, twenty percent or more of the outstanding voting securities of the debtor, other than a person that holds the securities as either of the following:

(1) As a fiduciary or agent without sole discretionary power to vote the securities.

(2) Solely to secure a debt, if the person has not in fact exercised the power to vote.

c. A person whose business is operated by the debtor under a lease or other agreement, or a person substantially all of whose assets are controlled by the debtor.

d. A person that operates the debtor's business under a lease or other agreement or controls substantially all of the debtor's assets.

2. *"Asset"* means property of a debtor, but does not include any of the following:

a. Property to the extent it is encumbered by a valid lien.

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b. Property to the extent it is generally exempt under nonbankruptcy law.

c. An interest in property held in tenancy by the entireties to the extent it is not subject to process by a creditor holding a claim against only one tenant.

3. *"Claim"*, except as used in *"claim for relief"*, means a right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.

4. *"Creditor"* means a person that has a claim.

5. *"Debt"* means liability on a claim.

6. *"Debtor"* means a person that is liable on a claim.

7. *"Electronic"* means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

8. *"Insider"* includes all of the following:

a. If the debtor is an individual, all of the following:

(1) A relative of the debtor or of a general partner of the debtor.

(2) A partnership in which the debtor is a general partner.

(3) A general partner in a partnership described in subparagraph (2).

(4) A corporation of which the debtor is a director, officer, or person in control.

b. If the debtor is a corporation, all of the following:

(1) A director of the debtor.

(2) An officer of the debtor.

(3) A person in control of the debtor.

(4) A partnership in which the debtor is a general partner.

(5) A general partner in a partnership described in subparagraph (4).

(6) A relative of a general partner, director, officer, or person in control of the debtor.

c. If the debtor is a partnership, all of the following:

(1) A general partner in the debtor.

(2) A relative of a general partner in, or a general partner of, or a person in control of the debtor.

(3) Another partnership in which the debtor is a general partner.

(4) A general partner in a partnership described in subparagraph (3).

(5) A person in control of the debtor.

d. An affiliate, or an insider of an affiliate as if the affiliate were the debtor.

e. A managing agent of the debtor.

9. *"Lien"* means a charge against or an interest in property to secure payment of a debt or performance of an obligation, and includes a security interest created by agreement, a judicial lien obtained by legal or equitable process or proceedings, a common-law lien, or a statutory lien.

10. *"Organization"* means a person other than an individual.

11. *"Person"* means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

12. *"Property"* means anything that may be the subject of ownership.

13. *"Record"* means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

14. *"Relative"* means an individual related by consanguinity within the third degree as determined by the common law, a spouse, or an individual related to a spouse within the third degree as so determined, and includes an individual in an adoptive relationship within the third degree.

15. *"Sign"* means, with present intent to authenticate or adopt a record to do either of the following:

a. Execute or adopt a tangible symbol.

b. Attach to or logically associate with the record an electronic symbol, sound, or process.

16. *"Transfer"* means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease, license, and creation of a lien or other encumbrance.

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17. *"Valid lien"* means a lien that is effective against the holder of a judicial lien subsequently obtained by legal or equitable process or proceedings.

94 Acts, ch 1121, §5; 2016 Acts, ch 1040, §1, 15

2016 amendment applies to a transfer made or an obligation incurred, as provided in §684.6, on or after July 1, 2016; 2016 Acts, ch 1040, §15

684.2 Insolvency.

1. A debtor is insolvent if, at a fair valuation, the sum of the debtor's debts is greater than the sum of the debtor's assets.

2. A debtor that is generally not paying the debtor's debts as they become due other than as a result of a bona fide dispute is presumed to be insolvent. The presumption imposes on the party against which the presumption is directed the burden of proving that the nonexistence of insolvency is more probable than its existence.

3. Assets under this section do not include property that has been transferred, concealed, or removed with intent to hinder, delay, or defraud creditors or that has been transferred in a manner making the transfer voidable under this chapter.

4. Debts under this section do not include an obligation to the extent it is secured by a valid lien on property of the debtor not included as an asset.

94 Acts, ch 1121, §6; 2016 Acts, ch 1040, §2, 15

Referred to in §684.5

2016 amendment applies to a transfer made or an obligation incurred, as provided in §684.6, on or after July 1, 2016; 2016 Acts, ch 1040, §15

684.3 Value.

1. Value is given for a transfer or an obligation if, in exchange for the transfer or obligation, property is transferred or an antecedent debt is secured or satisfied, but value does not include an unperformed promise made otherwise than in the ordinary course of the promisor's business to furnish support to the debtor or another person.

2. For the purposes of section 684.4, subsection 1, paragraph *"b"*, and section 684.5, a person gives a reasonably equivalent value if the person acquires an interest of the debtor in an asset pursuant to a regularly conducted, noncollusive foreclosure sale or execution of a power of sale for the acquisition or disposition of the interest of the debtor upon default under a mortgage, deed of trust, or security agreement.

3. A transfer is made for present value if the exchange between the debtor and the transferee is intended by them to be contemporaneous and is in fact substantially contemporaneous.

94 Acts, ch 1121, §7

684.4 Transfer or obligation voidable as to present or future creditor.

1. A transfer made or obligation incurred by a debtor is voidable as to a creditor, whether the creditor's claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation under any of the following circumstances:

a. With actual intent to hinder, delay, or defraud any creditor of the debtor.

b. Without receiving a reasonably equivalent value in exchange for the transfer or obligation, if either of the following applies:

(1) The debtor was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction.

(2) The debtor intended to incur, or believed or reasonably should have believed that the debtor would incur, debts beyond the debtor's ability to pay as they became due.

2. In determining actual intent under subsection 1, paragraph *"a"*, consideration may be given, among other factors, to whether any or all of the following apply:

a. The transfer or obligation was to an insider.

b. The debtor retained possession or control of the property transferred after the transfer.

c. The transfer or obligation was disclosed or concealed.

d. Before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit.

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e. The transfer was of substantially all the debtor's assets.

f. The debtor absconded.

g. The debtor removed or concealed assets.

h. The value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred.

i. The debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred.

j. The transfer occurred shortly before or shortly after a substantial debt was incurred.

k. The debtor transferred the essential assets of the business to a lienor that transferred the assets to an insider of the debtor.

3. A creditor making a claim for relief under subsection 1 has the burden of proving the elements of the claim for relief by a preponderance of the evidence.

94 Acts, ch 1121, §8; 2016 Acts, ch 1040, §3, 15

Referred to in §684.3, 684.8, 684.9

2016 amendment applies to a transfer made or an obligation incurred, as provided in §684.6, on or after July 1, 2016; 2016 Acts, ch 1040, §15

684.5 Transfer or obligation voidable as to present creditor.

1. A transfer made or obligation incurred by a debtor is voidable as to a creditor whose claim arose before the transfer was made or the obligation was incurred if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at that time or the debtor became insolvent as a result of the transfer or obligation.

2. A transfer made by a debtor is voidable as to a creditor whose claim arose before the transfer was made if the transfer was made to an insider for an antecedent debt, the debtor was insolvent at that time, and the insider had reasonable cause to believe that the debtor was insolvent.

3. Subject to section 684.2, subsection 2, a creditor making a claim for relief under subsection 1 or 2 has the burden of proving the elements of the claim for relief by a preponderance of the evidence.

94 Acts, ch 1121, §9; 2016 Acts, ch 1040, §4, 15

Referred to in §684.3, 684.8, 684.9

2016 amendment applies to a transfer made or an obligation incurred, as provided in §684.6, on or after July 1, 2016; 2016 Acts, ch 1040, §15

684.6 When transfer is made or obligation is incurred.

For the purposes of this chapter:

1. A transfer is made under either of the following circumstances:

a. With respect to an asset that is real property other than a fixture, but including the interest of a seller or purchaser under a contract for the sale of the asset, when the transfer is so far perfected that a good-faith purchaser of the asset from the debtor against which applicable law permits the transfer to be perfected cannot acquire an interest in the asset that is superior to the interest of the transferee.

b. With respect to an asset that is not real property or that is a fixture, when the transfer is so far perfected that a creditor on a simple contract cannot acquire a judicial lien otherwise than under this chapter that is superior to the interest of the transferee.

2. If applicable law permits the transfer to be perfected as provided in subsection 1 and the transfer is not so perfected before the commencement of an action for relief under this chapter, the transfer is deemed made immediately before the commencement of the action.

3. If applicable law does not permit the transfer to be perfected as provided in subsection 1, the transfer is made when it becomes effective between the debtor and the transferee.

4. A transfer is not made until the debtor has acquired rights in the asset transferred.

5. An obligation is incurred under either of the following circumstances:

a. If oral, when it becomes effective between the parties.

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b. If evidenced by a record, when the record signed by the obligor is delivered to or for the benefit of the obligee.

94 Acts, ch 1121, §10; 2016 Acts, ch 1040, §5, 6, 15

2016 amendments to subsection 1, paragraph a, and subsection 5, paragraph b, apply to a transfer made or an obligation incurred, as provided in this section, on or after July 1, 2016; 2016 Acts, ch 1040, §15

684.7 Remedies of creditors.

1. In an action for relief against a transfer or obligation under this chapter, a creditor, subject to the limitations in section 684.8, may obtain any of the following:

a. Avoidance of the transfer or obligation to the extent necessary to satisfy the creditor's claim.

b. An attachment or other provisional remedy against the asset transferred or other property of the transferee if available under applicable law.

c. Subject to applicable principles of equity and in accordance with applicable rules of civil procedure, any of the following:

(1) An injunction against further disposition by the debtor or a transferee, or both, of the asset transferred or of other property.

(2) Appointment of a receiver to take charge of the asset transferred or of other property of the transferee.

(3) Any other relief the circumstances may require.

2. If a creditor has obtained a judgment on a claim against the debtor, the creditor, if the court so orders, may levy execution on the asset transferred or its proceeds.

94 Acts, ch 1121, §11; 2016 Acts, ch 1040, §7, 15

Referred to in §684.8

2016 amendment to subsection 1, paragraph b, applies to a transfer made or an obligation incurred, as provided in §684.6, on or after July 1, 2016; 2016 Acts, ch 1040, §15

684.8 Defenses, liability, and protection of transferee or obligee.

1. A transfer or obligation is not voidable under section 684.4, subsection 1, paragraph *"a"*, against a person that took in good faith and for a reasonably equivalent value given the debtor or against any subsequent transferee or obligee.

2. To the extent a transfer is avoidable in an action by a creditor under section 684.7, subsection 1, paragraph *"a"*, all of the following apply:

a. Except as otherwise provided in this section, the creditor may recover judgment for the value of the asset transferred, as adjusted under subsection 3, or the amount necessary to satisfy the creditor's claim, whichever is less. The judgment may be entered against either of the following:

(1) The first transferee of the asset or the person for whose benefit the transfer was made.

(2) An immediate or mediate transferee of the first transferee, other than any of the following:

(a) A good-faith transferee that took for value.

(b) An immediate or mediate good-faith transferee of a person described in subparagraph division (a).

b. Recovery pursuant to section 684.7, subsection 1, paragraph *"a"*, or section 684.7, subsection 2, of or from the asset transferred or its proceeds, by levy or otherwise, is available only against a person described in paragraph *"a"*, subparagraph (1) or (2).

3. If the judgment under subsection 2 is based upon the value of the asset transferred, the judgment must be for an amount equal to the value of the asset at the time of the transfer, subject to adjustment as the equities may require.

4. Notwithstanding voidability of a transfer or an obligation under this chapter, a good-faith transferee or obligee is entitled, to the extent of the value given the debtor for the transfer or obligation, to any of the following:

a. A lien on or a right to retain an interest in the asset transferred.

b. Enforcement of an obligation incurred.

c. A reduction in the amount of the liability on the judgment.

5. A transfer is not voidable under section 684.4, subsection 1, paragraph *"b"*, or section 684.5 if the transfer results from either of the following:

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a. Termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law.

b. Enforcement of a security interest in compliance with chapter 554, article 9, other than acceptance of collateral in full or partial satisfaction of the obligation it secures.

6. A transfer is not voidable under section 684.5, subsection 2, in any of the following circumstances:

a. To the extent the insider gave new value to or for the benefit of the debtor after the transfer was made, except to the extent the new value was secured by a valid lien.

b. If made in the ordinary course of business or financial affairs of the debtor and the insider.

c. If made pursuant to a good-faith effort to rehabilitate the debtor and the transfer secured present value given for that purpose as well as an antecedent debt of the debtor.

7. The burden of proving matters referred to in this section is determined according to the following:

a. A party that seeks to invoke subsection 1, 4, 5, or 6, has the burden of proving the applicability of that subsection.

b. Except as otherwise provided in paragraphs *"c"* and *"d"*, the creditor has the burden of proving each applicable element of subsection 2 or 3.

c. The transferee has the burden of proving the applicability to the transferee of subsection 2, paragraph *"a"*, subparagraph (2), subparagraph division (a) or (b).

d. A party that seeks adjustment under subsection 3 has the burden of proving the adjustment.

8. The standard of proof required to establish matters referred to in this section is preponderance of the evidence.

94 Acts, ch 1121, §12; 2016 Acts, ch 1040, §8, 15
Referred to in §684.7
2016 amendment applies to a transfer made or an obligation incurred, as provided in §684.6, on or after July 1, 2016; 2016 Acts, ch 1040, §15

684.9 Extinguishment of claim for relief.

A claim for relief with respect to a transfer or obligation under this chapter is extinguished unless action is brought as follows:

1. Under section 684.4, subsection 1, paragraph *"a"*, not later than four years after the transfer was made or the obligation was incurred or, if later, not later than one year after the transfer or obligation was or could reasonably have been discovered by the claimant.

2. Under section 684.4, subsection 1, paragraph *"b"*, or section 684.5, subsection 1, not later than four years after the transfer was made or the obligation was incurred.

3. Under section 684.5, subsection 2, not later than one year after the transfer was made.

94 Acts, ch 1121, §13; 2016 Acts, ch 1040, §9, 15
2016 amendment applies to a transfer made or an obligation incurred, as provided in §684.6, on or after July 1, 2016; 2016 Acts, ch 1040, §15

684.10 Governing law.

1. In this section, a debtor's location is determined as follows:

a. A debtor who is an individual is located at the individual's principal residence.

b. A debtor that is an organization and has only one place of business is located at its place of business.

c. A debtor that is an organization and has more than one place of business is located at its chief executive office.

2. A claim for relief in the nature of a claim for relief under this chapter is governed by the local law of the jurisdiction in which the debtor is located when the transfer is made or the obligation is incurred.

2016 Acts, ch 1040, §10, 14, 15
Former §684.10 transferred to §684.12; 2016 Acts, ch 1040, §14
Section applies to a transfer made or an obligation incurred, as provided in §684.6, on or after July 1, 2016; 2016 Acts, ch 1040, §15

684.11 Application to series organization.

1. As used in this section:

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a. "Protected series" means an arrangement, however denominated, created by a series organization that, pursuant to the law under which the series organization is organized, has the characteristics set forth in paragraph *"b"*.

b. "Series organization" means an organization that, pursuant to the law under which it is organized, has the following characteristics:

(1) The organic record of the organization provides for creation by the organization of one or more protected series, however denominated, with respect to specified property of the organization, and for records to be maintained for each protected series that identify the property of or associated with the protected series.

(2) Debt incurred or existing with respect to the activities of, or property of or associated with, a particular protected series is enforceable against the property of or associated with the protected series only, and not against the property of or associated with the organization or other protected series of the organization.

(3) Debt incurred or existing with respect to the activities or property of the organization is enforceable against the property of the organization only, and not against the property of or associated with a protected series of the organization.

2. A series organization and each protected series of the organization is a separate person for purposes of this chapter, even if for other purposes a protected series is not a person separate from the organization or other protected series of the organization.

2016 Acts, ch 1040, §11, 14, 15
Former §684.11 transferred to §684.13; 2016 Acts, ch 1040, §14
Section applies to a transfer made or an obligation incurred, as provided in §684.6, on or after July 1, 2016; 2016 Acts, ch 1040, §15

684.12 Supplementary provisions.

Unless displaced by the provisions of this chapter, the principles of law and equity, including the law merchant and the law relating to principal and agent, estoppel, laches, fraud, misrepresentation, duress, coercion, mistake, insolvency, or other validating or invalidating cause, supplement its provisions.

94 Acts, ch 1121, §14
C95, §684.10
2016 Acts, ch 1040, §14, 15
C2017, §684.12
Former §684.12 transferred to §684.15; 2016 Acts, ch 1040, §14

684.13 Uniformity of application and construction.

This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

94 Acts, ch 1121, §15
C95, §684.11
2016 Acts, ch 1040, §14, 15
C2017, §684.13

684.14 Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §7001 et seq., but does not modify, limit, or supersede section 101(c) of that Act, 15 U.S.C. §7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that Act, 15 U.S.C. §7003(b).

2016 Acts, ch 1040, §12, 14, 15
Section applies to a transfer made or an obligation incurred, as provided in §684.6, on or after July 1, 2016; 2016 Acts, ch 1040, §15

684.15 Short title.

This chapter, which was formerly cited as the *"Uniform Fraudulent Transfer Act"*, may be cited as the *"Iowa Uniform Voidable Transactions Act"*.

94 Acts, ch 1121, §16
C95, §684.12

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2016 Acts, ch 1040, §13 – 15
C2017, §684.15
2016 amendment applies to a transfer made or an obligation incurred, as provided in §684.6, on or after July 1, 2016; 2016 Acts, ch 1040, §15

CHAPTER 684A

QUESTIONS OF LAW IN SUPREME COURT CERTIFIED

684A.1 Power to answer.
684A.2 Method of invoking.
684A.3 Contents of certification order.
684A.4 Preparation of certification order.
684A.5 Costs of certification.
684A.6 Procedure.
684A.7 Opinion.
684A.8 Power to certify.
684A.9 Procedure on certifying.
684A.10 Construction.
684A.11 Title.

684A.1 Power to answer.

The supreme court may answer questions of law certified to it by the supreme court of the United States, a court of appeals of the United States, a United States district court or the highest appellate court or the intermediate appellate court of another state, when requested by the certifying court, if there are involved in a proceeding before it questions of law of this state which may be determinative of the cause then pending in the certifying court and as to which it appears to the certifying court there is no controlling precedent in the decisions of the appellate courts of this state.

[C81, §684A.1]
Referred to in §684A.2

684A.2 Method of invoking.

This chapter may be invoked by an order of a court referred to in section 684A.1 upon the court's own motion or upon the motion of a party to the cause.

[C81, §684A.2]

684A.3 Contents of certification order.

A certification order shall set forth the questions of law to be answered and a statement of facts relevant to the questions certified, showing fully the nature of the controversy in which the questions arose.

[C81, §684A.3]

684A.4 Preparation of certification order.

The certification order shall be prepared by the certifying court, signed by the judge presiding at the hearing, and forwarded to the supreme court by the clerk of the certifying court under its official seal. The supreme court may require the original or copies of all or of a portion of the record before the certifying court to be filed with the certification order, if, in the opinion of the supreme court, the record or portion of it is necessary in answering the questions.

[C81, §684A.4]

684A.5 Costs of certification.

Fees and costs shall be the same as in civil appeals docketed before the supreme court and shall be equally divided between the parties unless otherwise ordered by the certifying court in its order of certification.

[C81, §684A.5]

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684A.6 Procedure.

The supreme court may prescribe rules of procedure concerning the answering and certification of questions of law under this chapter.

[C81, §684A.6]

83 Acts, ch 186, §10128, 10201; 98 Acts, ch 1115, §17, 21

Rules adopted by the supreme court are published in the compilation "Iowa Court Rules"

684A.7 Opinion.

The written opinion of the supreme court stating the law governing the questions certified shall be sent by the clerk under the seal of the supreme court to the certifying court and to the parties.

[C81, §684A.7]

684A.8 Power to certify.

The supreme court or the court of appeals, on its own motion or the motion of a party, may order certification of questions of law to the highest court of another state when it appears to the certifying court that there are involved in a proceeding before the court questions of law of the receiving state which may be determinative of the cause then pending in the certifying court and it appears to the certifying court that there are no controlling precedents in the decisions of the highest court or intermediate appellate courts of the receiving state.

[C81, §684A.8]

684A.9 Procedure on certifying.

The procedures for certification from this state to the receiving state are those provided in the laws of the receiving state.

[C81, §684A.9]

684A.10 Construction.

This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

[C81, §684A.10]

684A.11 Title.

This chapter may be cited as the *"Uniform Certification of Questions of Law Act"*.

[C81, §684A.11]

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CHAPTER 685

FALSE CLAIMS

Referred to in §249A.39, 249A.45, 249A.47, 249A.49

Annual report by attorney general to chairperson and ranking members of committees on judiciary, legislative caucus staffs, and legislative services agency providing statistics on cases filed, courts in which cases were filed, qui tam plaintiffs, recovery amounts, and apportionment of recovery amounts; 2010 Acts, ch 1031, §345

685.1 Definitions.
685.2 Acts subjecting person to treble damages, costs, and civil penalties — exceptions.
685.3 Investigations and prosecutions — powers of prosecuting authority — civil actions by individuals as qui tam plaintiffs and as private citizens — jurisdiction of courts.
685.4 Procedure — statute of limitations.
685.5 Jurisdiction.
685.6 Civil investigative demands.
685.7 Rulemaking authority.

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685.1 Definitions.

1. *"Claim"* means any request or demand, whether pursuant to a contract or otherwise, for money or property and whether the state has title to the money or property, which is presented to an officer, employee, agent, or other representative of the state or to a contractor, grantee, or other person if the money or property is to be spent or used on the state's behalf or to advance a state program or interest, and if the state provides any portion of the money or property which is requested or demanded, or if the state will reimburse directly or indirectly such contractor, grantee, or other person for any portion of the money or property which is requested or demanded. *"Claim"* does not include any requests or demands for money or property that the state has paid to an individual as compensation for state employment or as an income subsidy with no restrictions on that individual's use of the money or property.

2. *"Custodian"* means the custodian, or any deputy custodian, designated by the attorney general under section 685.6.

3. *"Documentary material"* includes the original or any copy of any book, record, report, memorandum, paper, communication, tabulation, chart, or other document, or data compilations stored in or accessible through computer or other information retrieval systems, together with instructions and all other materials necessary to use or interpret such data compilations, and any product of discovery.

4. *"False claims law"* means this chapter.

5. *"False claims law investigation"* means any inquiry conducted by a false claims law investigator for the purpose of ascertaining whether any person is or has been engaged in any violation of a false claims law.

6. *"False claims law investigator"* means any attorney or investigator employed by the department of justice who is charged with the duty of enforcing or carrying into effect any false claims law, or any officer or employee of the state acting under the direction and supervision of such attorney or investigator in connection with a false claims law investigation.

7. *a.* *"Knowing"* or *"knowingly"* means that a person with respect to information, does any of the following:

(1) Has actual knowledge of the information.

(2) Acts in deliberate ignorance of the truth or falsity of the information.

(3) Acts in reckless disregard of the truth or falsity of the information.

b. *"Knowing"* or *"knowingly"* does not require proof of specific intent to defraud.

8. *"Material"* means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.

9. *"Obligation"* means an established duty, whether or not fixed, arising from an express

or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar relationship, from statute or regulation, or from the retention of any overpayment.

10. *"Official use"* means any use that is consistent with the law, and the regulations and policies of the department of justice, including use, in connection with internal department of justice memoranda and reports; communications between the department of justice and a federal, state, or local government agency or a contractor of a federal, state, or local government agency, undertaken in furtherance of a department of justice investigation or prosecution of a case; interviews of any qui tam plaintiff or other witness; oral examinations; depositions; preparation for and response to civil discovery requests; introduction into the record of a case or proceeding; applications, motions, memoranda and briefs submitted to a court or other tribunal; and communications with government investigators, auditors, consultants and experts, the counsel of other parties, and arbitrators and mediators, concerning an investigation, case, or proceeding.

11. *"Original source"* means an individual who prior to a public disclosure under section 685.3, subsection 5, paragraph *"c"*, has voluntarily disclosed to the state the information on which the allegations or transactions in a claim are based; or who has knowledge that is independent of and materially adds to the publicly disclosed allegations or transactions, and has voluntarily provided the information to the state before filing an action under this chapter.

12. *"Person"* means any natural person, partnership, corporation, association, or other legal entity, including any state or political subdivision of the state.

13. *"Product of discovery"* includes all of the following:

a. The original or duplicate of any deposition, interrogatory, document, thing, result of the inspection of land or other property, examination, or admission, which is obtained by any method of discovery in any judicial or administrative proceeding of an adversarial nature.

b. Any digest, analysis, selection, compilation, or derivation of any item listed in paragraph *"a"*.

c. Any index or other manner of access to any item listed in paragraph *"a"*.

14. *"Qui tam plaintiff"* means a private plaintiff who brings an action under this chapter on behalf of the state.

15. *"State"* means the state of Iowa.

2010 Acts, ch 1031, §338; 2011 Acts, ch 129, §100, 101, 156

685.2 Acts subjecting person to treble damages, costs, and civil penalties — exceptions.

1. A person who commits any of the following acts is liable to the state for a civil penalty of not less than and not more than the civil penalty allowed under the federal False Claims Act, as codified in 31 U.S.C. §3729 et seq., as may be adjusted in accordance with the inflation adjustment procedures prescribed in the federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. No. 101-410, for each false or fraudulent claim, plus three times the amount of damages which the state sustains:

a. Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval.

b. Knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim.

c. Conspires to commit a violation of paragraph *"a"*, *"b"*, *"d"*, *"e"*, *"f"*, or *"g"*.

d. Has possession, custody, or control of property or money used, or to be used, by the state and knowingly delivers, or causes to be delivered, less than all of that money or property.

e. Is authorized to make or deliver a document certifying receipt of property used, or to be used, by the state and, intending to defraud the state, makes or delivers the receipt without completely knowing that the information on the receipt is true.

f. Knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the state, or a member of the Iowa national guard, who lawfully may not sell or pledge property.

g. Knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the state, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the state.

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2. Notwithstanding subsection 1, the court may assess not less than two times the amount of damages which the state sustains because of the act of the person described in subsection 1, if the court finds all of the following:

a. The person committing the violation furnished officials of the state responsible for investigating false claims violations with all information known to such person about the violation within thirty days after the date on which the person first obtained the information.

b. The person fully cooperated with the state investigation of such violation.

c. At the time the person furnished the state with the information about the violation, a criminal prosecution, civil action, or administrative action had not commenced under this chapter with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation.

3. A person violating this section shall also be liable to the state for the costs of a civil action brought to recover any such penalty or damages.

4. Any information furnished pursuant to subsection 2 is deemed confidential information exempt from disclosure pursuant to chapter 22.

5. This section shall not apply to claims, records, or statements made under Title X relating to state revenue and taxation.

2010 Acts, ch 1031, §339; 2011 Acts, ch 129, §102, 156
Referred to in §685.3, 685.4, 685.5

685.3 Investigations and prosecutions — powers of prosecuting authority — civil actions by individuals as qui tam plaintiffs and as private citizens — jurisdiction of courts.

1. The attorney general shall diligently investigate a violation under section 685.2. If the attorney general finds that a person has violated or is violating section 685.2, the attorney general may bring a civil action under this section against that person.

2. *a.* A person may bring a civil action for a violation of this chapter for the person and for the state, in the name of the state. The person bringing the action shall be referred to as the qui tam plaintiff. Once filed, the action may be dismissed only if the court and the attorney general provide written consent to the dismissal and the reasons for such consent.

b. A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the attorney general pursuant to the Iowa rules of civil procedure. The complaint shall also be filed in camera, shall remain under seal for at least sixty days, and shall not be served on the defendant until the court so orders. The state may elect to intervene and proceed with the action within sixty days after the state receives both the complaint and the material evidence and the information.

c. The state may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under paragraph *"b"*. Any such motions may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any complaint filed under this section until twenty days after the complaint is unsealed and served upon the defendant pursuant to rule 1.302 of the Iowa rules of civil procedure.

d. Before the expiration of the sixty-day period or any extensions obtained under paragraph "c", the state shall do one of the following:

(1) Proceed with the action, in which case the action shall be conducted by the state.

(2) Notify the court that the state declines to take over the action, in which case the qui tam plaintiff shall have the right to conduct the action.

e. When a person brings an action under this section, no person other than the state may intervene or bring a related action based on the facts underlying the pending action.

3. *a.* If the state proceeds with the action, the state shall have the primary responsibility for prosecuting the action, and shall not be bound by an act of the qui tam plaintiff. Such qui tam plaintiff shall have the right to continue as a party to the action, subject to the limitations specified in paragraph *"b"*.

b. (1) The state may move to dismiss the action, notwithstanding the objections of the qui tam plaintiff if the qui tam plaintiff has been notified by the state of the filing of the motion and the court has provided the qui tam plaintiff with an opportunity for a hearing on the motion.

(2) The state may settle the action with the defendant notwithstanding the objections of

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the qui tam plaintiff if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all of the circumstances. Upon a showing of good cause, such hearing may be held in camera.

(3) Upon a showing by the state that unrestricted participation during the course of the litigation by the qui tam plaintiff would interfere with or unduly delay the state's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the qui tam plaintiff's participation, including but not limited to any of the following:

(a) Limiting the number of witnesses the qui tam plaintiff may call.

(b) Limiting the length of the testimony of such witnesses.

(c) Limiting the qui tam plaintiff's cross-examination of witnesses.

(d) Otherwise limiting the participation by the qui tam plaintiff in the litigation.

(4) Upon a showing by the defendant that unrestricted participation during the course of the litigation by the qui tam plaintiff would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the qui tam plaintiff in the litigation.

c. If the state elects not to proceed with the action, the qui tam plaintiff shall have the right to conduct the action. If the state so requests, the state shall be served with copies of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts at the state's expense. When a qui tam plaintiff proceeds with the action, the court, without limiting the status and rights of the qui tam plaintiff, may permit the state to intervene at a later date upon a showing of good cause.

d. Whether or not the state proceeds with the action, upon a showing by the state that certain actions of discovery by the qui tam plaintiff would interfere with the state's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than sixty days. Such a showing shall be conducted in camera. The court may extend the sixty-day period upon a further showing in camera that the state has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings.

e. Notwithstanding subsection 2, the state may elect to pursue the state's claim through any alternate remedy available to the state, including any administrative proceeding to determine a civil penalty. If any such alternate remedy is pursued in another proceeding, the qui tam plaintiff shall have the same rights in such proceeding as such qui tam plaintiff would have had if the action had continued under this section. Any finding of fact or conclusion of law made in such other proceeding that has become final, shall be conclusive as to all such parties to an action under this section. For purposes of this paragraph, a finding or conclusion is final if it has been finally determined on appeal to the appropriate court of the state, if all time for filing such an appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review.

4. *a.* (1) If the state proceeds with an action brought by a qui tam plaintiff under subsection 2, the qui tam plaintiff shall, subject to subparagraph (2), receive at least fifteen percent but not more than twenty-five percent of the proceeds of the action or settlement of the claim, depending upon the extent to which the qui tam plaintiff substantially contributed to the prosecution of the action.

(2) If the action is one which the court finds to be based primarily on disclosures of specific information, other than information provided by the qui tam plaintiff, relating to allegations or transactions in a criminal, civil, or administrative hearing, or in a legislative, administrative or state auditor report, hearing, audit, or investigation, or from the news media, the court may award an amount the court considers appropriate, but in no case more than ten percent of the proceeds, taking into account the significance of the information and the role of the qui tam plaintiff in advancing the case to litigation.

(3) Any payment to a qui tam plaintiff under subparagraph (1) or (2) shall be made from the proceeds. Any such qui tam plaintiff shall also receive an amount for reasonable expenses which the appropriate court finds to have been necessarily incurred, plus reasonable attorney fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

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b. If the state does not proceed with an action under this section, the qui tam plaintiff or person settling the claim shall receive an amount which the court decides is reasonable for collecting the civil penalty and damages. The amount shall be not less than twenty-five percent and not more than thirty percent of the proceeds of the action or settlement and shall be paid out of such proceeds. Such qui tam plaintiff or person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorney fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

c. Whether or not the state proceeds with the action, if the court finds that the action was brought by a qui tam plaintiff who planned and initiated the violation of section 685.2 upon which the action was brought, the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action which the qui tam plaintiff would otherwise receive under paragraph *"a"* or *"b"*, taking into account the role of that qui tam plaintiff in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the qui tam plaintiff is convicted of criminal conduct arising from the qui tam plaintiff's role in the violation of section 685.2, the qui tam plaintiff shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the state to continue the action represented by the attorney general.

d. If the state does not proceed with the action and the qui tam plaintiff conducts the action, the court may award to the defendant reasonable attorney fees and expenses if the defendant prevails in the action and the court finds that the claim of the qui tam plaintiff was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment.

5. *a.* A court shall not have jurisdiction over an action brought by a former or present member of the Iowa national guard under this chapter against a member of the Iowa national guard arising out of such person's services in the Iowa national guard.

b. A qui tam plaintiff shall not bring an action under subsection 2 which is based upon allegations or transactions which are the subject of a civil suit or an administrative civil penalty proceeding in which the state is already a party.

c. A court shall dismiss an action or claim under this section, unless opposed by the state, if substantially the same allegations or transactions as alleged in the action or claim were publicly disclosed in a state criminal, civil, or administrative hearing in which the state or an agent of the state is a party; in a state legislative, state auditor, or other state report, hearing, audit, or investigation; or by the news media, unless the action is brought by the attorney general or the qui tam plaintiff is an original source of the information.

d. The state is not liable for expenses which a person incurs in bringing an action under this section.

6. *a.* Any employee, contractor, or agent shall be entitled to all relief necessary to make that employee, contractor, or agent whole, if that employee, contractor, or agent is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee, contractor, or agent or associated others in furtherance of an action under this section or other efforts to stop one or more violations of this chapter.

b. Relief under paragraph *"a"* shall include reinstatement with the same seniority status that employee, contractor, or agent would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney fees. An action under this subsection may be brought in the appropriate district court of the state for the relief provided in this subsection.

c. A civil action under this subsection shall not be brought more than three years after the date when the retaliation occurred.

2010 Acts, ch 1031, §340; 2011 Acts, ch 129, §103, 104, 156
Referred to in §685.1, 685.4, 685.5, 685.6

685.4 Procedure — statute of limitations.

1. A subpoena requiring the attendance of a witness at a trial or hearing conducted under

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this chapter may be served at any place in the state, or through any means authorized in the Iowa rules of civil procedure.

2. A civil action under this chapter may not be brought more than six years after the date on which the violation of section 685.2 is committed, or more than three years after the date when facts material to the right of action are known or reasonably should have been known by the official of state charged with responsibility to act in the circumstances, but in no event more than ten years after the date on which the violation is committed, whichever occurs last.

3. If the state elects to intervene and proceed with an action brought under this chapter, the state may file its own complaint or amend the complaint of a qui tam plaintiff to clarify or add detail to the claims in which the state is intervening and to add any additional claims with respect to which the state contends it is entitled to relief. For statute of limitations purposes, any such state pleading shall relate back to the filing date of the complaint of the qui tam plaintiff who originally brought the action, to the extent that the claim of the state arises out of the conduct, transactions, or occurrences set forth, or attempted to be set forth, in the prior complaint of that person.

4. In any action brought under section 685.3, the state shall prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

5. Notwithstanding any other provision of law, the Iowa rules of criminal procedure, or the Iowa rules of evidence, a final judgment rendered in favor of the state in any criminal proceeding charging fraud or false statements, whether upon a verdict after trial or upon a plea of guilty or nolo contendere, shall estop the defendant from denying the essential elements of the offense in any action which involves the same transaction as in the criminal proceeding and which is brought under section 685.3.

2010 Acts, ch 1031, §341

685.5 Jurisdiction.

1. Any action under section 685.3 may be brought in any county in which the defendant or, in the case of multiple defendants, any one defendant can be found, resides, transacts business, or in which any act proscribed by section 685.2 occurred. An original notice as required by the Iowa rules of civil procedure shall be issued by the appropriate district court and served in accordance with the Iowa rules of civil procedure.

2. A seal on the action ordered by the court under section 685.3 shall not preclude the state, local government, or the qui tam plaintiff from serving the complaint, any other pleadings, or the written disclosure of substantially all material evidence and information possessed by the qui tam plaintiff on the law enforcement authorities that are authorized under the law of the state or local government to investigate and prosecute such actions on behalf of such governments, except that such seal applies to the law enforcement authorities so served to the same extent as the seal applies to other parties in the action.

2010 Acts, ch 1031, §342

685.6 Civil investigative demands.

1. *Issuance and service.*

a. If the attorney general, or a designee, for the purposes of this section, has reason to believe that any person may be in possession, custody, or control of any documentary material or information relevant to a false claims law investigation, the attorney general, or a designee, may, before commencing a civil proceeding under section 685.3, subsection 1, or other false claims law, or making an election under section 685.3, subsection 2, issue in writing and cause to be served upon such person, a civil investigative demand requiring any of the following of such person:

(1) To produce such documentary material for inspection and copying.

(2) To answer in writing, written interrogatories with respect to such documentary material or information.

(3) To give oral testimony concerning such documentary material or information.

(4) To furnish any combination of such material, answers, or testimony.

b. The attorney general may delegate the authority to issue civil investigative demands under this subsection. If a civil investigative demand is an express demand for any product

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of discovery, the attorney general, a deputy attorney general, or an assistant attorney general shall cause to be served, in any manner authorized by this section, a copy of such demand upon the person from whom the discovery was obtained and shall notify the person to whom such demand is issued of the date on which such copy was served. Any information obtained by the attorney general or a designee of the attorney general under this section may be shared with any qui tam plaintiff if the attorney general or designee determines it is necessary as part of any false claims law investigation.

2. *Contents and deadlines.*

a. Each civil investigative demand issued under subsection 1 shall state the nature of the conduct constituting the alleged violation of a false claims law which is under investigation, and the applicable provision of law alleged to be violated.

b. If such demand is for the production of documentary material, the demand shall provide all of the following:

(1) Describe each class of documentary material to be produced with such definiteness and certainty as to permit such material to be fairly identified.

(2) Prescribe a return date for each such class which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying.

(3) Identify the false claims law investigator to whom such material shall be made available.

c. If such demand is for answers to written interrogatories, the demand shall provide for all of the following:

(1) Set forth with specificity the written interrogatories to be answered.

(2) Prescribe dates at which time answers to written interrogatories shall be submitted.

(3) Identify the false claims law investigator to whom such answers shall be submitted.

d. If such demand is for the giving of oral testimony, the demand shall provide for all of the following:

(1) Prescribe a date, time, and place at which oral testimony shall be commenced.

(2) Identify a false claims law investigator who shall conduct the examination and the custodian to whom the transcript of such examination shall be submitted.

(3) Specify that such attendance and testimony are necessary to the conduct of the investigation.

(4) Notify the person receiving the demand of the right to be accompanied by an attorney and any other representative.

(5) Describe the general purpose for which the demand is being issued and the general nature of the testimony, including the primary areas of inquiry, which will be taken pursuant to the demand.

e. Any civil investigative demand issued under this section which is an express demand for any product of discovery shall not be returned or returnable until twenty days after a copy of such demand has been served upon the person from whom the discovery was obtained.

f. The date prescribed for the commencement of oral testimony pursuant to a civil investigative demand issued under this section shall be a date which is not less than seven days after the date on which demand is received, unless the attorney general or an assistant attorney general designated by the attorney general determines that exceptional circumstances are present which warrant the commencement of such testimony within a lesser period of time.

g. The attorney general shall not authorize the issuance under this section of more than one civil investigative demand for oral testimony by the same person, unless the person requests otherwise or unless the attorney general, after investigation, notifies that person in writing that an additional demand for oral testimony is necessary.

3. *Protected material or information.*

a. A civil investigative demand issued under subsection 1 shall not require the production of any documentary material, the submission of any answers to written interrogatories, or the giving of any oral testimony if such material, answers, or testimony would be protected from disclosure under any of the following:

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(1) The standards applicable to subpoenas or subpoenas duces tecum issued by a court of the state to aid in a grand jury investigation.

(2) The standards applicable to discovery requests under the Iowa rules of civil procedure, to the extent that the application of such standards to any such demand is appropriate and consistent with the provisions and purposes of this section.

b. Any such demand which is an express demand for any product of discovery supersedes any inconsistent order, rule, or provision of law, other than this section, preventing or restraining disclosure of such product of discovery to any person. Disclosure of any product of discovery pursuant to any such express demand does not constitute a waiver of any right or privilege which the person making such disclosure may be entitled to invoke to resist discovery of trial preparation materials.

4. *Service.*

a. Any civil investigative demand issued under subsection 1 may be served by a false claims law investigator, or by any official authorized to issue civil investigative demands.

b. Service of any civil investigative demand issued under subsection 1 or of any petition filed under subsection 9 may be made upon a partnership, corporation, association, or other legal entity by any of the following methods:

(1) Delivering an executed copy of such demand or petition to any partner, executive officer, managing agent, or general agent of the partnership, corporation, association, or entity, or to any agent authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity.

(2) Delivering an executed copy of such demand or petition to the principal office or place of business of the partnership, corporation, association, or entity.

(3) Depositing an executed copy of such demand or petition in the United States mails by registered or certified mail, with a return receipt requested, addressed to such partnership, corporation, association, or entity at its principal office or place of business.

c. Service of any such demand or petition may be made upon any natural person by any of the following methods:

(1) Delivering an executed copy of such demand or petition to the person.

(2) Depositing an executed copy of such demand or petition in the United States mails by registered or certified mail, with a return receipt requested, addressed to the person at the person's residence or principal office or place of business.

d. A verified return by the individual serving any civil investigative demand issued under subsection 1 or any petition filed under subsection 9 setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.

5. *Documentary material.*

a. The production of documentary material in response to a civil investigative demand served under this section shall be made under a sworn certificate, in such form as the demand designates, by the following persons, as applicable:

(1) In the case of a natural person, the person to whom the demand is directed.

(2) In the case of a person other than a natural person, a person having knowledge of the facts and circumstances relating to such production and authorized to act on behalf of such person.

b. The certificate shall state that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the false claims law investigator identified in the demand.

c. Any person upon whom any civil investigative demand for the production of documentary material has been served under this section shall make such material available for inspection and copying to the false claims law investigator identified in such demand at the principal place of business of such person, or at such other place as the false claims law investigator and the person agree and prescribe in writing, or as the court may direct under subsection 9. Such material shall be made available on the return date specified in such demand, or on such later date as the false claims law investigator may prescribe in

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writing. Such person may, upon written agreement between the person and the false claims law investigator, substitute copies for originals of all or any part of such material.

6. *Interrogatories.*

a. Each interrogatory in a civil investigative demand served under this section shall be answered separately and fully in writing under oath and shall be submitted under a sworn certificate, in such form as the demand designates, by the following persons, as applicable:

(1) In the case of a natural person, the person to whom the demand is directed.

(2) In the case of a person other than a natural person, the person or persons responsible for answering each interrogatory.

b. If any interrogatory is objected to, the reasons for the objection shall be stated in the certificate instead of an answer. The certificate shall state that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted. To the extent that any information is not furnished, the information shall be identified and reasons set forth with particularity regarding the reasons why the information was not furnished.

7. *Oral examinations.*

a. The examination of any person pursuant to a civil investigative demand for oral testimony served under this section shall be taken before an officer authorized to administer oaths and affirmations by the laws of this state or of the place where the examination is held. The officer before whom the testimony is to be taken shall put the witness on oath or affirmation and shall, personally or by someone acting under the direction of the officer and in the officer's presence, record the testimony of the witness. The testimony shall be taken stenographically and shall be transcribed. When the testimony is fully transcribed, the officer before whom the testimony is taken shall promptly transmit a copy of the transcript of the testimony to the custodian. This subsection shall not preclude the taking of testimony by any means authorized by, and in a manner consistent with, the Iowa rules of civil procedure.

b. The false claims law investigator conducting the examination shall exclude from the place where the examination is held all persons except the person giving the testimony, the attorney for and any other representative of the person giving the testimony, the attorney for the state, any person who may be agreed upon by the attorney for the state and the person giving the testimony, the officer before whom the testimony is to be taken, and any stenographer taking such testimony.

c. The oral testimony of any person taken pursuant to a civil investigative demand served under this section shall be taken in any state in which such person resides, is found, or transacts business, or in such other place as may be agreed upon by the false claims law investigator conducting the examination and such person.

d. When the testimony is fully transcribed, the false claims law investigator or the officer before whom the testimony is taken shall afford the witness, who may be accompanied by counsel, a reasonable opportunity to examine and read the transcript, unless such examination and reading are waived by the witness. Any changes in form or substance which the witness desires to make shall be entered and identified upon the transcript by the officer or the false claims law investigator, with a statement of the reasons given by the witness for making such changes. The transcript shall then be signed by the witness, unless the witness in writing waives the signing, is ill, cannot be found, or refuses to sign. If the transcript is not signed by the witness within thirty days after being afforded a reasonable opportunity to examine the transcript, the officer or the false claims law investigator shall sign the transcript and state on the record the fact of the waiver, illness, absence of the witness, or the refusal to sign, together with the reasons, if any, for the waiver, illness, absence, or refusal.

e. The officer before whom the testimony is taken shall certify on the transcript that the witness was sworn by the officer and that the transcript is a true record of the testimony given by the witness, and the officer or false claims law investigator shall promptly deliver the transcript, or send the transcript by registered or certified mail, to the custodian.

f. Upon payment of reasonable charges for a copy, the false claims law investigator shall furnish a copy of the transcript to the witness only, except that the attorney general, the

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deputy attorney general, or an assistant attorney general may, for good cause, limit such witness to inspection of the official transcript of the witness' testimony.

g. (1) Any person compelled to appear for oral testimony under a civil investigative demand issued under subsection 1 may be accompanied, represented, and advised by counsel. Counsel may advise such person, in confidence, with respect to any question asked of such person. Such person or counsel may object on the record to any question, in whole or in part, and shall briefly state for the record the reason for the objection. An objection may be made, received, and entered upon the record when it is claimed that such person is entitled to refuse to answer the question on the grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination. Such person may not otherwise object to or refuse to answer any question, and may not directly or through counsel otherwise interrupt the oral examination. If such person refuses to answer any question, a petition may be filed in the district court of the state under subsection 9 for an order compelling such person to answer such question.

(2) If such person refuses to answer any question on the grounds of the privilege against self-incrimination, the testimony of such person may be compelled in accordance with applicable law.

h. Any person appearing for oral testimony under a civil investigative demand issued under subsection 1 shall be entitled to the same fees and allowances which are paid to witnesses in the district courts of the state.

8. *Custodians of documents, answers, and transcripts.*

a. The attorney general shall designate a false claims law investigator to serve as custodian of documentary material, answers to interrogatories, and transcripts of oral testimony received under this section, and shall designate such additional false claims law investigators as the attorney general determines from time to time to be necessary to serve as deputies to the custodian.

b. (1) A false claims law investigator who receives any documentary material, answers to interrogatories, or transcripts of oral testimony under this section shall transmit them to the custodian. The custodian shall take physical possession of such material, answers, or transcripts and shall be responsible for their use and for the return of documentary material under paragraph *"d"*.

(2) The custodian may cause the preparation of such copies of such documentary material, answers to interrogatories, or transcripts of oral testimony as may be required for official use by any false claims law investigator, or other officer or employee of the department of justice. Such material, answers, and transcripts may be used by any such authorized false claims law investigator or other officer or employee in connection with the taking of oral testimony under this section.

(3) Except as otherwise provided in this subsection, documentary material, answers to interrogatories, or transcripts of oral testimony, or copies of documentary materials, answers, or transcripts, while in the possession of the custodian, shall not be available for examination by any individual other than a false claims law investigator or other officer or employee of the department of justice authorized under subparagraph (2). This prohibition on the availability of material, answers, or transcripts shall not apply if consent is given by the person who produced such material, answers, or transcripts, or, in the case of any product of discovery produced pursuant to an express demand for such material, consent is given by the person from whom the discovery was obtained. Nothing in this subparagraph is intended to prevent disclosure to the general assembly, including any committee or subcommittee of the general assembly, or to any other agency of the state for use by such agency in furtherance of its statutory responsibilities.

(4) While in the possession of the custodian and under such reasonable terms and conditions as the attorney general shall prescribe, all of the following shall apply, as applicable:

(a) Documentary material and answers to interrogatories shall be available for examination by the person who produced such material or answers, or by a representative of that person authorized by that person to examine such material and answers.

(b) Transcripts of oral testimony shall be available for examination by the person who

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produced such testimony, or by a representative of that person authorized by that person to examine such transcripts.

c. If an attorney of the department of justice has been designated to appear before any court, grand jury, state agency, or federal agency in any case or proceeding, the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony received under this section may deliver to such attorney such material, answers, or transcripts for official use in connection with any such case or proceeding as such attorney determines to be required. Upon the completion of any such case or proceeding, such attorney shall return to the custodian any such material, answers, or transcripts delivered which have not passed into the control of such court, grand jury, or agency through introduction into the record of such case or proceeding.

d. If any documentary material has been produced by any person in the course of any false claims law investigation pursuant to a civil investigative demand under this section, and any case or proceeding before the court or grand jury arising out of such investigation, or any proceeding before any state agency or federal agency involving such material, has been completed, or a case or proceeding in which such material may be used has not been commenced within a reasonable time after completion of the examination and analysis of all documentary material and other information assembled in the course of such investigation, the custodian shall, upon written request of the person who produced such material, return to such person any such material, other than copies furnished to the false claims law investigator under subsection 5 or made for the department of justice under paragraph *"b"* which has not passed into the control of any court, grand jury, or agency through introduction into the record of such case or proceeding.

e. (1) In the event of the death, disability, or separation from service in the department of justice of the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony produced pursuant to a civil investigative demand under this section, or in the event of the official relief of such custodian from responsibility for the custody and control of such material, answers, or transcripts, the attorney general shall promptly do all of the following:

(a) Designate another false claims law investigator to serve as custodian of such material, answers, or transcripts.

(b) Transmit in writing to the person who produced such material, answers, or testimony notice of the identity and address of the successor designated.

(2) Any person who is designated to be a successor under this paragraph *"e"* shall have, with regard to such material, answers, or transcripts, the same duties and responsibilities as were imposed by this section upon that person's predecessor in office, except that the successor shall not be held responsible for any default or dereliction which occurred before that designation.

9. *Judicial proceedings.*

a. If a person fails to comply with any civil investigative demand issued under subsection 1, or if satisfactory copying or reproduction of any material requested in such demand cannot be completed and such person refuses to surrender such material, the attorney general may file, in the district court of the state for any county in which such person resides, is found, or transacts business, and serve upon such person, a petition for an order of such court for the enforcement of the civil investigative demand.

b. (1) A person who has received a civil investigative demand issued under subsection 1 may file, in the district court of the state for the county within which such person resides, is found, or transacts business, and serve upon the false claims law investigator identified in such demand, a petition for an order of the court to modify or set aside such demand. In the case of a petition addressed to an express demand for any product of discovery, a petition to modify or set aside such demand may be brought only in the district court of the state for the county in which the proceeding in which such discovery was obtained is or was last pending. Any petition under this paragraph shall be filed in accordance with the following, as applicable:

(a) Within twenty days after the date of service of the civil investigative demand, or at any time before the return date specified in the demand, whichever date is earlier.

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(b) Within such longer period as may be prescribed in writing by any false claims law investigator identified in the demand.

(2) The petition shall specify each ground upon which the petitioner relies in seeking relief under subparagraph (1), and may be based upon any failure of the demand to comply with the provisions of this section or upon any constitutional or other legal right or privilege of such person. During the pendency of the petition in the court, the court may stay, as it deems proper, the running of the time allowed for compliance with the demand, in whole or in part, except that the person filing the petition shall comply with any portions of the demand not sought to be modified or set aside.

c. (1) In the case of any civil investigative demand issued under subsection 1 which is an express demand for any product of discovery, the person from whom such discovery was obtained may file, in the district court of the state for the county in which the proceeding in which such discovery was obtained is or was last pending, and serve upon any false claims law investigator identified in the demand and upon the recipient of the demand, a petition for an order of such court to modify or set aside those portions of the demand requiring production of any such product of discovery. Any petition under this subparagraph shall be filed in accordance with the following, as applicable:

(a) Within twenty days after the date of service of the civil investigative demand, or at any time before the return date specified in the demand, whichever date is earlier.

(b) Within such longer period as may be prescribed in writing by any false claims law investigator identified in the demand.

(2) The petition shall specify each ground upon which the petitioner relies in seeking relief under subparagraph (1), and may be based upon any failure of the portions of the demand from which relief is sought to comply with the provisions of this section, or upon any constitutional or other legal right or privilege of the petitioner. During the pendency of the petition, the court may stay, as it deems proper, compliance with the demand and the running of the time allowed for compliance with the demand.

d. At any time during which any custodian is in custody or control of any documentary material or answers to interrogatories produced, or transcripts of oral testimony given, by any person in compliance with any civil investigative demand issued under subsection 1, such person, and in the case of an express demand for any product of discovery, the person from whom such discovery was obtained, may file, in the district court of the state for the judicial district within which the office of such custodian is located, and serve upon such custodian, a petition for an order of such court to require the performance by the custodian of any duty imposed upon the custodian by this section.

e. If a petition is filed in any district court of the state under this subsection, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry out the provisions of this section. Any final order so entered shall be subject to appeal in accordance with the Iowa rules of civil procedure. Any disobedience of any final order entered under this section by any court shall be punished as a contempt of the court.

f. The Iowa rules of civil procedure shall apply to any petition under this subsection, to the extent that such rules are not inconsistent with the provisions of this section.

10. *Disclosure exemption.* Any documentary material, answers to written interrogatories, or oral testimony provided under any civil investigative demand issued under subsection 1 shall be deemed confidential and exempt from disclosure under chapter 22.

2010 Acts, ch 1031, §343; 2010 Acts, ch 1193, §64
Referred to in §685.1, 715D.8

685.7 Rulemaking authority.

The attorney general may adopt such rules and regulations as are necessary to effectuate the purposes of this chapter.

2010 Acts, ch 1031, §344

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CHAPTER 686

CONSTRUCTION DEFECTS — CLASS ACTIONS

686.1	Definitions.	686.5	Limitations of chapter.
686.2	Action — compliance.	686.6	Effect of arbitration clauses.
686.3	Notice and opportunity to repair.		
686.4	Multiple construction defects.	686.7	Application.

686.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Action"* means any civil action or arbitration proceeding for damages or indemnity asserting a claim for injury to property, real or personal, arising out of the unsafe or defective condition of an improvement to real property based on tort, breach of contract, or express or implied warranty.

2. *"Association"* means an entity or homeowners association created for the purposes of managing the operations of a community as set forth in a declaration of covenants or declaration of submission of property to horizontal property regime filed of record in the county that the property is located.

3. *"Claimant"* means a private owner, a subsequent private owner, or an association, who asserts a claim in a class action for damages against a general contractor or subcontractor concerning a construction defect. *"Claimant"* shall not include a public corporation as defined in section 573.1.

4. *"Construction defect"* means an alleged or actual unsafe or defective condition of an improvement to real property.

5. *"General contractor"* means a person who does work or furnishes materials by contract, express or implied, with an owner.

6. *"Owner"* means the legal or equitable titleholder of record to real property or the holder of a leasehold interest.

7. *"Serve"*, *"served"*, or *"service"* means delivery by certified mail with a United States postal service record of evidence of delivery or attempted delivery to the last known address of the addressee, by hand delivery with written evidence of delivery, or by delivery by any courier with written evidence of delivery.

8. *"Subcontractor"* means a person furnishing material or performing labor upon any building, erection, or other improvement to land, except those having contracts directly with the owner.

2019 Acts, ch 25, §1, 8, 9
Section applies to actions for which litigation has not commenced prior to April 15, 2019; 2019 Acts, ch 25, §8, 9

686.2 Action — compliance.

1. A claimant shall not file an action without first complying with the requirements of this chapter. If a claimant files an action alleging a construction defect without first complying with the requirements of this chapter, on timely motion by a party to the action, the court shall stay the action, without prejudice, and the action shall not proceed until the claimant has complied with the requirements.

2. An action filed prior to the expiration of the statute of limitations set forth in section 614.1, which is stayed pursuant to this section and for which the statute of limitations runs during the time the claimant is complying with this statute, shall not be deemed barred by the applicable statute of limitation for the pending action if the claimant complies with the requirements of this chapter and the action is otherwise allowed to proceed.

2019 Acts, ch 25, §2, 8, 9
Section applies to actions for which litigation has not commenced prior to April 15, 2019; 2019 Acts, ch 25, §8, 9

686.3 Notice and opportunity to repair.

1. Prior to commencing an action alleging a construction defect, the claimant shall, at least one hundred twenty days before filing an action, serve written notice of claim on the general contractor and subcontractor. The notice of claim shall refer to this chapter and must describe the claim in reasonable detail sufficient to determine the general nature of each

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alleged construction defect, a description of the damage or loss resulting from the defect, if known, and any work or inspections completed to determine the cause of the damage or loss or correct the construction defect. This subsection does not preclude a claimant from filing an action sooner than one hundred twenty days, after service of written notice as expressly provided in subsection 6, 7, or 8.

2. *a.* Within sixty days after service of the notice of claim, the person served with the notice of claim under subsection 1 is entitled to perform a reasonable inspection of the property or of each unit subject to the claim to assess each alleged construction defect. The claimant shall provide the person served with notice under subsection 1 and the person's general contractors, subcontractors, or agents reasonable access to the property during normal working hours to inspect the property to determine the nature and cause of each alleged construction defect and the nature and extent of any repairs or replacements necessary to remedy each construction defect. The person served with notice under subsection 1 shall reasonably coordinate the timing and manner of any and all inspections with the claimant to minimize the number of inspections. The inspection may include reasonable destructive testing by mutual agreement under the following terms and conditions:

(1) If the person served with notice under subsection 1 determines that destructive testing is necessary to determine the nature and cause of the alleged construction defects, the person shall notify the claimant in writing.

(2) The notice shall describe the destructive testing to be performed, the person selected to do the testing, the estimated anticipated damage and repairs to or restoration of the property resulting from the testing, the estimated amount of time necessary for the testing and to complete the repairs or restoration, and the financial responsibility offered for covering the costs of repairs or restoration.

(3) The testing shall be done at a mutually agreeable time.

(4) The claimant or a representative of the claimant may be present to observe the destructive testing.

b. If the claimant refuses to agree and permit reasonable destructive testing, the claimant shall have no claim for damages which could have been avoided or mitigated had destructive testing been allowed when requested and had a feasible remedy been promptly implemented.

3. The general contractor or subcontractor may serve a copy of the notice of claim to each subcontractor or general contractor whom the general contractor or subcontractor reasonably believes is responsible for a construction defect specified in the notice of claim and shall note the specific construction defect for which the subcontractor or general contractor is alleged to be responsible. The notice described in this subsection shall not be construed as an admission of any kind. A general contractor or subcontractor may inspect the property in the manner described in subsection 2.

4. Within thirty days after service of the notice of claim pursuant to subsection 3, the general contractor or subcontractor must serve a written response to the general contractor or subcontractor who served the notice of claim. The written response shall include a report, if any, of the scope of any inspection of the property, the findings and results of the inspection, a statement of whether the subcontractor or general contractor is willing to make repairs to the property or whether the claim is disputed, a description of any repairs the subcontractor or general contractor is willing to make to remedy the alleged construction defect, and a timetable for the completion of the repairs. This response may also be served on the initial claimant by the general contractor or subcontractor.

5. Within seventy-five days after service of the notice of claim, the person who was served the notice under subsection 1 shall serve a written response to the claimant. The response shall be served to the attention of the person who signed the notice of claim, unless otherwise designated in the notice of claim. The written response must provide for one of the following:

a. A written offer to remedy the alleged construction defect at no cost to the claimant, a description of the proposed repairs necessary to remedy the construction defect, and a timetable for the completion of such repairs.

b. A written offer to compromise and settle the claim by monetary payment, that will not obligate the person's insurer, and a timetable for making payment.

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c. A written offer to compromise and settle the claim by a combination of repairs and monetary payment that will not obligate the person's insurer, and which includes a detailed description of the proposed repairs and a timetable for the completion of such repairs and making payment.

d. A written statement that the person disputes the claim and will not remedy the construction defect or compromise and settle the claim.

e. A written offer of a monetary payment, including insurance proceeds, to be determined by the person and the person's insurer, which the claimant may accept or reject.

6. If the person served with a notice of claim pursuant to subsection 1 disputes the claim and will neither remedy the construction defect nor compromise and settle the claim, or does not respond to the claimant's notice of claim within the time provided in subsection 5, the claimant may, without further notice, proceed with an action against that person for the claim described in the notice of claim. Nothing in this chapter shall be construed to preclude a partial settlement or compromise of the claim as agreed to by the parties and, in that event, the claimant may, without further notice, proceed with an action on the unresolved portions of the claim.

7. A claimant who receives a timely settlement offer shall accept or reject the offer by serving written notice of such acceptance or rejection on the person making the offer within forty-five days after receiving the settlement offer. If a claimant initiates an action without first accepting or rejecting the offer, the court shall stay the action upon timely motion until the claimant complies with this subsection.

8. If the claimant timely and properly accepts the offer to repair an alleged construction defect, the claimant shall provide the offeror and the offeror's agents reasonable access to the claimant's property during normal working hours to perform the repair by the agreed-upon timetable as stated in the offer. If the offeror does not make the payment or repair the construction defect within the agreed time and in the agreed manner, except for reasonable delays beyond the control of the offeror, including but not limited to weather conditions, delivery of materials, claimant's actions, or issuance of any required permits, the claimant may, without further notice, proceed with an action against the offeror based upon the claim in the notice of claim. If the offeror makes payment or repairs to the defect within the agreed time and in the agreed manner, the claimant is barred from proceeding with an action for the claim described in the notice of claim or as otherwise provided in the accepted settlement offer.

9. This section does not prohibit or limit a claimant from making any necessary emergency repairs to the property as are required to protect the health, safety, and welfare of any person.

10. Any offer or failure to offer, pursuant to subsection 5, to remedy a construction defect or to compromise and settle the claim by monetary payment does not constitute an admission of liability with respect to the defect and is not admissible in an action that is subject to this chapter.

11. This section does not relieve the person who is served a notice of claim under subsection 1 from complying with all contractual provisions of any liability insurance policy as a condition precedent to coverage for any claim under this section.

2019 Acts, ch 25, §3, 8, 9

Section applies to actions for which litigation has not commenced prior to April 15, 2019; 2019 Acts, ch 25, §8, 9

686.4 Multiple construction defects.

The procedures in this chapter apply to each construction defect. However, a claimant may include multiple defects in one notice of claim. A claimant may amend the initial list of construction defects to identify additional or new construction defects as the defects become known to the claimant. The court shall allow the action to proceed to trial only as to alleged construction defects that were noticed and for which the claimant has complied with this chapter and as to construction defects reasonably related to, or caused by, the construction defects previously noticed. Nothing in this section shall preclude subsequent or further actions.

2019 Acts, ch 25, §4, 8, 9

Section applies to actions for which litigation has not commenced prior to April 15, 2019; 2019 Acts, ch 25, §8, 9

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686.5 Limitations of chapter.

This chapter does not do any of the following:

1. Bar or limit any rights, including the right of specific performance to the extent such right would be available in the absence of this chapter, any causes of action, or any theories on which liability may be based, except as specifically provided in this chapter.

2. Bar or limit any defense, or create any new defense, except as specifically provided in this chapter.

3. Create any new rights, causes of action, or theories on which liability may be based.

2019 Acts, ch 25, §5, 8, 9

Section applies to actions for which litigation has not commenced prior to April 15, 2019; 2019 Acts, ch 25, §8, 9

686.6 Effect of arbitration clauses.

To the extent that an arbitration clause in a contract for the sale, design, or construction of real property conflicts with this chapter, this chapter shall control.

2019 Acts, ch 25, §6, 8, 9

Section applies to actions for which litigation has not commenced prior to April 15, 2019; 2019 Acts, ch 25, §8, 9

686.7 Application.

1. This chapter applies to construction defects in new construction. This chapter does not apply to construction defects in renovations or remodels.

2. This chapter only applies to actions brought pursuant to a class action.

2019 Acts, ch 25, §7 – 9

Section applies to actions for which litigation has not commenced prior to April 15, 2019; 2019 Acts, ch 25, §8, 9

CHAPTER 686A

ASBESTOS BANKRUPTCY TRUST CLAIMS

686A.1	Title.	686A.6	Trust record — valuation of asbestos trust claims — judicial notice.
686A.2	Definitions.	686A.7	Setoff — credit.
686A.3	Required disclosures by plaintiff.	686A.8	Failure to provide information — sanctions.
686A.4	Identification of additional or alternative asbestos trusts by defendant.	686A.9	Application.
686A.5	Discovery — use of materials.		

686A.1 Title.

This chapter shall be known and may be cited as the *"Asbestos Bankruptcy Trust Claims Transparency Act"*.

2017 Acts, ch 11, §1

686A.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Asbestos"* means chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, actinolite asbestos, asbestiform winchite, asbestiform richterite, asbestiform amphibole minerals, and any of these minerals that have been chemically treated or altered, including all minerals defined as asbestos in 29 C.F.R. pt. 1910, at the time the asbestos action is filed.

2. *"Asbestos action"* means a claim for damages or other civil or equitable relief presented in a civil action arising out of, based on, or related to the health effects of exposure to asbestos, including loss of consortium, wrongful death, mental or emotional injury, risk or fear of disease or other injury, costs of medical monitoring or surveillance, and any other derivative claim made by or on behalf of a person exposed to asbestos or a representative, spouse, parent, child, or other relative of that person.

3. *"Asbestos trust"* means a government-approved or court-approved trust, qualified settlement fund, compensation fund, or claims facility created as a result of an administrative

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or legal action, a court-approved bankruptcy, or pursuant to 11 U.S.C. §524(g) or 11 U.S.C. §1121(a) or other applicable provision of law, that is intended to provide compensation to claimants arising out of, based on, or related to the health effects of exposure to asbestos.

4. *"Plaintiff"* means the person bringing an asbestos action, including a personal representative if the asbestos action is brought by an estate, or a conservator or next friend if the asbestos action is brought on behalf of a minor or legally incapacitated individual.

5. *"Trust claims materials"* means a final executed proof of claim and all other documents and information related to a claim against an asbestos trust, including claims forms and supplementary materials, affidavits, depositions and trial testimony, work history, and medical and health records, documents reflecting the status of a claim against an asbestos trust, and if the trust claim has settled, all documents relating to the settlement of the trust claim.

6. *"Trust governance documents"* means all documents that relate to eligibility and payment levels, including claims payment matrices, trust distribution procedures, or plans for reorganization, for an asbestos trust.

2017 Acts, ch 11, §2
Referred to in §686B.2, 686C.2

686A.3 Required disclosures by plaintiff.

1. Within ninety days after an asbestos action is filed, or within ninety days after July 1, 2017, whichever is later, the plaintiff shall do all of the following:

a. Provide the court and parties with a sworn statement signed by the plaintiff and the plaintiff's counsel, under penalty of perjury, indicating that an investigation of all asbestos trust claims has been conducted and that all asbestos trust claims that may be made by the plaintiff or any person on the plaintiff's behalf have been filed. The sworn statement must indicate whether there has been a request to defer, delay, suspend, or toll any asbestos trust claim, and provide the disposition of each asbestos trust claim.

b. Provide all parties with all trust claims materials, including trust claims materials that relate to conditions other than those that are the basis for the asbestos action and including all trust claims materials from all attorneys connected to the plaintiff in relation to exposure to asbestos, including any attorney involved in the asbestos action, any referring attorney, and any other attorney who has filed an asbestos trust claim for the plaintiff or on the plaintiff's behalf.

c. If the plaintiff's asbestos trust claim is based on exposure to asbestos through another individual, the plaintiff shall produce all trust claims materials submitted by the other individual to any asbestos trusts if the materials are available to the plaintiff or the plaintiff's counsel.

2. The plaintiff shall supplement the information and materials required under subsection 1 within thirty days after the plaintiff or a person on the plaintiff's behalf supplements an existing asbestos trust claim, receives additional information or materials related to an asbestos trust claim, or files an additional asbestos trust claim.

3. The court may dismiss the asbestos action if the plaintiff fails to comply with this section.

4. An asbestos action shall not be set for trial until at least one hundred eighty days after the requirements of subsection 1 are met.

2017 Acts, ch 11, §3

686A.4 Identification of additional or alternative asbestos trusts by defendant.

1. A defendant may file a motion requesting a stay of the proceedings on or before the later of the sixtieth day before the date trial in the action is set to commence or the fifteenth day after the defendant first obtains information that could support additional trust claims by the plaintiff. The motion shall identify the asbestos trust claims the defendant believes the plaintiff can file and include information supporting the asbestos trust claims.

2. Within ten days of receiving the defendant's motion, the plaintiff shall do one of the following:

a. File the asbestos trust claims.

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b. File a written response with the court stating the reason there is insufficient evidence for the plaintiff to file the asbestos trust claims.

c. File a written response with the court requesting a determination that the cost to file the asbestos trust claims exceeds the plaintiff's reasonably anticipated recovery.

3. *a.* If the court determines that there is a sufficient basis for the plaintiff to file an asbestos trust claim identified in the motion to stay, the court shall stay the asbestos action until the plaintiff files the asbestos trust claim and produces all related trust claims materials.

b. If the court determines that the cost of submitting an asbestos trust claim exceeds the plaintiff's reasonably anticipated recovery, the court shall stay the asbestos action until the plaintiff files with the court and provides all parties with a verified statement of the plaintiff's history of exposure, usage, or other connection to asbestos covered by that asbestos trust.

4. An asbestos action shall not be set for trial until at least sixty days after the plaintiff provides the documentation required by this section.

2017 Acts, ch 11, §4

686A.5 Discovery — use of materials.

1. Trust claims materials and trust governance documents are presumed to be relevant and authentic, and are admissible in evidence in an asbestos action. Notwithstanding any other provision of law to the contrary, a claim of privilege does not apply to any trust claims materials or trust governance documents.

2. A defendant in an asbestos action may seek discovery from an asbestos trust. Notwithstanding any other provision of law to the contrary, the plaintiff may not claim privilege or confidentiality to bar discovery and shall provide consent or other expression of permission that may be required by the asbestos trust to release information and materials sought by a defendant.

3. Trust claim materials that are sufficient to entitle a claim to consideration for payment under the applicable trust governance documents may be sufficient to support a jury finding that the plaintiff may have been exposed to products for which the trust was established to provide compensation and that, under applicable law, such exposure may be a substantial contributing factor in causing the plaintiff's injury that is at issue in the asbestos action.

2017 Acts, ch 11, §5

686A.6 Trust record — valuation of asbestos trust claims — judicial notice.

1. Not less than thirty days before trial in an asbestos action, the court shall enter into the record a document that identifies every asbestos trust claim made by the plaintiff or on the plaintiff's behalf.

2. If a plaintiff proceeds to trial in an asbestos action before an asbestos trust claim is resolved, there is a rebuttable presumption that the plaintiff is entitled to, and will receive, the compensation specified in the trust governance document applicable to the plaintiff's claim at the time of trial. The court shall take judicial notice that the trust governance document specifies compensation amounts and payment percentages and shall establish an attributed value to the plaintiff's asbestos trust claims.

2017 Acts, ch 11, §6

Referred to in §686A.7

686A.7 Setoff — credit.

In any asbestos action in which damages are awarded and setoffs are permitted under applicable law, a defendant is entitled to a setoff or credit in the amount the plaintiff has been awarded from an asbestos trust identified in section 686A.6, subsection 1, and the amount of the valuation established under section 686A.6, subsection 2. If multiple defendants are found liable for damages, the court shall distribute the amount of setoff or credit proportionally between the defendants, according to the liability of each defendant.

2017 Acts, ch 11, §7

686A.8 Failure to provide information — sanctions.

1. On the motion of a defendant or judgment debtor seeking sanctions or other relief in

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an asbestos action, the court may impose any sanction provided by court rule or a law of this state, including but not limited to vacating a judgment rendered in the action, for a plaintiff's failure to comply with the disclosure requirements of this chapter.

2. If the plaintiff or a person on the plaintiff's behalf files an asbestos trust claim after the plaintiff obtains a judgment in an asbestos action, and that asbestos trust was in existence at the time the plaintiff obtained the judgment, the trial court, on motion by a defendant or judgment debtor seeking sanctions or other relief, has jurisdiction to reopen the judgment in the asbestos action and adjust the judgment by the amount of any subsequent asbestos trust payments obtained by the plaintiff and order any other relief to the parties that the court considers just and proper.

3. A defendant or judgment debtor shall file any motion under this section within a reasonable time and not more than one year after the judgment was entered.

2017 Acts, ch 11, §8

686A.9 Application.

1. This chapter applies to all asbestos actions filed on or after July 1, 2017.

2. This chapter applies to all pending asbestos actions in which trial has not commenced as of July 1, 2017, unless the court finds that the application of a provision in this chapter would unconstitutionally affect a vested right. In that case, the provision does not apply and the court shall apply prior law.

2017 Acts, ch 11, §9

CHAPTER 686B

ASBESTOS AND SILICA CLAIMS PRIORITIES

686B.1 Title.
686B.2 Definitions.
686B.3 Filing claims — establishment of prima facie case — individual actions to be filed.
686B.4 Asbestos claims involving nonmalignant conditions — elements of proof.
686B.5 Silica claims involving silicosis — elements of proof.
686B.6 Evidence of physical impairment.
686B.7 Procedures — limitation.
686B.8 Statute of limitations — two-disease rule.
686B.9 Application.

686B.1 Title.

This chapter shall be known and may be cited as the *"Asbestos and Silica Claims Priorities Act"*.

2017 Acts, ch 11, §10

686B.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"AMA guides"* means the American medical association's guides to the evaluation of permanent impairment in effect at the time of the performance of any examination or test on the exposed person required under this chapter.

2. *"Asbestos"* means the same as defined in section 686A.2.

3. *"Asbestos action"* means the same as defined in section 686A.2.

4. *"Asbestosis"* means bilateral diffuse interstitial fibrosis of the lungs caused by inhalation of asbestos fibers.

5. *"Board-certified in internal medicine"* means certified by the American board of internal medicine or the American osteopathic board of internal medicine at the time of the performance of an examination and rendition of a report required by this chapter.

6. *"Board-certified in occupational medicine"* means certified in the specialty of occupational medicine by the American board of preventive medicine or the specialty of occupational/environmental medicine by the American osteopathic board of preventive

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medicine at the time of the performance of an examination and rendition of a report required by this chapter.

7. *"Board-certified in pathology"* means holding primary certification in anatomic pathology or clinical pathology from the American board of pathology or the American osteopathic board of pathology at the time of the performance of an examination and rendition of a report required by this chapter, and practicing principally in the field of pathology including regular evaluation of pathology materials obtained from surgical or postmortem specimens.

8. *"Board-certified in pulmonary medicine"* means certified in the specialty of pulmonary medicine by the American board of internal medicine or the American osteopathic board of internal medicine at the time of the performance of an examination and rendition of a report required by this chapter.

9. *"Certified B-reader"* means an individual who has qualified as a national institute for occupational safety and health final or B-reader of X rays under 42 C.F.R. §37.51(b), whose certification was current at the time of any readings required under this chapter, and whose B-reads comply with the national institute for occupational safety and health B-reader's code of ethics, issues in classification of chest radiographs, and classification of chest radiographs in contested proceedings.

10. *"Exposed person"* means a person whose exposure to asbestos or silica or to asbestos-containing products or silica-containing products is the basis for an asbestos action or silica action.

11. *"FEV1"* means forced expiratory volume in the first second, which is the maximal volume of air expelled in one second during the performance of simple spirometric tests.

12. *"FEV1/FVC"* means the ratio between the actual values for FEV1 over FVC.

13. *"FVC"* means forced vital capacity, which is the maximal volume of air expired with maximum effort from a position of full inspiration.

14. *"ILO system"* and *"ILO scale"* mean the radiological ratings and system for the classification of chest X rays of the international labour office provided in guidelines for the use of ILO international classification of radiographs of pneumoconioses in effect on the day any X rays of the exposed person were reviewed by a certified B-reader.

15. *"Nonmalignant condition"* means any condition that can be caused by asbestos or silica other than a diagnosed cancer.

16. *"Official statements of the American thoracic society"* means lung function testing standards set forth in statements from the American thoracic society, including standardizations of spirometry, standardizations of lung volume testing, standardizations of diffusion capacity testing or single-breath determination of carbon monoxide uptake in the lung, and interpretive strategies for lung function tests, which are in effect on the day of the pulmonary function testing of the exposed person.

17. *"Pathological evidence of asbestosis"* means a statement by a physician who is board-certified in pathology that more than one representative section of lung tissue uninvolved with any other disease process demonstrates a pattern of peribronchiolar or parenchymal scarring in the presence of characteristic asbestos bodies graded 1(B) or higher under the criteria published in asbestos-associated diseases, 106 Archive of Pathology and Laboratory Medicine 11, appendix 3 (October 8, 1982), or grade one or higher in pathology of asbestosis, 134 Archive of Pathology and Laboratory Medicine 462-80 (March 2010) (tables 2 and 3), as amended at the time of the exam, and there is no other more likely explanation for the presence of the fibrosis.

18. *"Pathological evidence of silicosis"* means a statement by a physician who is board-certified in pathology that more than one representative section of lung tissue uninvolved with any other disease process demonstrates complicated silicosis with characteristic confluent silicotic nodules or lesions equal to or greater than one centimeter and birefringent crystals or other demonstration of crystal structures consistent with silica, well-organized concentric whorls of collagen surrounded by inflammatory cells, in the lung parenchyma and no other more likely explanation for the presence of the fibrosis exists, or acute silicosis with characteristic pulmonary edema, interstitial inflammation, and the accumulation within the alveoli of proteinaceous fluid rich in surfactant.

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19. *"Plaintiff"* means the person bringing an asbestos action or silica action, including a personal representative if the asbestos action or silica action is brought by an estate, or a conservator or next friend if the asbestos action or silica action is brought on behalf of a minor or legally incapacitated individual.

20. *"Predicted lower limit of normal"* means the test value that is the calculated standard convention lying at the fifth percentile, below the upper ninety-five percent of the reference population, based on age, height, and gender, according to the recommendations by the American thoracic society and as referenced in the applicable AMA guides, primarily national health and nutrition examination survey predicted values, or as amended.

21. *"Pulmonary function test"* means spirometry, lung volume testing, and diffusion capacity testing, including appropriate measurements, quality control data, and graphs, performed in accordance with the methods of calibration and techniques provided in the applicable AMA guides and all standards provided in the official statements of the American thoracic society in effect on the day pulmonary function testing of the exposed person was conducted.

22. *"Qualified physician"* means a physician who is board-certified in internal medicine, board-certified in pathology, board-certified in pulmonary medicine, or board-certified in occupational medicine, as may be appropriate to the actual diagnostic specialty in question, and for whom all of the following are true:

a. The physician conducted a physical examination of the exposed person and has taken a detailed occupational, exposure, medical, smoking, and social history from the exposed person, or if the exposed person is deceased, has reviewed the pathology material and has taken a detailed history from the person most knowledgeable about the information forming the basis of the asbestos action or silica action.

b. The physician treated or is treating the exposed person, and has or had a doctor-patient relationship with the exposed person at the time of the physical examination, or in the case of a physician who is board-certified in pathology, examined tissue samples or pathological slides of the exposed person at the request of the treating physician.

c. The physician spends no more than twenty-five percent of the physician's professional practice time providing consulting or expert services in actual or potential civil actions, and whose medical group, professional corporation, clinic, or other affiliated group earns not more than twenty-five percent of its revenue providing such services.

d. The physician was licensed to practice on the date any examination or pulmonary function testing was conducted, and actively practices or practiced in the state where the exposed person resides or resided at the time of the examination or pulmonary function testing, or the state where the asbestos action or silica action was filed.

e. The physician received or is receiving payment for the treatment of the exposed person from the exposed person, a member of the exposed person's family, or the exposed person's health care plan and not from the exposed person's attorney.

f. The physician prepared or directly supervised the preparation and final review of any medical report under this chapter.

g. The physician has not relied on any examinations, tests, radiographs, reports, or opinions of any physician, clinic, laboratory, or testing company that performed an examination, test, radiograph, or screening of the exposed person in violation of any law, regulation, licensing requirement, or medical code of practice of the state in which the examination, test, or screening was conducted, or that was conducted without establishing a physician-patient relationship with the exposed person or medical personnel involved in the examination, test, or screening process, or that required the exposed person to agree to retain the service of an attorney.

23. *"Radiological evidence of asbestosis"* means a quality 1 chest X ray under the ILO system, or a quality 2 chest X ray in a death case when no pathology or quality 1 chest X ray is available, showing bilateral small, irregular opacities (s, t, or u) occurring primarily in the lower lung zones graded by a certified B-reader as at least 1/1 on the ILO scale.

24. *"Radiological evidence of diffuse bilateral pleural thickening"* means a quality 1 chest X ray under the ILO system, or a quality 2 chest X ray in a death case when no pathology or quality 1 chest X ray is available, showing diffuse bilateral pleural thickening of at least b2

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on the ILO scale and blunting of at least one costophrenic angle as classified by a certified B-reader.

25. *"Radiological evidence of silicosis"* means a quality 1 chest X ray under the ILO system, or a quality 2 chest X ray in a death case when no pathology or quality 1 chest X ray is available, showing bilateral predominantly nodular or rounded opacities (p, q, or r) occurring primarily in the upper lung fields graded by a certified B-reader as at least 1/1 on the ILO scale or A, B, or C sized opacities representing complicated silicosis or acute silicosis with characteristic pulmonary edema, interstitial inflammation, and the accumulation within the alveoli of proteinaceous fluid rich in surfactant.

26. *"Silica"* means a respirable crystalline form of silicon dioxide, including quartz, cristobalite, and tridymite.

27. *"Silica action"* means a claim for damages or other civil or equitable relief presented in a civil action arising out of, based on, or related to the health effects of exposure to silica, including loss of consortium, wrongful death, mental or emotional injury, risk or fear of disease or other injury, costs of medical monitoring or surveillance, and any other derivative claim made by or on behalf of a person exposed to silica or a representative, spouse, parent, child, or other relative of that person.

28. *"Silicosis"* means simple silicosis, acute silicosis, accelerated silicosis, or chronic silicosis caused by the inhalation of respirable silica.

29. *"Supporting test results"* means copies of the B-reading; pulmonary function tests, including printouts of the flow volume loops, volume time curves, diffusing capacity of the lung for carbon monoxide graphs, lung volume tests and graphs, quality control data and other pertinent data for all trials and all other elements required to demonstrate compliance with the equipment, quality, interpretation, and reporting standards set forth in this chapter; B-reader reports; reports of X ray examinations; diagnostic imaging of the chest; pathology reports; and all other tests reviewed by the diagnosing physician or a qualified physician in reaching the physician's conclusions.

2017 Acts, ch 11, §11

686B.3 Filing claims — establishment of prima facie case — individual actions to be filed.

1. A plaintiff in an asbestos action involving a nonmalignant condition or a silica action involving silicosis shall file with the complaint or other initial pleading a detailed narrative medical report and diagnosis, signed under oath by a qualified physician and accompanied by supporting test results, which constitute prima facie evidence that the exposed person meets the requirements of this chapter. The report shall not be prepared by an attorney or person working for or on behalf of an attorney.

2. A plaintiff in an asbestos action, including an action alleging a nonmalignant or a malignant condition, or a silica action involving silicosis, shall file with the petition or other initial pleading a sworn information form specifying the evidence that provides the basis for each claim against each defendant. The sworn information form shall include all of the following with specificity:

a. The name, address, date of birth, marital status, occupation, current and past worksites, and employer of the exposed person.

b. Each person through whom the exposed person was exposed to asbestos or silica, and the exposed person's relationship to each person.

c. Each asbestos-containing product or silica product, whether from a bankrupt entity or otherwise, to which the exposed person was exposed, or if the exposed person was exposed through another person, to which that person was exposed.

d. The specific location and manner of each exposure, including the specific location and manner of exposure for any person through whom the exposed person was exposed to asbestos or silica.

e. The beginning and ending dates of each exposure and the frequency of the exposure of the exposed person to the product or its use, including for any person through whom the exposed person was exposed.

f. The identity of the manufacturer or seller of the specific asbestos or silica product for each exposure.

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g. The specific asbestos-related or silica-related disease claimed to exist.

h. Any supporting documentation relating to the information required under this subsection.

3. A defendant shall be afforded a reasonable opportunity to challenge the adequacy of the prima facie evidence before trial.

4. The court shall dismiss the asbestos action or silica action without prejudice on finding that the plaintiff has failed to make the prima facie showing required by this chapter or failed to comply with the requirements of subsections 1 and 2. The court shall dismiss the asbestos action or silica action without prejudice as to any defendant whose product or premises is not identified in the information required pursuant to subsection 2.

5. An asbestos action or silica action must be individually filed and shall not be filed on behalf of a group or class of plaintiffs.

2017 Acts, ch 11, §12; 2020 Acts, ch 1030, §1 – 4

2020 amendments to section apply to an asbestos action, including an action alleging a nonmalignant or malignant condition, or a silica action involving silicosis filed on or after July 1, 2020; 2020 Acts, ch 1030, §4

686B.4 Asbestos claims involving nonmalignant conditions — elements of proof.

An asbestos action involving a nonmalignant condition shall not be brought or maintained in the absence of prima facie evidence that the exposed person has a physical impairment for which asbestos exposure was a substantial contributing factor. The prima facie showing shall be made as to each defendant and include a detailed narrative medical report and diagnosis signed under oath by a qualified physician that includes all of the following:

1. Radiological or pathological evidence of asbestosis or radiological evidence of diffuse bilateral pleural thickening or a high-resolution computed tomography scan showing evidence of asbestosis or diffuse bilateral pleural thickening.

2. A detailed occupational and exposure history from the exposed person or, if that person is deceased, from the person most knowledgeable about the exposures that form the basis of the action, including identification of all of the exposed person's principal places of employment and exposures to airborne contaminants and whether each place of employment involved exposures to airborne contaminants, including asbestos fibers or other disease-causing dusts or fumes, that may cause pulmonary impairment and the nature, duration, and level of any exposure.

3. A detailed medical, social, and smoking history from the exposed person or, if that person is deceased, from the person most knowledgeable, including a thorough review of the past and present medical problems of the exposed person and the most probable cause of such medical problems.

4. Evidence verifying that at least fifteen years have elapsed between the exposed person's date of first exposure to asbestos and the date of diagnosis.

5. Evidence based upon a personal medical examination and pulmonary function testing of the exposed person or, if the exposed person is deceased, based upon the person's medical records, that the exposed person has or the deceased person had a permanent respiratory impairment rating of at least class 2 as defined by and evaluated pursuant to the AMA guides or reported significant changes year to year in lung function for FVC, FEV1, or diffusing capacity of the lung for carbon monoxide as defined by the American thoracic society's interpretative strategies for lung function tests, 26 European Respiratory Journal 948-68, 961-62, table 12 (2005), as updated.

6. Evidence that asbestosis or diffuse bilateral pleural thickening, rather than chronic obstructive pulmonary disease, is a substantial contributing factor to the exposed person's physical impairment, based on a determination that the exposed person has any of the following:

a. FVC below the predicted lower limit of normal and FEV1/FVC ratio, using actual values, at or above the predicted lower limit of normal.

b. Total lung capacity, by plethysmography or timed gas dilution, below the predicted lower limit of normal.

c. A chest X ray showing bilateral small, irregular opacities (s, t, or u) graded by a certified B-reader as at least 2/1 on the ILO scale.

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7. The qualified physician signing the detailed narrative medical report has concluded that exposure to asbestos was a substantial contributing factor to the exposed person's physical impairment and not more probably the result of other causes. An opinion that the medical findings and impairment are consistent with or compatible with exposure to asbestos, or similar opinion, does not satisfy the requirements of this subsection.

2017 Acts, ch 11, §13

686B.5 Silica claims involving silicosis — elements of proof.

A silica action involving silicosis shall not be brought or maintained in the absence of prima facie evidence that the exposed person has a physical impairment for which exposure to silica was a substantial contributing factor. The prima facie showing shall be made as to each defendant and include a detailed narrative medical report and diagnosis signed under oath by a qualified physician that includes all of the following:

1. Radiological or pathological evidence of silicosis or a high-resolution computed tomography scan showing evidence of silicosis.

2. A detailed occupational and exposure history from the exposed person or, if that person is deceased, from the person most knowledgeable about the exposures that form the basis of the action, including identification of all principal places of employment and exposures to airborne contaminants and whether each place of employment involved exposures to airborne contaminants, including silica or other disease-causing dusts or fumes, that may cause pulmonary impairment and the nature, duration, and level of any exposure.

3. A detailed medical, social, and smoking history from the exposed person or, if that person is deceased, from the person most knowledgeable, including a thorough review of the past and present medical problems of the exposed person and the most probable cause of such medical problems.

4. Evidence that a sufficient latency period has elapsed between the exposed person's date of first exposure to silica and the day of diagnosis.

5. Evidence based upon a personal medical examination and pulmonary function testing of the exposed person or, if the exposed person is deceased, based upon the person's medical records, that the exposed person has or the deceased person had a permanent respiratory impairment rating of at least class 2 as defined by and evaluated pursuant to the AMA guides or reported significant changes year to year in lung function for FVC, FEV1, or diffusing capacity of the lung for carbon monoxide as defined by the American thoracic society's interpretative strategies for lung function tests, 26 European Respiratory Journal 948-68, 961-62, table 12 (2005), as updated.

6. The qualified physician signing the detailed narrative medical report has concluded that exposure to silica was a substantial contributing factor to the exposed person's physical impairment and not more probably the result of other causes. An opinion stating that the medical findings and impairment are consistent with or compatible with exposure to silica, or similar opinion, does not satisfy the requirements of this subsection.

2017 Acts, ch 11, §14

686B.6 Evidence of physical impairment.

Evidence relating to physical impairment, including pulmonary function testing and diffusing studies, offered in an action governed by this chapter, must satisfy all of the following requirements:

1. The evidence must comply with the quality controls, equipment requirements, methods of calibration, and techniques set forth in the AMA guides and all standards set forth in the official statements of the American thoracic society which are in effect on the date of any examination or pulmonary function testing of the exposed person required by this chapter.

2. The evidence must not be obtained by or based on testing or examinations that violate any law, regulation, licensing requirement, or medical code of practice of the state in which the examination, test, or screening was conducted, or of this state.

3. The evidence must not be obtained under the condition that the plaintiff or exposed

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person retains the legal services of the attorney sponsoring the examination, test, or screening.

2017 Acts, ch 11, §15

686B.7 Procedures — limitation.

1. Evidence relating to the prima facie showings required under this chapter shall not create any presumption that the exposed person has an asbestos-related or silica-related injury or impairment, and shall not be conclusive as to the liability of any defendant.

2. No evidence shall be offered at trial, and the jury shall not be informed, of any of the following:

a. The grant or denial of a motion to dismiss an asbestos action or silica action under the provisions of this chapter.

b. The provisions of this chapter with respect to what constitutes a prima facie showing of asbestos-related impairment or silica-related impairment.

3. Until a court enters an order determining that the exposed person has established prima facie evidence of impairment, an asbestos action or silica action shall not be subject to discovery, except discovery related to establishing or challenging the prima facie evidence or by order of the trial court upon motion of one of the parties and for good cause shown.

4. *a.* A court may consolidate for trial any number and type of asbestos actions or silica actions with the consent of all the parties. In the absence of such consent, the court may consolidate for trial only asbestos actions or silica actions relating to the exposed person and members of that person's household.

b. This subsection does not preclude the consolidation of cases by court order for pretrial or discovery purposes.

5. A defendant in an asbestos action or silica action shall not be liable for exposures from a product or component part made or sold by a third party.

2017 Acts, ch 11, §16

686B.8 Statute of limitations — two-disease rule.

1. With respect to an asbestos action or silica action not barred by limitations as of July 1, 2017, an exposed person's cause of action shall not accrue, nor shall the running of limitations commence, prior to the earliest of the following:

a. The exposed person received a medical diagnosis of an asbestos-related impairment or silica-related impairment.

b. The exposed person discovered facts that would have led a reasonable person to obtain a medical diagnosis with respect to the existence of an asbestos-related impairment or silica-related impairment.

c. The date of death of the exposed person having an asbestos-related impairment or silica-related impairment.

2. This section shall not be construed to revive or extend limitations with respect to any claim for asbestos-related impairment or silica-related impairment that was otherwise time-barred as of July 1, 2017.

3. An asbestos action or silica action arising out of a nonmalignant condition shall be a distinct cause of action from an action for an asbestos-related cancer or silica-related cancer. Where otherwise permitted under state law, no damages shall be awarded for fear or increased risk of future disease in an asbestos action or silica action.

2017 Acts, ch 11, §17

686B.9 Application.

1. This chapter applies to all asbestos actions and silica actions filed on or after July 1, 2017.

2. This chapter applies to all pending asbestos actions and silica actions in which trial has not commenced as of July 1, 2017, unless the court finds that the application of a provision in this chapter would unconstitutionally affect a vested right. In that case, the provision does not apply and the court shall apply prior law.

2017 Acts, ch 11, §18

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CHAPTER 686C

ASBESTOS-RELATED LIABILITY OF SUCCESSOR CORPORATIONS

686C.1	Title.	686C.4	Establishing fair market value of total gross assets.
686C.2	Definitions.	686C.5	Adjustment.
686C.3	Limitations on successor asbestos-related liabilities.	686C.6	Scope of chapter — application.

686C.1 Title.

This chapter shall be known and may be cited as the *"Successor Corporation Asbestos-Related Liability Fairness Act"*.

2017 Acts, ch 11, §19

686C.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Asbestos action"* means the same as defined in section 686A.2, but also includes any claim for damage or loss caused by the installation, presence, or removal of asbestos.

2. *"Corporation"* means any corporation established under either domestic or foreign charter and includes a corporate subsidiary and any business entity in which a corporation participates or is a stockholder, a partner, or a joint venture.

3. *"Successor"* means a corporation that assumes or incurs or has assumed or incurred successor asbestos-related liabilities through operation of law, including but not limited to a merger or consolidation or plan of merger or consolidation related to such consolidation or merger or by appointment as an administrator or as a trustee in bankruptcy, debtor in possession, liquidation, or receivership and that became a successor before January 1, 1972. "*Successor*" includes any of that successor corporation's successors.

4. *"Successor asbestos-related liability"* means any liabilities, whether known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, or due or to become due, which are related in any way to an asbestos action and were assumed or incurred by a corporation as a result of or in connection with a merger or consolidation, or the plan of merger or consolidation related to the merger or consolidation with or into another corporation, or that are related in any way to an asbestos action based on the exercise of control or the ownership of stock of the corporation before the merger or consolidation. *"Successor asbestos-related liability"* includes liabilities that, after the time of the merger or consolidation for which the fair market value of total gross assets is determined under section 686C.4, were or are paid or otherwise discharged, or committed to be paid or otherwise discharged, by or on behalf of the corporation, or by a successor of the corporation, or by or on behalf of a transferor, in connection with settlements, judgments, or other discharges in this state or another jurisdiction.

5. *"Transferor"* means a corporation from which successor asbestos-related liabilities are or were assumed or incurred.

2017 Acts, ch 11, §20

686C.3 Limitations on successor asbestos-related liabilities.

1. Except as provided in subsection 2, the cumulative successor asbestos-related liabilities of a successor are limited to the fair market value of the total gross assets of the transferor determined as of the time of the merger or consolidation. A successor shall not have responsibility for successor asbestos-related liabilities in excess of this limitation.

2. If the transferor had assumed or incurred successor asbestos-related liabilities in connection with a prior merger or consolidation with a prior transferor, then the fair market value of the total gross assets of the prior transferor determined as of the time of the earlier merger or consolidation shall be substituted for the limitation set forth in subsection 1 for purposes of determining the limitation of liability of a successor.

3. The limitations in this section shall apply to any successor but shall not apply to any of the following:

a. Workers' compensation benefits paid by or on behalf of an employer to an employee

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under the provisions of chapter 85 or 85A, or a comparable workers' compensation law of another jurisdiction.

b. Any claim against a corporation that does not constitute a successor asbestos-related liability.

c. Any obligation under the federal National Labor Relations Act, 29 U.S.C. §151 et seq., as amended, or under any collective bargaining agreement.

d. A successor that, after a merger or consolidation, continued in the business of mining asbestos or in the business of selling or distributing asbestos fibers or in the business of manufacturing, distributing, removing, or installing asbestos-containing products which were the same or substantially the same as those products previously manufactured, distributed, removed, or installed by the transferor.

2017 Acts, ch 11, §21
Referred to in §686C.4

686C.4 Establishing fair market value of total gross assets.

1. A successor may establish the fair market value of total gross assets, which include intangible assets, for the purpose of the limitations under section 686C.3, through any method reasonable under the circumstances, including any of the following:

a. By reference to the going concern value of the assets or to the purchase price attributable to or paid for the assets in an arms-length transaction.

b. In the absence of other readily available information from which the fair market value can be determined, by reference to the value of the assets recorded on a balance sheet.

2. To the extent total gross assets include any liability insurance that was issued to the transferor whose assets are being valued for purposes of this section, the applicability, terms, conditions, and limits of such insurance shall not be affected by this chapter, nor shall this chapter otherwise affect the rights and obligations of an insurer, transferor, or successor under any insurance contract or any related agreement, including, without limitation, preenactment settlements resolving coverage-related disputes, and the rights of an insurer to seek payment for applicable deductibles, retrospective premiums, or self-insured retentions or to seek contribution from a successor for uninsured or self-insured periods or periods where insurance is uncollectible or otherwise unavailable. Without limiting the foregoing, to the extent total gross assets include any such liability insurance, a settlement of a dispute concerning any such liability insurance coverage entered into by a transferor or successor with the insurers of the transferor before July 1, 2017, shall be determinative of the total coverage of such liability insurance to be included in the calculation of the transferor's total gross assets.

2017 Acts, ch 11, §22
Referred to in §686C.2, 686C.5

686C.5 Adjustment.

1. Except as provided in subsections 2, 3, and 4, the fair market value of total gross assets at the time of a merger or consolidation shall increase annually at a rate equal to the sum of the prime rate as listed in the first edition of the Wall street journal published for each calendar year since the merger or consolidation, unless the prime rate is not published in that edition of the Wall street journal, in which case any reasonable determination of the prime rate on the first day of the year may be used, plus one percent.

2. The rate determined under subsection 1 shall not be compounded.

3. The adjustment of the fair market value of total gross assets shall continue as provided in subsection 1 until the date the adjusted value is first exceeded by the cumulative amounts of successor asbestos-related liabilities paid or committed to be paid by or on behalf of the successor corporation or a predecessor or by or on behalf of a transferor after the time of the merger or consolidation for which the fair market value of total gross assets is determined.

4. No adjustment of the fair market value of total gross assets shall be applied to any liability insurance that may be included in the total gross assets pursuant to section 686C.4, subsection 2.

2017 Acts, ch 11, §23

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686C.6 Scope of chapter — application.

1. This chapter shall be liberally construed with regard to successors.

2. This chapter applies to all asbestos claims filed against a successor on or after July 1, 2017.

3. This chapter applies to all pending asbestos actions in which trial has not commenced as of July 1, 2017, unless the court finds that the application of a provision in this chapter would unconstitutionally affect a vested right. In that case, the provision does not apply and the court shall apply prior law.

2017 Acts, ch 11, §24

CHAPTER 686D

COVID-19 RELATED LIABILITY

686D.1 Short title.
686D.2 Definitions.
686D.3 Actual injury requirement in civil actions alleging COVID-19 exposure.
686D.4 Premises owner's duty of care — limited liability.
686D.5 Safe harbor for compliance with regulations, executive orders, or public health guidance.
686D.6 Liability of health care providers.
686D.7 Supplies, equipment, and products designed, manufactured, labeled, sold, distributed, and donated in response to COVID-19.
686D.8 Construction.

686D.1 Short title.

This chapter shall be known and may be cited as the *"COVID-19 Response and Back-to-Business Limited Liability Act"*.

2020 Acts, ch 1070, §3, 11
Section applies retroactively to January 1, 2020; 2020 Acts, ch 1070, §11

686D.2 Definitions.

When used in this chapter, unless the context otherwise requires:

1. *"COVID-19"* means the novel coronavirus identified as SARS-CoV-2, the disease caused by the novel coronavirus SARS-CoV-2 or a virus mutating therefrom, and conditions associated with the disease caused by the novel coronavirus SARS-CoV-2 or a virus mutating therefrom.

2. *"Disinfecting or cleaning supplies"* means and includes hand sanitizers, disinfectants, sprays, and wipes.

3. *"Health care facility"* means and includes all of the following:

a. A facility as defined in section 514J.102.

b. A facility licensed pursuant to chapter 135B.

c. A facility licensed pursuant to chapter 135C.

d. Residential care facilities, nursing facilities, intermediate care facilities for persons with mental illness, intermediate care facilities for persons with intellectual disabilities, hospice programs, elder group homes, and assisted living programs.

4. *"Health care professional"* means physicians and other health care practitioners who are licensed, certified, or otherwise authorized or permitted by the laws of this state to administer health care services in the ordinary course of business or in the practice of a profession, whether paid or unpaid, including persons engaged in telemedicine or telehealth. *"Health care professional"* includes the employer or agent of a health care professional who provides or arranges health care.

5. *"Health care provider"* means and includes a health care professional, health care facility, home health care facility, and any other person or facility otherwise authorized or permitted by any federal or state statute, regulation, order, or public health guidance to administer health care services or treatment.

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6. *"Health care services"* means services for the diagnosis, prevention, treatment, care, cure, or relief of a health condition, illness, injury, or disease.

7. *"Minimum medical condition"* means a diagnosis of COVID-19 that requires inpatient hospitalization or results in death.

8. *"Person"* means the same as defined in section 4.1. *"Person"* includes an agent of a person.

9. *"Personal protective equipment"* means and includes protective clothing, gloves, face shields, goggles, facemasks, respirators, gowns, aprons, coveralls, and other equipment designed to protect the wearer from injury or the spread of infection or illness.

10. *"Premises"* means and includes any real property and any appurtenant building or structure serving a commercial, residential, educational, religious, governmental, cultural, charitable, or health care purpose.

11. *"Public health guidance"* means and includes written guidance related to COVID-19 issued by any of the following:

a. The centers for disease control and prevention of the federal department of health and human services.

b. The centers for Medicare and Medicaid services of the federal department of health and human services.

c. The federal occupational safety and health administration.

d. The office of the governor.

e. Any state agency, including the department of health and human services.

12. *"Qualified product"* means and includes all of the following:

a. Personal protective equipment used to protect the wearer from COVID-19 or to prevent the spread of COVID-19.

b. Medical devices, equipment, and supplies used to treat COVID-19, including medical devices, equipment, or supplies that are used or modified for an unapproved use to treat COVID-19 or to prevent the spread of COVID-19.

c. Medical devices, equipment, and supplies used outside of their normal use to treat COVID-19 or to prevent the spread of COVID-19.

d. Medications used to treat COVID-19, including medications prescribed or dispensed for off-label use to attempt to treat COVID-19.

e. Tests to diagnose or determine immunity to COVID-19.

f. Any component of an item described in paragraphs *"a"* through *"e"*.

2020 Acts, ch 1070, §4, 11; 2023 Acts, ch 19, §1290
Referred to in §27C.1, 27C.2, 94.1, 96.5A, 96.7(12), 155A.46
Section applies retroactively to January 1, 2020; 2020 Acts, ch 1070, §11

686D.3 Actual injury requirement in civil actions alleging COVID-19 exposure.

A person shall not bring or maintain a civil action alleging exposure or potential exposure to COVID-19 unless one of the following applies:

1. The civil action relates to a minimum medical condition.
2. The civil action involves an act that was intended to cause harm.
3. The civil action involves an act that constitutes actual malice.

2020 Acts, ch 1070, §5, 11
Section applies retroactively to January 1, 2020; 2020 Acts, ch 1070, §11

686D.4 Premises owner's duty of care — limited liability.

A person who possesses or is in control of a premises, including a tenant, lessee, or occupant of a premises, who directly or indirectly invites or permits an individual onto a premises, shall not be liable for civil damages for any injuries sustained from the individual's exposure to COVID-19, whether the exposure occurs on the premises or during any activity managed by the person who possesses or is in control of a premises, unless any of the following apply to the person who possesses or is in control of the premises:

1. The person who possesses or is in control of the premises recklessly disregards a substantial and unnecessary risk that the individual would be exposed to COVID-19.

2. The person who possesses or is in control of the premises exposes the individual to COVID-19 through an act that constitutes actual malice.

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3. The person who possesses or is in control of the premises intentionally exposes the individual to COVID-19.

2020 Acts, ch 1070, §6, 11
Section applies retroactively to January 1, 2020; 2020 Acts, ch 1070, §11

686D.5 Safe harbor for compliance with regulations, executive orders, or public health guidance.

A person in this state shall not be held liable for civil damages for any injuries sustained from exposure or potential exposure to COVID-19 if the act or omission alleged to violate a duty of care was in substantial compliance or was consistent with any federal or state statute, regulation, order, or public health guidance related to COVID-19 that was applicable to the person or activity at issue at the time of the alleged exposure or potential exposure.

2020 Acts, ch 1070, §7, 11
Section applies retroactively to January 1, 2020; 2020 Acts, ch 1070, §11

686D.6 Liability of health care providers.

1. A health care provider shall not be liable for civil damages for causing or contributing, directly or indirectly, to the death or injury of an individual as a result of the health care provider's acts or omissions while providing or arranging health care in support of the state's response to COVID-19. This subsection shall apply to all of the following:

a. Injury or death resulting from screening, assessing, diagnosing, caring for, or treating individuals with a suspected or confirmed case of COVID-19.

b. Prescribing, administering, or dispensing a pharmaceutical for off-label use to treat a patient with a suspected or confirmed case of COVID-19.

c. Acts or omissions while providing health care to individuals unrelated to COVID-19 when those acts or omissions support the state's response to COVID-19, including any of the following:

(1) Delaying or canceling nonurgent or elective dental, medical, or surgical procedures, or altering the diagnosis or treatment of an individual in response to any federal or state statute, regulation, order, or public health guidance.

(2) Diagnosing or treating patients outside the normal scope of the health care provider's license or practice.

(3) Using medical devices, equipment, or supplies outside of their normal use for the provision of health care, including using or modifying medical devices, equipment, or supplies for an unapproved use.

(4) Conducting tests or providing treatment to any individual outside the premises of a health care facility.

(5) Acts or omissions undertaken by a health care provider because of a lack of staffing, facilities, medical devices, equipment, supplies, or other resources attributable to COVID-19 that renders the health care provider unable to provide the level or manner of care to any person that otherwise would have been required in the absence of COVID-19.

(6) Acts or omissions undertaken by a health care provider relating to use or nonuse of personal protective equipment.

2. This section shall not relieve any person of liability for civil damages for any act or omission which constitutes recklessness or willful misconduct.

2020 Acts, ch 1070, §8, 11
Section applies retroactively to January 1, 2020; 2020 Acts, ch 1070, §11

686D.7 Supplies, equipment, and products designed, manufactured, labeled, sold, distributed, and donated in response to COVID-19.

1. Any person that designs, manufactures, labels, sells, distributes, or donates household disinfecting or cleaning supplies, personal protective equipment, or a qualified product in response to COVID-19 shall not be liable in a civil action alleging personal injury, death, or property damage caused by or resulting from the design, manufacturing, labeling, selling, distributing, or donating of the household disinfecting or cleaning supplies, personal protective equipment, or a qualified product.

2. Any person that designs, manufactures, labels, sells, distributes, or donates household

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disinfecting or cleaning supplies, personal protective equipment, or a qualified product in response to COVID-19 shall not be liable in a civil action alleging personal injury, death, or property damage caused by or resulting from a failure to provide proper instructions or sufficient warnings.

3. This section shall not apply in the event of any of the following:

a. The person that designs, manufactures, labels, sells, distributes, or donates household disinfecting or cleaning supplies, personal protective equipment, or a qualified product had actual knowledge of a defect in the household disinfecting or cleaning supplies, personal protective equipment, or a qualified product when put to the use for which the household disinfecting or cleaning supplies, personal protective equipment, or a qualified product was designed, manufactured, sold, distributed, or donated, and the person recklessly disregarded a substantial and unnecessary risk that the household disinfecting or cleaning supplies, personal protective equipment, or a qualified product would cause serious personal injury, death, or serious property damage.

b. The person that designs, manufactures, labels, sells, distributes, or donates household disinfecting or cleaning supplies, personal protective equipment, or a qualified product acted with actual malice.

2020 Acts, ch 1070, §9, 11
Section applies retroactively to January 1, 2020; 2020 Acts, ch 1070, §11

686D.8 Construction.

This chapter shall not be construed to do any of the following:

1. Create, recognize, or ratify a claim or cause of action of any kind.
2. Eliminate or satisfy a required element of a claim or cause of action of any kind.
3. Affect the rights or limits under workers' compensation as provided in chapter 85, 85A, or 85B, or the rights or limits related to police officers or fire fighters under chapter 410 or 411.
4. Abrogate, amend, repeal, alter, or affect any statutory or common law immunity or limitation of liability.

2020 Acts, ch 1070, §10, 11
Section applies retroactively to January 1, 2020; 2020 Acts, ch 1070, §11

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TITLE XVI

CRIMINAL LAW AND PROCEDURE

Referred to in §625.29, 702.5, 801.4, 801.5

SUBTITLE 1

CRIME CONTROL AND CRIMINAL ACTS

CHAPTERS 687 to 689

RESERVED

CHAPTER 690

CRIMINAL IDENTIFICATION

Referred to in §331.307, 364.22, 692.13

690.1 Criminal identification.
690.2 Fingerprints and palm prints — photographs — duty of sheriff and chief of police.
690.3 Equipment.
690.4 Fingerprints and photographs at institutions.
690.5 Administrative sanctions.

690.1 Criminal identification.

The commissioner of public safety may provide in the department a division of criminal investigation. The commissioner may adopt rules for the same. The sheriff of each county and the chief of police of each city shall furnish to the department criminal identification records and other information as directed by the commissioner of public safety.

[C24, 27, 31, 35, 39, §**13416;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §749.1; C79, 81, §690.1]
97 Acts, ch 23, §77; 2006 Acts, ch 1034, §2
Referred to in §331.653

690.2 Fingerprints and palm prints — photographs — duty of sheriff and chief of police.

1. The sheriff of every county and the chief of police of each city, regardless of the form of government thereof, shall take the fingerprints of all unidentified dead bodies in their respective jurisdictions and of all persons who are taken into custody, or who have been issued a citation in lieu of continued custody, for the commission of a serious misdemeanor, an aggravated misdemeanor, or a felony and shall forward such fingerprint records, on such forms and in such manner as may be prescribed by the commissioner of public safety, to the department of public safety as follows:

a. Within two working days after an unidentified dead body is fingerprinted or a person is taken into custody.

b. Within two working days after the initial court appearance for a person issued a citation in lieu of continued custody.

2. Fingerprints may be taken of a person who has been taken into custody or issued a citation in lieu of continued custody for a simple misdemeanor subject to an enhanced penalty for conviction of a second or subsequent offense. Fingerprints taken pursuant to this subsection shall be forwarded to the department of public safety within the time limits established in subsection 1. In addition to the fingerprints as herein provided, the sheriff or chief of police shall also take the palm prints and may take the photograph of any such

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person and forward any such palm prints and photographs to the department of public safety within the time limits established in subsection 1.

3. If a defendant is convicted by a court of this state of an offense that is a simple misdemeanor subject to an enhanced penalty for conviction of a second or subsequent offense, a serious misdemeanor, an aggravated misdemeanor, or a felony, the court shall determine whether such defendant has previously been fingerprinted in connection with the criminal proceedings leading to the conviction and, if not, shall order that the defendant be fingerprinted and those prints submitted to the department of public safety.

4. The court shall also order that a juvenile adjudicated delinquent for an offense that would be an offense other than a simple misdemeanor if committed by an adult be fingerprinted and the prints submitted to the department of public safety if the juvenile has not previously been fingerprinted in connection with juvenile proceedings.

[C27, 31, 35, §13417-b1; C39, §**13417.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §749.2; C79, 81, §690.2]

93 Acts, ch 115, §1; 96 Acts, ch 1135, §1; 99 Acts, ch 37, §2; 2011 Acts, ch 95, §5; 2024 Acts, ch 1035, §1

Referred to in §331.322, 331.653, 690.3, 692.15, 726.23
Fingerprinting, see also §232.148 and 690.4
Nontestimonial identification, chapter 810

690.3 Equipment.

The board of supervisors of each county and the council of each city affected by the provisions of section 690.2 shall furnish all necessary equipment and materials for the carrying out of the provisions of said section.

[C27, 31, 35, §13417-b2; C39, §**13417.2;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §749.3; C79, 81, §690.3]

690.4 Fingerprints and photographs at institutions.

1. The warden of the Iowa medical and classification center and superintendent of the state training school shall take or procure the taking of the fingerprints, and, in the case of the Iowa medical and classification center only, Bertillon photographs of any person received on commitment to their respective institutions, and shall forward such fingerprint records and photographs within ten days after they are taken to the department of public safety. Information obtained from fingerprint cards submitted pursuant to this section may be retained by the department of public safety as criminal history records. If a charge for a serious misdemeanor, aggravated misdemeanor, or felony is brought against a person already in the custody of a law enforcement or correctional agency and the charge is filed in a case separate from the case for which the person was previously arrested or confined, the agency shall take the fingerprints of the person in connection with the new case and submit them to the department of public safety.

2. The wardens and superintendents of all department of corrections facilities shall procure the taking of a photograph showing the facial features of each inmate of a state correctional institution prior to the inmate's discharge. The photograph shall be placed in the inmate's file and shall be made available to the Iowa department of public safety upon request.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §749.4; C79, 81, §690.4; 82 Acts, ch 1260, §37]

83 Acts, ch 96, §116, 159; 84 Acts, ch 1184, §18; 86 Acts, ch 1075, §4; 93 Acts, ch 115, §2; 2011 Acts, ch 95, §6

Referred to in §726.23

690.5 Administrative sanctions.

1. An agency subject to fingerprinting and disposition requirements under this chapter and chapter 692 shall take all steps necessary to ensure that all agency officials and employees understand the requirements and shall provide for and impose administrative sanctions, as appropriate, for failure to report as required.

2. If a criminal or juvenile justice agency subject to fingerprinting and disposition requirements fails to comply with the requirements, the commissioner of public safety shall

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order that the agency's access to criminal history record information maintained by the repository be denied or restricted until the agency complies with the reporting requirements.

3. The state court administrator shall develop a policy to ensure that court personnel understand and comply with the fingerprinting and disposition requirements and shall also develop sanctions for court personnel who fail to comply with the requirements.

93 Acts, ch 115, §3; 95 Acts, ch 191, §27; 2018 Acts, ch 1041, §127; 2024 Acts, ch 1035, §2

CHAPTER 691

STATE CRIMINALISTICS LABORATORY AND MEDICAL EXAMINER

Referred to in §141A.5, 331.307, 331.802, 331.805, 364.22

691.1 Laboratory created.
691.2 Presumption of qualification — evidence — testimony.
691.3 Commissioner to make rules.
691.4 Copy of finding to defendant.
691.5 State medical examiner.
691.6 Duties of state medical examiner.
691.6A Deputy state medical examiner — creation and duties.
691.6B Interagency coordinating council. Repealed by 2024 Acts, ch 1170, §368.
691.6C State medical examiner advisory council. Repealed by 2019 Acts, ch 85, §77.
691.7 Commissioner to accept federal or private grants.
691.8 Governor to transfer laboratory.
691.9 Criminalistics laboratory fund.

691.1 Laboratory created.

There is hereby created under the control, direction, and supervision of the commissioner of public safety a state criminalistics laboratory. The commissioner of public safety may assign the criminalistics laboratory to a division or bureau within the public safety department. The laboratory shall, within its capabilities, conduct analyses, comparative studies, fingerprint identification, firearms identification, questioned documents studies, and other studies normally performed by a criminalistics laboratory when requested by a county attorney, medical examiner, or law enforcement agency of this state to aid in any criminal investigation. Agents of the division of criminal investigation may be assigned to the criminalistics laboratory by the commissioner. New employees shall be appointed pursuant to chapter 8A, subchapter IV, and need not qualify as agents for the division of criminal investigation and shall not participate in the peace officers' retirement plan established pursuant to chapter 97A.

[C71, 73, 75, 77, §749A.1; C79, 81, §691.1]

2003 Acts, ch 145, §276; 2005 Acts, ch 35, §31

691.2 Presumption of qualification — evidence — testimony.

1. It shall be presumed that any employee or technician of the criminalistics laboratory is qualified or possesses the required expertise to accomplish any analysis, comparison, or identification done by the employee in the course of the employee's employment in the criminalistics laboratory. Any report, or copy of a report, or the findings of the criminalistics laboratory shall be received in evidence, if determined to be relevant, in any court, preliminary hearing, grand jury proceeding, civil proceeding, administrative hearing, and forfeiture proceeding in the same manner and with the same force and effect as if the employee or technician of the criminalistics laboratory who accomplished the requested analysis, comparison, or identification had testified in person.

2. A party or the party's attorney may request that an employee or technician testify in person at a criminal trial, administrative hearing, or forfeiture proceeding on behalf of the state or the adverse agency of the state, by notifying the proper county attorney, or in the case of an administrative proceeding the adverse agency, at least ten days before the date of the criminal trial, administrative hearing, or forfeiture proceeding. A party or the party's

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attorney in any other civil proceeding may require an employee or technician to testify in person pursuant to a subpoena.

[C71, 73, 75, 77, §749A.2; C79, 81, §691.2]

86 Acts, ch 1147, §1; 88 Acts, ch 1029, §1; 2019 Acts, ch 24, §104

691.3 Commissioner to make rules.

The commissioner of public safety shall make rules defining the capabilities of the criminalistics laboratory. The commissioner shall make rules governing the handling of items to be processed by the criminalistics laboratory from the time they are forwarded to the laboratory by a county medical examiner or a city or state law enforcement agency or county sheriff until their return to the forwarder. The rules shall prescribe a method of identifying, forwarding, handling and returning items that will maintain the identity and integrity of the item. An item handled in conformity with the rules shall be presumed to be admissible in evidence as to the period in transit to and from and while in custody of the laboratory without further foundation.

[C71, 73, 75, 77, §749A.3; C79, 81, §691.3]

691.4 Copy of finding to defendant.

The county attorney shall give the accused person, or the accused person's attorney, after an indictment or county attorney's information has been returned, a copy of each report of the findings of the criminalistics laboratory conducted in the investigation of the indictable criminal charge against the accused person at the time of arraignment, or if such report is received after arraignment, upon receipt, whether or not such findings are to be used in evidence against the accused person. If such report is not given to the accused or the accused person's attorney at least four days prior to trial, such fact shall be grounds for a continuance.

[C71, 73, 75, 77, §749A.4; C79, 81, §691.4]

Referred to in §331.756(65)

691.5 State medical examiner.

The office and position of state medical examiner is established for administrative purposes within the department of health and human services. Other state agencies shall cooperate with the state medical examiner in the use of state-owned facilities when appropriate for the performance of nonadministrative duties of the state medical examiner. The state medical examiner shall be a physician and surgeon or osteopathic physician and surgeon, be licensed to practice medicine in the state of Iowa, and be board certified or eligible to be board certified in anatomic and forensic pathology by the American board of pathology. The state medical examiner shall be appointed by and serve at the pleasure of the director of health and human services upon the advice of and in consultation with the director of public safety and the governor. The state medical examiner, in consultation with the director of health and human services, shall be responsible for developing and administering the medical examiner's budget and for employment of medical examiner staff and assistants. The state medical examiner may be a faculty member of the university of Iowa college of medicine or the college of law at the university of Iowa, and any of the examiner's assistants or staff may be members of the faculty or staff of the university of Iowa college of medicine or the college of law at the university of Iowa.

[C71, 73, 75, 77, §749A.5; C79, 81, §691.5]

86 Acts, ch 1245, §1602; 99 Acts, ch 208, §6, 14; 2001 Acts, ch 74, §20; 2023 Acts, ch 19, §1291

Referred to in §124.553, 142C.2, 691.6A

691.6 Duties of state medical examiner.

The duties of the state medical examiner shall be:

1. To provide assistance, consultation, and training to county medical examiners and law enforcement officials.

2. To keep complete records of all relevant information concerning deaths or crimes requiring investigation by the state medical examiner.

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3. To adopt rules pursuant to chapter 17A and subject to the approval of the director of health and human services.

4. To collect and retain autopsy fees as established by rule. Autopsy fees collected and retained under this subsection are appropriated for purposes of the state medical examiner's office. Notwithstanding section 8.33, any fees collected by the state medical examiner that remain unexpended at the end of the fiscal year shall not revert to the general fund of the state or any other fund but shall be available for use for the following fiscal year for the same purpose.

5. To conduct an inquiry, investigation, or hearing and administer oaths and receive testimony under oath relative to the matter of inquiry, investigation, or hearing, and to subpoena witnesses and require the production of records, papers, and documents pertinent to the death investigation. However, the medical examiner shall not conduct any activity pursuant to this subsection, relating to a homicide or other criminally suspicious death, without coordinating such activity with the county medical examiner, and without obtaining approval of the investigating law enforcement agency, the county attorney, or any other prosecutorial or law enforcement agency of the jurisdiction to conduct such activity.

6. To adopt rules pursuant to chapter 17A relating to the duties, responsibilities, and operations of the office of the state medical examiner and to specify the duties, responsibilities, and operations of the county medical examiner in relationship to the office of the state medical examiner.

7. To perform an autopsy or order that an autopsy be performed if required or authorized by section 331.802 or by rule. If the state medical examiner assumes jurisdiction over a body for purposes of performing an autopsy required or authorized by section 331.802 or by rule under this section, the body or its effects shall not be disturbed, withheld from the custody of the state medical examiner, or removed from the custody of the state medical examiner without authorization from the state medical examiner.

8. To retain tissues, organs, and bodily fluids as necessary to determine the cause and manner of death or as deemed advisable by the state medical examiner for medical or public health investigation, teaching, or research. Tissues, organs, and bodily fluids shall be properly disposed of by following procedures and precautions for handling biologic material and blood-borne pathogens as established by rule.

9. To collect and retain fees for medical examiner facility expenses and services related to tissue recovery. Fees collected and retained under this subsection are appropriated to the state medical examiner for purposes of supporting the state medical examiner's office and shall not be transferred, used, obligated, or otherwise encumbered. Notwithstanding section 8.33, any fees collected by the state medical examiner shall not revert to the general fund of the state or any other fund.

[C71, 73, 75, 77, §749A.6; C79, 81, §691.6]

86 Acts, ch 1245, §1603; 90 Acts, ch 1233, §39; 99 Acts, ch 208, §7, 14; 2000 Acts, ch 1140, §46; 2000 Acts, ch 1222, §16, 17; 2005 Acts, ch 89, §38; 2006 Acts, ch 1105, §1; 2006 Acts, ch 1184, §120; 2009 Acts, ch 182, §112; 2010 Acts, ch 1031, §398; 2023 Acts, ch 19, §1292, 1293

Referred to in §691.6A

691.6A Deputy state medical examiner — creation and duties.

The position of deputy state medical examiner is created within the office of the state medical examiner. The deputy state medical examiner shall report to and be responsible to the state medical examiner. The deputy state medical examiner shall meet the qualification criteria established in section 691.5 for the state medical examiner and shall be subject to rules adopted by the state medical examiner as provided in section 691.6, subsection 3. The state medical examiner and the deputy state medical examiner shall function as a team, providing peer review as necessary, fulfilling each other's job responsibilities during times of absence, and working jointly to provide services and education to county medical examiners, law enforcement officials, hospital pathologists, and other individuals and entities. The deputy medical examiner may be, but is not required to be, a full-time salaried faculty member of the department of pathology of the university of Iowa college of medicine. If the medical examiner is a full-time salaried faculty member of the department of pathology of

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the university of Iowa college of medicine, the department of health and human services and the state board of regents shall enter into a chapter 28E agreement to define the activities and functions of the deputy medical examiner, and to allocate deputy medical examiner costs, consistent with the requirements of this section.

99 Acts, ch 208, §8, 14; 2001 Acts, ch 74, §21; 2023 Acts, ch 19, §1294

691.6B Interagency coordinating council. Repealed by 2024 Acts, ch 1170, §368.

691.6C State medical examiner advisory council. Repealed by 2019 Acts, ch 85, §77.

691.7 Commissioner to accept federal or private grants.

The commissioner of public safety may accept federal or private funds or grants to aid in the establishment or operation of the state criminalistics laboratory, and the director of health and human services or the state board of regents may accept federal or private funds or grants to aid in the establishment or operation of the position of state medical examiner.

[C71, 73, 75, 77, §749A.7; C79, 81, §691.7]

86 Acts, ch 1245, §1604; 99 Acts, ch 208, §11, 14; 2023 Acts, ch 19, §1297

691.8 Governor to transfer laboratory.

The governor shall by executive order provide for the transfer of any appropriate laboratory facilities, equipment, and technical personnel of the state to the state criminalistics laboratory if such transfer will more effectively and efficiently aid the investigation of crime.

[C71, 73, 75, 77, §749A.8; C79, 81, §691.8]

691.9 Criminalistics laboratory fund.

A criminalistics laboratory fund is created as a separate fund in the state treasury under the control of the department of public safety. The fund shall consist of appropriations made to the fund and transfers of interest, moneys collected from the crime services surcharge established in section 911.1, and earnings. All moneys in the fund are appropriated to the department of public safety for use by the department in criminalistics laboratory equipment and supply purchasing, maintenance, depreciation, training, and payments of the fees charged by the department of administrative services for the criminalistics laboratory facility in Ankeny. Any balance in the fund on June 30 of any fiscal year shall not revert to any other fund of the state but shall remain available for the purposes described in this section.

2006 Acts, ch 1030, §80; 2018 Acts, ch 1172, §90; 2020 Acts, ch 1074, §47, 93

Referred to in §602.8108

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CHAPTER 692

CRIMINAL HISTORY AND INTELLIGENCE DATA

Referred to in §8.98, 22.7(55), 232.149, 252B.9, 331.307, 364.22, 535D.15, 690.5, 714.16

692.1 Definitions of words and phrases.
692.2 Dissemination of criminal history data — fees.
692.2A Criminal history data check prepayment fund.
692.3 Redissemination of arrest data and other information.
692.4 Statistics.
692.5 Right to access and challenge — judicial review.
692.6 Civil remedy.
692.7 Criminal penalties.
692.8 Intelligence data.
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692.10 Rules.
692.11 Education program.
692.12 Data processing.
692.13 Review.
692.14 Systems for the exchange of criminal history data.
692.15 Reports to department.
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692.17 Exclusions — purposes.
692.18 Public records.
692.19 Confidential records — commissioner's responsibility.
692.20 Motor vehicle operator's record exempt.
692.21 Data to agency making arrest or taking juvenile into custody.
692.22 Stalking information.

692.1 Definitions of words and phrases.

As used in this chapter, unless the context otherwise requires:

1. *"Adjudication data"* means information that an adjudication of delinquency for an act which would be a serious or aggravated misdemeanor or felony if committed by an adult was entered against a juvenile and includes the date and location of the delinquent act and the place and court of adjudication.

2. *"Arrest data"* means information pertaining to an arrest for a public offense and includes the charge, date, time and place. Arrest data includes arrest warrants for all public offenses outstanding and not served and includes the filing of charges, by preliminary information when filed by a peace officer or law enforcement officer or indictment, the date and place of alleged commission and county of jurisdiction.

3. *"Conviction data"* means information that a person was convicted of or entered a plea of guilty to a public offense and includes the date and location of commission and place and court of conviction.

4. *"Correctional data"* means information pertaining to the status, location, and activities of persons under the supervision of the county sheriff, the Iowa department of corrections, the board of parole, or any other state or local agency performing the same or similar function, but does not include investigative, sociological, psychological, economic, or other subjective information maintained by the Iowa department of corrections or board of parole.

5. *"Criminal history data"* means any or all of the following information maintained by the department or division in a manual or automated data storage system and individually identified:

a. Arrest data.
b. Conviction data.
c. Disposition data.
d. Correctional data.
e. Adjudication data.
f. Custody data.

6. *"Criminal investigative data"* means information collected in the course of an investigation where there are reasonable grounds to suspect that specific criminal acts have been committed by a person.

7. *"Criminal or juvenile justice agency"* means either of the following:

a. An agency or department of any level of government or an entity wholly owned, financed, or controlled by one or more such agencies or departments, or a federally recognized Indian tribe which has entered into a written agreement with the department irrevocably waiving any tribal sovereign immunity related to the dissemination or use

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of criminal history data obtained because of that written agreement, which performs as its principal function the apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal or juvenile offenders.

b. County attorneys and assistant county attorneys in a proceeding alleging that a child is a child in need of assistance as defined in section 232.2.

8. *"Custody data"* means information pertaining to the taking into custody, pursuant to section 232.19, of a juvenile for a delinquent act which would be a serious or aggravated misdemeanor or felony if committed by an adult, and includes the date, time, place, and facts and circumstances of the delinquent act. Custody data includes warrants for the taking into custody for all delinquent acts outstanding and not served and includes the filing of a petition pursuant to section 232.35, the date and place of the alleged delinquent act, and the county of jurisdiction.

9. *"Department"* means the department of public safety.

10. *"Disposition data"* means information pertaining to a recorded court proceeding subsequent and incidental to a public offense arrest and includes dismissal of the charge, suspension or deferral of sentence.

11. *"Division"* means the department of public safety, division of criminal investigation.

12. *"Individually identified"* means criminal history data which relates to a specific person by one or more of the following means of identification:

a. Name and alias, if any.

b. Social security number.

c. Fingerprints.

d. Other index cross-referenced to paragraph *"a"*, *"b"*, or *"c"*.

e. Other individually identifying characteristics.

13. *"Intelligence assessment"* means an analysis of information based in whole or in part upon intelligence data.

14. *"Intelligence data"* means information on identifiable individuals compiled in an effort to anticipate, prevent, or monitor possible criminal activity.

15. *"Public offense"* as used in subsections 2, 3, and 10 does not include nonindictable offenses under either chapter 321 or local traffic ordinances.

16. *"Surveillance data"* means information on individuals, pertaining to participation in organizations, groups, meetings or assemblies, where there are no reasonable grounds to suspect involvement or participation in criminal activity by any person.

[C75, 77, §749B.1; C79, 81, §692.1; 81 Acts, ch 38, §2, 3]

83 Acts, ch 96, §117, 159; 83 Acts, ch 113, §1; 95 Acts, ch 191, §28 – 31; 97 Acts, ch 126, §46; 2003 Acts, ch 14, §1, 5; 2005 Acts, ch 35, §31; 2006 Acts, ch 1034, §2; 2023 Acts, ch 65, §1; 2023 Acts, ch 142, §1

Referred to in §29E.1, 80.9B, 81.8, 81.13, 236.9, 236A.10, 692.17, 692.22, 724.23, 901C.2

692.2 Dissemination of criminal history data — fees.

1. The department may provide copies or communicate information from criminal history data to the following:

a. Criminal or juvenile justice agencies.

b. A person or public or private agency, upon written application on a form approved by the commissioner of public safety and provided by the department to law enforcement agencies, subject to the following restrictions:

(1) A request for criminal history data must be submitted in writing by mail or as otherwise provided by rule. However, the department shall accept a request presented in person if it is from an individual or an individual's attorney and requests the individual's personal criminal history data.

(2) The request must identify a specific person by name and date of birth. Fingerprints of the person named may be required.

(3) Criminal history data that does not contain any disposition data after eighteen months from the date of arrest may only be disseminated by the department to criminal or juvenile justice agencies, to the person who is the subject of the criminal history data or the person's attorney, or to a person requesting the criminal history data with a signed release from the

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person who is the subject of the criminal history data authorizing the requesting person access to criminal history data.

(4) Upon receipt of official notification of the successful completion of probation following a deferred judgment, criminal history data regarding the person who successfully completed the probation shall only be disseminated by the department to a criminal or juvenile justice agency, to the person who is the subject of the criminal history data or the person's attorney, or to another person with a signed release from the person who is the subject of the criminal history data authorizing the requesting person access to the criminal history data.

(5) Any release of criminal history data by the department shall prominently display the statement:

An arrest without disposition is not an indication of guilt.

(6) Records of acquittals or dismissals by reason of insanity and records of adjudications of mental incompetence to stand trial in cases in which physical or mental injury or an attempt to commit physical or mental injury to another was alleged shall not be disseminated to persons or agencies other than criminal or juvenile justice agencies or persons employed in or by those agencies.

(7) Absent an order determining official juvenile court records to be public records entered pursuant to section 232.149B, adjudication and custody data that are deemed or ordered to be confidential pursuant to section 232.147, 232.149, or 232.149A, or that are sealed by court order pursuant to section 232.150, shall not be provided by the department, except as necessary for the purpose of administering chapter 692A.

2. Requests for criminal history data from criminal or juvenile justice agencies shall take precedence over all other requests.

3. A person who requests criminal history data shall not be liable for damages to the person whose criminal history data is requested for actions the person requesting the information may reasonably take in reliance on the accuracy and completeness of the criminal history data received from the department if all of the following are true:

a. The person requesting the criminal history data in good faith believes the criminal history data to be accurate and complete.

b. The person requesting the criminal history data has complied with the requirements of this chapter.

c. The identifying information submitted to the department by the person requesting the criminal history data is accurate regarding the person whose criminal history data is sought.

4. Unless otherwise provided by law, access under this section to criminal history data by a person or public or private agency does not create a duty upon a person, or employer, member, or volunteer of a public or private agency to examine the criminal history data of an applicant, employee, or volunteer.

5. A person other than the department of public safety shall not disseminate criminal history data maintained by the department to persons who are not criminal or juvenile justice agencies, except as set forth in section 692.3.

6. *a.* The department may charge a fee to any nonlaw-enforcement person or agency to conduct criminal history data checks. Notwithstanding any other limitation, the department may use revenues generated from the fee to administer this section and other sections of the Code providing access to criminal history data and to employ personnel to process criminal history data checks.

b. However, the fee for conducting a criminal history data check for a person seeking release of a certified copy of the person's own criminal history data to a potential employer, if that employer requests the release in writing, shall not be paid by the person but shall be paid by the employer.

[C75, 77, §749B.2; C79, 81, §692.2; 82 Acts, ch 1120, §1]

83 Acts, ch 96, §157, 159; 83 Acts, ch 113, §2, 3; 84 Acts, ch 1061, §1; 84 Acts, ch 1265, §6; 85 Acts, ch 33, §124; 86 Acts, ch 1245, §1605, 1606; 87 Acts, ch 59, §1; 88 Acts, ch 1249, §19; 88 Acts, ch 1252, §3; 89 Acts, ch 10, §1, 2; 89 Acts, ch 283, §32; 90 Acts, ch 1248, §3; 90 Acts, ch 1249, §19; 91 Acts, ch 138, §9; 93 Acts, ch 53, §8; 93 Acts, ch 115, §4; 94 Acts, ch 1130, §16,

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17; 95 Acts, ch 191, §32 – 34; 96 Acts, ch 1150, §3, 4; 98 Acts, ch 1021, §1; 2013 Acts, ch 30, §261; 2018 Acts, ch 1153, §12; 2024 Acts, ch 1104, §4
Referred to in §123.46, 123.47, 155A.40, 523A.501, 523A.502, 543D.22, 543E.20, 692.2A, 692.3, 692.20, 725.1, 901C.3

692.2A Criminal history data check prepayment fund.

1. A criminal history data check prepayment fund is created in the state treasury under the control of the department for the purpose of allowing any non-law enforcement agency or person to deposit moneys as an advance on fees required to conduct criminal history data checks as provided in section 692.2.

2. The department shall adopt rules governing the fund, including the crediting of deposits made to the fund. Prepaid fees deposited in the fund are appropriated to the department for use as provided in section 692.2.

3. Interest or earnings on moneys deposited in the fund shall not be credited to the fund or to the agency or person who deposited the money but shall be deposited in the general fund of the state as provided in section 12C.7. Notwithstanding section 8.33, moneys remaining in the criminal history data check prepayment fund at the end of a fiscal year shall not revert to the general fund of the state.

97 Acts, ch 209, §24

692.3 Redissemination of arrest data and other information.

1. A criminal or juvenile justice agency may redisseminate arrest data, and the name, photograph, physical description, and other identifying information, concerning a person who is wanted or being sought if a warrant for the arrest of that person has been issued. Information relating to any threat the person may pose to the public may also be redisseminated. Any redissemination of information pursuant to this subsection shall also include the statement provided in section 692.2, subsection 1, paragraph *"b"*, subparagraph (5).

2. A criminal or juvenile justice agency may redisseminate personal information that is in the form of a person's photograph or digital image or a digital reproduction of a person's photograph obtained from the department of transportation in accordance with section 321.11 of any of the following persons:

a. A missing person, as defined in section 694.1.

b. A person identified in a missing person report involving an unemancipated minor and there are reasonable grounds to suspect that the person is involved with the minor's disappearance.

3. The information described in subsections 1 and 2 may be redisseminated through any written, audio, or visual means utilized by a criminal or juvenile justice agency.

4. A person may disseminate criminal history data of an accused to the attorney of the accused and to self-represented litigants in a pending criminal matter in district or juvenile court, if the criminal history data is already part of the prosecution's file and subject to a discovery obligation.

5. Upon order of the court, a person may disseminate criminal history data of an accused that is not already part of the prosecution's file, or criminal history data of a witness, to the attorney of the accused, prosecutors, and to self-represented litigants in a pending criminal matter in district or juvenile court.

2007 Acts, ch 38, §5; 2022 Acts, ch 1077, §1, 2; 2024 Acts, ch 1104, §5, 6
Referred to in §692.2

692.4 Statistics.

1. The department, division, or a criminal or juvenile justice agency may compile and disseminate criminal history data in the form of statistical reports derived from such information or as the basis of further study, provided individual identities are not ascertainable.

2. The division may, with the approval of the commissioner of public safety, disseminate

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criminal history data to persons conducting bona fide research, provided the data is not individually identified.

[C75, 77, §749B.4; C79, 81, §692.4]

95 Acts, ch 191, §36; 2006 Acts, ch 1034, §2; 2019 Acts, ch 24, §104

692.5 Right to access and challenge — judicial review.

1. Any person or the person's attorney shall have the right to examine and obtain a copy of criminal history data filed with the department that refers to the person. The person or person's attorney may provide the person's fingerprint identification to the department on a form and in a manner prescribed by the department. The department shall not copy the fingerprint identification and shall return or destroy the identification after the copy of the criminal history data is made. The department may prescribe reasonable hours and places of examination.

2. A person who files with the division a written statement to the effect that information contained in the criminal history data is nonfactual, or that information contained in the criminal history data is not authorized by law to be kept, and requests a correction or elimination of the information that refers to the person shall be notified within twenty days by the division, in writing, of the division's decision or order regarding the correction or elimination. Judicial review of the actions of the division may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A. Immediately upon the filing of the petition for judicial review the court shall order the division to file with the court a certified copy of the criminal history data and in no other situation shall the division furnish an individual or the individual's attorney with a certified copy, except as provided by this chapter.

3. Upon the request of the petitioner, the record and evidence in a judicial review proceeding shall be closed to all but the court and its officers, and access thereto shall be refused unless otherwise ordered by the court. The clerk shall maintain a separate docket for such actions. A person, other than the petitioner, shall not permit a copy of any of the testimony or pleadings or the substance thereof to be made available to any person other than a party to the action or the party's attorney. Violation of this section shall be a public offense, punishable under section 692.7. The provisions of this section shall be the sole right of action against the department, its subdivisions, or employees regarding improper storage or release of criminal history data.

4. Whenever the division corrects or eliminates criminal history data as requested or as ordered by the court, the division shall advise the federal bureau of investigation, if applicable, to correct its files.

[C75, 77, §749B.5; C79, 81, §692.5]

93 Acts, ch 115, §5; 96 Acts, ch 1150, §5; 2003 Acts, ch 44, §114; 2006 Acts, ch 1034, §2; 2014 Acts, ch 1026, §133; 2016 Acts, ch 1053, §1

Referred to in §602.8102(124)

692.6 Civil remedy.

Any person may institute a civil action for damages under chapter 669 or 670 or to restrain the dissemination of the person's criminal history data or intelligence data in violation of this chapter. Notwithstanding any provisions of chapter 669 or 670 to the contrary, any person, agency, or governmental body proven to have disseminated or to have requested and received criminal history data or intelligence data in violation of this chapter shall be liable for actual damages and exemplary damages for each violation and shall be liable for court costs, expenses, and reasonable attorney fees incurred by the party bringing the action. In no case shall the award for damages be less than one hundred dollars.

[C75, 77, §749B.6; C79, 81, §692.6]

2007 Acts, ch 38, §6

692.7 Criminal penalties.

1. A person who willfully requests, obtains, or seeks to obtain criminal history data under false pretenses, or who willfully communicates or seeks to communicate criminal history data

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to any agency or person except in accordance with this chapter, or a person connected with a research program authorized pursuant to this chapter who willfully falsifies criminal history data or any records relating thereto, shall, upon conviction, for each such offense be guilty of an aggravated misdemeanor.

2. Any person who willfully requests, obtains, or seeks to obtain intelligence data under false pretenses, or who willfully communicates or seeks to communicate intelligence data to any agency or person except in accordance with this chapter, shall for each such offense be guilty of a class "D" felony. Any person who knowingly, but without criminal purposes, communicates or seeks to communicate intelligence data except in accordance with this chapter shall for each such offense be guilty of a serious misdemeanor.

3. If a person convicted under this section is a peace officer, the conviction shall be grounds for discharge or suspension from duty without pay and if the person convicted is a public official or public employee, the conviction shall be grounds for removal from office.

4. Any reasonable grounds for belief that a public employee has violated any provision of this chapter shall be grounds for immediate removal from all access to criminal history data and intelligence data.

[C75, 77, §749B.7; C79, 81, §692.7]
96 Acts, ch 1150, §6
Referred to in §692.5, 692.9

692.8 Intelligence data.

1. Intelligence data contained in the files of the department of public safety or a criminal or juvenile justice agency may be placed within a computer data storage system, provided that access to the computer data storage system is restricted to authorized employees of the department or criminal or juvenile justice agency. The department shall adopt rules to implement this subsection.

2. Intelligence data in the files of the department may be disseminated only to a peace officer, criminal or juvenile justice agency, or state or federal regulatory agency, and only if the department is satisfied that the need to know and the intended use are reasonable. However, intelligence data may also be disseminated to an agency, organization, or person when disseminated for an official purpose, and in order to protect a person or property from a threat of imminent serious harm. Whenever intelligence data relating to a defendant or juvenile who is the subject of a petition under section 232.35 for the purpose of sentencing or adjudication has been provided a court, the court shall inform the defendant or juvenile or the defendant's or juvenile's attorney that the court is in possession of such data and shall, upon request of the defendant or juvenile or the defendant's or juvenile's attorney, permit examination of such data.

3. If the defendant or juvenile disputes the accuracy of the intelligence data, the defendant or juvenile shall do so by filing an affidavit stating the substance of the disputed data and wherein it is inaccurate. If the court finds reasonable doubt as to the accuracy of such information, the court may require a hearing and the examination of witnesses relating thereto on or before the time set for sentencing or adjudication.

[C75, 77, §749B.8; C79, 81, §692.8]
84 Acts, ch 1145, §2; 94 Acts, ch 1096, §1; 95 Acts, ch 191, §37; 2003 Acts, ch 14, §2, 5; 2018 Acts, ch 1041, §114

692.8A Dissemination of intelligence data.

1. A criminal or juvenile justice agency, state or federal regulatory agency, or a peace officer shall not disseminate intelligence data, which has been received from the department or division or from any other source, outside the agency or the peace officer's agency unless all of the following apply:

a. The intelligence data is for official purposes in connection with prescribed duties of a criminal or juvenile justice agency.

b. The agency maintains a list of the agencies, organizations, or persons receiving the intelligence data and the date and purpose of the dissemination.

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c. The agency disseminating the intelligence data is satisfied that the need to know and the intended use are reasonable.

2. Notwithstanding subsection 1, a criminal or juvenile justice agency, state or federal regulatory agency, or peace officer may disseminate intelligence data to an agency, organization, or person when disseminated for an official purpose, and in order to protect a person or property from a threat of imminent serious harm, and if the dissemination complies with paragraphs *"b"* and *"c"* of subsection 1.

3. An agency, organization, or person receiving intelligence data from a criminal or juvenile justice agency, state or federal regulatory agency, or a peace officer pursuant to this chapter may only redisseminate the intelligence data if authorized by the agency or peace officer providing the data. A criminal or juvenile justice agency, state or federal regulatory agency, or a peace officer who disseminates intelligence data pursuant to this chapter may limit the type of data released in order to protect the intelligence methods and sources used to gather the data, and may also place restrictions on the redissemination by the agency, organization, or person receiving the intelligence data. An agency, organization, or person receiving intelligence data is also subject to the provisions of this chapter and shall comply with any administrative rules adopted pursuant to this chapter.

4. An intelligence assessment and intelligence data shall be deemed a confidential record of the department under section 22.7, subsection 55, except as otherwise provided in this subsection. This section shall not be construed to prohibit the dissemination of an intelligence assessment to any agency or organization if necessary for carrying out the official duties of the agency or organization, or to a person if disseminated for an official purpose, and to a person if necessary to protect a person or property from a threat of imminent serious harm. This section shall also not be construed to prohibit the department from disseminating a public health and safety threat advisory or alert by press release or other method of public communication.

96 Acts, ch 1150, §7; 2003 Acts, ch 14, §3, 5; 2006 Acts, ch 1034, §2; 2006 Acts, ch 1148, §2; 2007 Acts, ch 22, §105

Referred to in §22.7(55)

692.9 Surveillance data prohibited.

No surveillance data shall be placed in files or manual or automated data storage systems by the department or division or by any peace officer or criminal or juvenile justice agency. Violation of the provisions of this section shall be a public offense punishable under section 692.7.

[C75, 77, §749B.9; C79, 81, §692.9]

95 Acts, ch 191, §38; 2006 Acts, ch 1034, §2

692.10 Rules.

The department shall adopt rules designed to assure the security and confidentiality of all systems established for the exchange of criminal history data and intelligence data between criminal or juvenile justice agencies and for the authorization of officers or employees to access a department or agency computer data storage system in which criminal intelligence data is stored.

[C75, 77, §749B.10; C79, 81, §692.10; 81 Acts, ch 38, §5]

84 Acts, ch 1145, §3; 95 Acts, ch 191, §39

Referred to in §692.19

692.11 Education program.

The department shall require an educational program for its employees and the employees of criminal or juvenile justice agencies on the proper use and control of criminal history data and intelligence data.

[C75, 77, §749B.11; C79, 81, §692.11]

95 Acts, ch 191, §40

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692.12 Data processing.

Nothing in this chapter shall preclude the use of the equipment and hardware of the data processing service center for the storage and retrieval of criminal history data. Files shall be stored on the computer in such a manner that the files cannot be modified, destroyed, accessed, changed, or overlaid in any fashion by terminals or personnel not belonging to a criminal or juvenile justice agency. That portion of any computer, electronic switch, or manual terminal having access to criminal history data stored in the state computer must be under the management control of a criminal or juvenile justice agency.

[C75, 77, §749B.12; C79, 81, §692.12]
95 Acts, ch 191, §41; 96 Acts, ch 1034, §56

692.13 Review.

The department shall initiate periodic review procedures designed to determine compliance with the provisions of this chapter and chapter 690 within the department and by criminal or juvenile justice agencies and to determine that data furnished to those agencies is factual and accurate.

[C75, 77, §749B.13; C79, 81, §692.13]
95 Acts, ch 191, §42; 2024 Acts, ch 1035, §3

692.14 Systems for the exchange of criminal history data.

1. The department shall regulate the participation by all state and local agencies in any system for the exchange of criminal history data, and shall be responsible for assuring the consistency of such participation with the terms and purposes of this chapter.

2. Direct access to such systems shall be limited to such criminal or juvenile justice agencies as are expressly designated for that purpose by the department. The department shall, with respect to telecommunications terminals employed in the dissemination of criminal history data, insure that security is provided over an entire terminal or that portion actually authorized access to criminal history data.

[C75, 77, §749B.14; C79, 81, §692.14]
95 Acts, ch 191, §43; 2018 Acts, ch 1041, §127
Referred to in §804.29

692.15 Reports to department.

1. If it comes to the attention of a sheriff, police department, or other law enforcement agency that a public offense or delinquent act has been committed in its jurisdiction, the law enforcement agency shall report information concerning the public offense or delinquent act to the department on a form to be furnished by the department not more than thirty-five days from the time the public offense or delinquent act first comes to the attention of the law enforcement agency. The reports shall be used to generate crime statistics. The department shall submit statistics to the governor, the general assembly, and the subunit of the department of health and human services responsible for criminal and juvenile justice planning on a quarterly and yearly basis.

2. If a sheriff, police department, or other law enforcement agency makes an arrest or takes a juvenile into custody which is reported to the department, the law enforcement agency making the arrest or taking the juvenile into custody and any other law enforcement agency which obtains custody of the arrested person or juvenile taken into custody shall furnish a disposition report to the department if the arrested person or juvenile taken into custody is transferred to the custody of another law enforcement agency or is released without having a complaint or information or petition under section 232.35 filed with any court.

3. The law enforcement agency making an arrest and securing fingerprints pursuant to section 690.2 or taking a juvenile into custody and securing fingerprints pursuant to section 232.148 shall fill out a final disposition report on each arrest or taking into custody on a form and in the manner prescribed by the commissioner of public safety. The final disposition report shall be forwarded to the county attorney, or at the discretion of the county attorney, to the clerk of the district court, in the county where the arrest or taking into custody occurred,

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or to the juvenile court officer who received the referral, whichever is deemed appropriate under the circumstances, within two working days after fingerprints are taken.

4. The county attorney of each county or juvenile court officer who received the referral shall complete the final disposition report and submit it to the department within thirty days if a preliminary information or citation is dismissed without a new charge being filed. If an indictment is returned or a county attorney's information is filed, or a petition is filed under section 232.35, the final disposition form shall be forwarded to either the clerk of the district court or juvenile court of that county.

5. If a criminal complaint or information or petition under section 232.35 is filed in any court, the clerk shall furnish a disposition report of the case.

6. Any disposition report shall be sent to the department within thirty days after disposition either electronically or on a printed form provided by the department.

7. The hate crimes listed in section 729A.2 are subject to the reporting requirements of this section.

8. The fact that a person was convicted for a sexually predatory offense under chapter 901A shall be reported with other conviction data regarding that person.

[C75, 77, §749B.15; C79, 81, §692.15]

86 Acts, ch 1237, §42; 92 Acts, ch 1157, §2; 93 Acts, ch 115, §6; 95 Acts, ch 191, §44; 96 Acts, ch 1082, §1; 99 Acts, ch 37, §3; 2000 Acts, ch 1154, §41; 2007 Acts, ch 38, §7; 2011 Acts, ch 95, §7; 2023 Acts, ch 19, §1298; 2024 Acts, ch 1035, §4

Referred to in §331.653, 602.8102(125)

692.16 Review and removal.

At least every year the division shall review and determine the current status of all Iowa arrests or takings into custody reported, which are at least four years old with no disposition data.

1. Any Iowa arrest of a person eighteen years of age or older recorded within a computer data storage system which has no disposition data after four years shall be removed unless there is an outstanding arrest warrant or detainer on such charge.

2. Any arrest or taking of a juvenile into custody recorded within a computer data storage system which has no disposition data after two years shall be removed unless there is an outstanding arrest warrant or detainer on such charge.

[C75, 77, §749B.16; C79, 81, §692.16]

93 Acts, ch 115, §7; 95 Acts, ch 191, §45; 2006 Acts, ch 1034, §2; 2007 Acts, ch 38, §8; 2014 Acts, ch 1105, §2

692.17 Exclusions — purposes.

1. Criminal history data in a computer data storage system shall not include arrest or disposition data or custody or adjudication data after the person has been acquitted or the charges dismissed, except that records of acquittals or dismissals by reason of insanity and records of adjudications of mental incompetence to stand trial in cases in which physical or mental injury or an attempt to commit physical or mental injury to another was alleged may be included. Criminal history data shall not include custody or adjudication data, except as necessary for the purpose of administering chapter 692A, after the juvenile has reached twenty-one years of age, unless the juvenile was convicted of or pled guilty to a serious or aggravated misdemeanor or felony between age eighteen and age twenty-one.

2. For the purposes of this section, *"criminal history data"* includes the following:

a. In the case of an adult, information maintained by any criminal justice agency if the information otherwise meets the definition of criminal history data in section 692.1, except that source documents shall be retained.

b. In the case of a juvenile, information maintained by any criminal or juvenile justice agency if the information otherwise meets the definition of criminal history data in section 692.1. In the case of a juvenile, criminal history data and source documents, other than fingerprint records, shall not be retained.

3. Fingerprint cards received that are used to establish a criminal history data record shall

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be retained in the automated fingerprint identification system when the criminal history data record is expunged.

4. Criminal history data may be collected for management or research purposes.

[C75, 77, §749B.17; C79, 81, §692.17]

90 Acts, ch 1053, §1; 91 Acts, ch 116, §20; 93 Acts, ch 115, §8; 95 Acts, ch 191, §46; 98 Acts, ch 1021, §2; 2009 Acts, ch 24, §4

692.18 Public records.

1. Nothing in this chapter shall prohibit the public from examining and copying the public records of any public body or agency as authorized by chapter 22.

2. Intelligence data in the possession of a criminal or juvenile justice agency, state or federal regulatory agency, or peace officer, or disseminated by such agency or peace officer, are confidential records under section 22.7, subsection 55.

[C75, 77, §749B.18; C79, 81, §692.18]

96 Acts, ch 1150, §8; 2003 Acts, ch 14, §4, 5; 2009 Acts, ch 133, §174

692.19 Confidential records — commissioner's responsibility.

The commissioner of public safety shall have the following responsibilities and duties:

1. Shall periodically monitor the operation of governmental information systems which deal with the collection, storage, use and dissemination of criminal history or intelligence data.

2. Shall review the implementation and effectiveness of legislation and administrative rules concerning such systems.

3. May recommend changes in said rules and legislation to the legislature and the appropriate administrative officials.

4. May require such reports from state agencies as may be necessary to perform its duties.

5. May receive and review complaints from the public concerning the operation of such systems.

6. May conduct inquiries and investigations the commissioner finds appropriate to achieve the purposes of this chapter. Each criminal or juvenile justice agency in this state and each state and local agency otherwise authorized access to criminal history data is authorized and directed to furnish to the commissioner of public safety, upon the commissioner's request, statistical data, reports, and other information in its possession as the commissioner deems necessary to implement this chapter.

7. Shall annually approve rules adopted in accordance with section 692.10 and rules to assure the accuracy, completeness and proper purging of criminal history data.

8. Shall approve all agreements, arrangements and systems for the interstate transmission and exchange of criminal history data.

[C75, 77, §749B.19; C79, 81, §692.19]

86 Acts, ch 1245, §1607; 88 Acts, ch 1134, §113; 95 Acts, ch 191, §47

692.20 Motor vehicle operator's record exempt.

The provisions of section 692.2 shall not apply to the certifying of an individual's operating record pursuant to section 321A.3.

[C75, 77, §749B.20; C79, 81, §692.20]

96 Acts, ch 1150, §9

692.21 Data to agency making arrest or taking juvenile into custody.

The clerk of the district court shall forward conviction and disposition data to the criminal or juvenile justice agency making the arrest or taking a juvenile into custody within thirty days of final court disposition of the case.

[C81, §692.21]

95 Acts, ch 191, §48; 96 Acts, ch 1034, §57

692.22 Stalking information.

1. Criminal or juvenile justice agencies, as defined in section 692.1, shall collect and

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maintain information on incidents involving stalking, as defined in section 708.11, and shall provide the information to the department of public safety in the manner prescribed by the department of public safety.

2. The department of public safety may compile statistics and issue reports on stalking in Iowa, provided individual identifying details of the stalking are deleted. The statistics and reports may include nonidentifying information on the personal characteristics of perpetrators and victims. The department of public safety may request the cooperation of the department of justice in compiling the statistics and issuing the reports. The department of public safety may provide nonidentifying information on individual incidents of stalking to persons conducting bona fide research, including but not limited to personnel of the department of justice.

98 Acts, ch 1021, §3; 2018 Acts, ch 1041, §127

CHAPTER 692A

SEX OFFENDER REGISTRY

Referred to in §8.98, 9E.2, 22.7(48), 92.20, 229A.7, 232.53, 232.54, 232.68, 232.71B, 235B.3, 237.3, 237A.5, 279.69, 282.9, 321.375, 331.307, 364.22, 598.41, 607A.4, 692.2, 692.17, 707.2, 707.3, 707.4, 707.5, 707.11, 708.7, 708.11, 708.15, 710.2, 710.3, 710.4, 710.5, 710.10, 711.4, 713.3, 713.4, 713.5, 713.6, 713.6A, 713.6B, 726.6, 726.10, 906.19, 907.3

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692A.1 through 692A.16 Repealed by 2009 Acts, ch 119, §31.

692A.101 Definitions.

As used in this chapter and unless the context otherwise requires:

1. *a. "Aggravated offense"* means a conviction for any of the following offenses:

(1) Sexual abuse in the first degree in violation of section 709.2.

(2) Sexual abuse in the second degree in violation of section 709.3.

(3) Sexual abuse in the third degree in violation of section 709.4, subsection 1, paragraph *"a"*.

(4) Lascivious acts with a child in violation of section 709.8, subsection 1, paragraph *"a"* or *"b"*.

(5) Assault with intent to commit sexual abuse in violation of section 709.11.

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(6) Burglary in the first degree in violation of section 713.3, subsection 1, paragraph *"d"*.

(7) Kidnapping, if sexual abuse as defined in section 709.1 is committed during the commission of the offense.

(8) Murder in violation of section 707.2 or 707.3, if sexual abuse as defined in section 709.1 is committed during the offense.

(9) Continuous sexual abuse of a child in violation of section 709.23.

b. Any conviction for an offense specified in the laws of another jurisdiction or prosecuted in federal, military, or foreign court that is comparable to an offense listed in paragraph *"a"* shall be considered an aggravated offense for purposes of registering under this chapter.

2. *a. "Aggravated offense against a minor"* means a conviction for any of the following offenses, if such offense was committed against a minor, or otherwise involves a minor:

(1) Sexual abuse in the first degree in violation of section 709.2.

(2) Sexual abuse in the second degree in violation of section 709.3.

(3) Sexual abuse in the third degree in violation of section 709.4, except for a violation of section 709.4, subsection 1, paragraph *"b"*, subparagraph (2), subparagraph division (d).

(4) Continuous sexual abuse of a child in violation of section 709.23.

b. Any offense specified in the laws of another jurisdiction or prosecuted in a federal, military, or foreign court that is comparable to an offense listed in paragraph *"a"* shall be considered an aggravated offense against a minor if such an offense was committed against a minor or otherwise involves a minor.

3. *"Appearance"* means to appear in person at a sheriff's office.

4. *"Business day"* means every day except Saturday, Sunday, or any paid holiday for county employees in the applicable county.

5. *"Change"* means to add, begin, or terminate.

6. *"Child care facility"* means the same as defined in section 237A.1.

7. *"Convicted"* means found guilty of, pleads guilty to, or is sentenced or adjudicated delinquent for an act which is an indictable offense in this state or in another jurisdiction including in a federal, military, tribal, or foreign court, including but not limited to a juvenile who has been adjudicated delinquent, but whose juvenile court records have been sealed under section 232.150, and a person who has received a deferred sentence or a deferred judgment or has been acquitted by reason of insanity. *"Conviction"* includes the conviction of a juvenile prosecuted as an adult. *"Convicted"* also includes a conviction for an attempt or conspiracy to commit an offense. *"Convicted"* does not mean a plea, sentence, adjudication, deferred sentence, or deferred judgment which has been reversed or otherwise set aside.

8. *"Criminal or juvenile justice agency"* means an agency or department of any level of government or an entity wholly owned, financed, or controlled by one or more such agencies or departments which performs as its principal function the apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal or juvenile offenders.

9. *"Department"* means the department of public safety.

10. *"Employee"* means an offender who is self-employed, employed by another, and includes a person working under contract, or acting or serving as a volunteer, regardless of whether the self-employment, employment by another, or volunteerism is performed for compensation.

11. *"Employment"* means acting as an employee.

12. *"Foreign court"* means a court of a foreign nation that is recognized by the United States department of state that enforces the right to a fair trial during the period in which a conviction occurred.

13. *"Habitually lives"* means living in a place with some regularity, and with reference to where the sex offender actually lives, which could be some place other than a mailing address or primary address but would entail a place where the sex offender lives on an intermittent basis.

14. *"Incarcerated"* means to be imprisoned by placing a person in a jail, prison, penitentiary, juvenile facility, or other correctional institution or facility or a place or condition of confinement or forcible restraint regardless of the nature of the institution in which the person serves a sentence for a conviction.

15. *"Internet identifier"* means an electronic mail address, instant message address or

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identifier, or any other designation or moniker used for self-identification during internet communication or posting, including all designations used for the purpose of routing or self-identification in internet communications or postings.

16. *"Jurisdiction"* means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the United States Virgin Islands, or a federally recognized Indian tribe.

17. *"Loiter"* means remaining in a place or circulating around a place under circumstances that would warrant a reasonable person to believe that the purpose or effect of the behavior is to enable a sex offender to become familiar with a location where a potential victim may be found, or to satisfy an unlawful sexual desire, or to locate, lure, or harass a potential victim.

18. *"Military offense"* means a sex offense specified by the secretary of defense under 10 U.S.C. §951.

19. *"Minor"* means a person under eighteen years of age.

20. *"Principal residence"* for a sex offender means:

a. The residence of the offender, if the offender has only one residence in this state.

b. The residence at which the offender resides, sleeps, or habitually lives for more days per year than another residence in this state, if the offender has more than one residence in this state.

c. The place of employment or attendance as a student, or both, if the sex offender does not have a residence in this state.

21. *"Professional licensing information"* means the name or other description, number, if applicable, and issuing authority or agency of any license, certification, or registration required by law to engage in a profession or occupation held by a sex offender who is required at the time of the initial requirement to register under this chapter, or any such license, certification, or registration that was issued to an offender within the five-year period prior to conviction for a sex offense that requires registration under this chapter, or any such license, certification, or registration that is issued to an offender at any time during the duration of the registration requirement.

22. *"Public library"* means any library that receives financial support from a city or county pursuant to section 8A.222.

23. *a. "Relevant information"* means the following information with respect to a sex offender:

(1) Criminal history, including warrants, articles, status of parole, probation, or supervised release, date of arrest, date of conviction, and registration status.

(2) Date of birth.

(3) Passport and immigration documents.

(4) Government issued driver's license or identification card.

(5) DNA sample.

(6) Educational institutions attended as a student, including the name and address of such institutions.

(7) Employment information including name and address of employer.

(8) Fingerprints.

(9) Internet identifiers.

(10) Names, nicknames, aliases, or ethnic or tribal names, and if applicable, the real names of an offender protected under 18 U.S.C. §3521.

(11) Palm prints.

(12) Photographs.

(13) Physical description, including scars, marks, or tattoos.

(14) Professional licensing information.

(15) Residence.

(16) Social security number.

(17) Telephone numbers, including any landline or wireless numbers.

(18) Temporary lodging information, including dates when residing in temporary lodging.

(19) Statutory citation and text of offense committed that requires registration under this chapter.

(20) Vehicle information for a vehicle owned or operated by an offender including license

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plate number, registration number, or other identifying number, vehicle description, and the permanent or frequent locations where the vehicle is parked, docked, or otherwise kept.

(21) The name, gender, and date of birth of each person residing in the residence.

b. *"Relevant information"* does not include relevant information in paragraph *"a"*, subparagraphs (1) and (19), when a sex offender is required to provide relevant information pursuant to this chapter.

24. *"Residence"* means each dwelling or other place where a sex offender resides, sleeps, or habitually lives, or will reside, sleep, or habitually live, including a shelter or group home. If a sex offender does not reside, sleep, or habitually live in a fixed place, *"residence"* means a description of the locations where the offender is stationed regularly, including any mobile or transitory living quarters. *"Residence"* shall be construed to refer to the places where a sex offender resides, sleeps, habitually lives, or is stationed with regularity, regardless of whether the offender declares or characterizes such place as the residence of the offender.

25. *"Sex act"* means as defined in section 702.17.

26. *"Sex offender"* means a person who is required to be registered under this chapter.

27. *"Sex offense"* means an indictable offense for which a conviction has been entered that is enumerated in section 692A.102, and means any comparable offense for which a conviction has been entered under prior law, or any comparable offense for which a conviction has been entered in a federal, military, or foreign court, or another jurisdiction.

28. *"Sex offense against a minor"* means an offense for which a conviction has been entered for a sex offense classified as a tier I, tier II, or tier III offense under this chapter if such offense was committed against a minor, or otherwise involves a minor.

29. *"Sexually motivated"* means the same as defined in section 229A.2.

30. *"Sexually violent offense"* means an offense for which a conviction has been entered for any of the following indictable offenses:

a. Sexual abuse as defined under section 709.1.

b. Assault with intent to commit sexual abuse in violation of section 709.11.

c. Sexual misconduct with offenders and juveniles in violation of section 709.16.

d. Any of the following offenses, if the offense involves sexual abuse or assault with intent to commit sexual abuse: murder, attempted murder, kidnapping, burglary, or manslaughter.

e. A criminal offense committed in another jurisdiction, including a conviction in a federal, military, or foreign court, which would constitute an indictable offense under paragraphs *"a"* through *"d"* if committed in this state.

31. *"Sexually violent predator"* means a sex offender who has been convicted of an offense which would qualify the offender as a sexually violent predator under the federal Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. §14071(a)(3)(B), (C), (D), and (E).

32. *"SORNA"* means the Sex Offender Registration and Notification Act, which is Tit. I of the federal Adam Walsh Child Protection and Safety Act of 2006.

33. *"Student"* means a sex offender who enrolls in or otherwise receives instruction at an educational institution, including a public or private elementary school, secondary school, trade or professional school, or institution of higher education. *"Student"* does not mean a sex offender who enrolls in or attends an educational institution as a correspondence student, distance learning student, or any other form of learning that occurs without physical presence on the real property of an educational institution.

34. *"Superintendent"* means the superintendent or superintendent's designee of a public school or the authorities in charge of a nonpublic school.

35. *"Vehicle"* means a vehicle owned or operated by an offender, including but not limited to a vehicle for personal or work-related use, and including a watercraft or aircraft, that is subject to registration requirements under chapter 321, 328, or 462A.

2009 Acts, ch 119, §1; 2010 Acts, ch 1104, §1 – 3, 23; 2013 Acts, ch 30, §242, 243; 2014 Acts, ch 1092, §139, 140; 2014 Acts, ch 1119, §6, 11; 2020 Acts, ch 1115, §1, 2

Referred to in §232.116, 598.41A, 598C.305, 600A.8, 692A.109, 901C.3

692A.102 Sex offense classifications.

1. For purposes of this chapter, all individuals required to register shall be classified as a

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tier I, tier II, or tier III offender. For purposes of this chapter, sex offenses are classified into the following tiers:

a. Tier I offenses include a conviction for the following sex offenses:

(1) Sexual abuse in the second degree in violation of section 709.3, subsection 1, paragraph *"b"*, if committed by a person under the age of fourteen.

(2) Sexual abuse in the third degree in violation of section 709.4, subsection 1, paragraph *"a"*, *"c"*, or *"d"*, if committed by a person under the age of fourteen.

(3) Sexual abuse in the third degree in violation of section 709.4, subsection 1, paragraph *"b"*, subparagraph (1), if committed by a person under the age of fourteen.

(4) Sexual abuse in the third degree in violation of section 709.4, subsection 1, paragraph *"b"*, subparagraph (2).

(5) Grooming in violation of section 709.8A.

(6) Indecent exposure in violation of section 709.9.

(7) (a) Except as provided in subparagraph division (b), harassment in violation of section 708.7, subsection 1, 2, or 3, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(b) Harassment in violation of section 708.7, subsection 1, paragraph *"a"*, subparagraph (5), if committed by a person eighteen years of age or older.

(c) Stalking in violation of section 708.11, if a determination is made that the offense was sexually motivated pursuant to section 692A.126, except a violation of section 708.11, subsection 3, paragraph *"a"*, subparagraph (3), shall be classified a tier II offense as provided in paragraph *"b"*.

(d) Any other indictable offense in violation of chapter 708 if the offense is committed against a minor and if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(8) Pimping in violation of section 725.2 if the offense was committed against a minor or otherwise involves a minor and if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(9) Pandering in violation of section 725.3, subsection 2, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(10) Any indictable offense in violation of chapter 726 if the offense is committed against a minor or otherwise involves a minor and if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(11) (a) Dissemination or exhibition of obscene material to minors in violation of section 728.2 or telephone dissemination of obscene material to minors in violation of section 728.15.

(b) Rental or sale of hard-core pornography, if delivery is to a minor, in violation of section 728.4.

(12) Admitting minors to premises where obscene material is exhibited in violation of section 728.3.

(13) Receipt or possession of child pornography in violation of 18 U.S.C. §2252.

(14) Material containing child pornography in violation of 18 U.S.C. §2252A.

(15) Misleading domain names on the internet in violation of 18 U.S.C. §2252B.

(16) Misleading words or digital images on the internet in violation of section 18 U.S.C. §2252C.

(17) Failure to file a factual statement about an alien individual in violation of 18 U.S.C. §2424.

(18) Transmitting information about a minor to further criminal sexual conduct in violation of 18 U.S.C. §2425.

(19) Any sex offense specified in the laws of another jurisdiction, or any sex offense that may be prosecuted in federal, military, or foreign court, that is comparable to an offense listed in subparagraphs (1) through (18).

(20) Any sex offense under the prior laws of this state or another jurisdiction, or any sex offense under prior law that was prosecuted in a federal, military, or foreign court, that is comparable to an offense listed in subparagraphs (1) through (18).

b. Tier II offenses include a conviction for the following sex offenses:

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(1) Lascivious acts with a child in violation of section 709.8, subsection 1, paragraph *"d"* or *"e"*.

(2) Solicitation of a minor to engage in an illegal sex act in violation of section 705.1.

(3) Solicitation of a minor to engage in an illegal act under section 709.8, subsection 1, paragraph *"d"*, in violation of section 705.1.

(4) Solicitation of a minor to engage in an illegal act under section 709.12, in violation of section 705.1.

(5) False imprisonment of a minor in violation of section 710.7, except if committed by a parent.

(6) Assault with intent to commit sexual abuse if no injury results in violation of section 709.11.

(7) Invasion of privacy — nudity in violation of section 709.21.

(8) Stalking in violation of section 708.11, subsection 3, paragraph *"a"*, subparagraph (3), if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(9) Indecent contact with a child in violation of section 709.12, if the child is thirteen years of age.

(10) Lascivious conduct with a minor in violation of section 709.14.

(11) Sexual exploitation by a counselor, therapist, school employee, or adult providing training or instruction in violation of section 709.15, if the victim is thirteen years of age or older.

(12) Sexual misconduct with offenders and juveniles in violation of section 709.16, if the victim is thirteen years of age or older.

(13) Sexual abuse of a corpse in violation of section 709.18.

(14) Kidnapping of a person who is not a minor in violation of section 710.2, 710.3, or 710.4, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(15) Pandering in violation of section 725.3.

(16) Solicitation of a minor to engage in an illegal act under section 725.3, subsection 2, in violation of section 705.1.

(17) Incest committed against a dependent adult as defined in section 235B.2 in violation of section 726.2.

(18) Incest committed against a minor in violation of section 726.2.

(19) Sexual exploitation of a minor in violation of section 728.12, subsection 2 or 3.

(20) Material involving the sexual exploitation of a minor in violation of 18 U.S.C. §2252(a), except receipt or possession of child pornography.

(21) Production of sexually explicit depictions of a minor for import into the United States in violation of 18 U.S.C. §2260.

(22) Transportation of a minor for illegal sexual activity in violation of 18 U.S.C. §2421.

(23) Coercion and enticement of a minor for illegal sexual activity in violation of 18 U.S.C. §2422(a) or (b).

(24) Transportation of minors for illegal sexual activity in violation of 18 U.S.C. §2423(a).

(25) Travel with the intent to engage in illegal sexual conduct with a minor in violation of 18 U.S.C. §2423.

(26) Engaging in illicit sexual conduct in foreign places in violation of 18 U.S.C. §2423(c).

(27) Video voyeurism of a minor in violation of 18 U.S.C. §1801.

(28) Any sex offense specified in the laws of another jurisdiction, or any sex offense that may be prosecuted in a federal, military, or foreign court, that is comparable to an offense listed in subparagraphs (1) through (27).

(29) Any sex offense under the prior laws of this state or another jurisdiction, or any sex offense under prior law that was prosecuted in a federal, military, or foreign court, that is comparable to a sex offense listed in subparagraphs (1) through (27).

c. Tier III offenses include a conviction for the following sex offenses:

(1) Murder in violation of section 707.2 or 707.3 if sexual abuse as defined in section 709.1 is committed during the commission of the offense.

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(2) Murder in violation of section 707.2 or 707.3, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(3) Voluntary manslaughter in violation of section 707.4, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(4) Involuntary manslaughter in violation of section 707.5, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(5) Attempt to commit murder in violation of section 707.11, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(6) Penetration of the genitalia or anus with an object in violation of section 708.2, subsection 6.

(7) Sexual abuse in the first degree in violation of section 709.2.

(8) Sexual abuse in the second degree in violation of section 709.3, subsection 1, paragraph *"a"* or *"c"*.

(9) Sexual abuse in the second degree in violation of section 709.3, subsection 1, paragraph *"b"*, if committed by a person fourteen years of age or older.

(10) Sexual abuse in the third degree in violation of section 709.4, subsection 1, paragraph *"a"*, *"c"*, or *"d"*, if committed by a person fourteen years of age or older.

(11) Sexual abuse in the third degree in violation of section 709.4, subsection 1, paragraph *"b"*, subparagraph (1), if committed by a person fourteen years of age or older.

(12) Sexual abuse in the fourth degree in violation of section 709.4A, subsection 3, if the perpetrator is a health care professional as defined in section 714I.2, who used or provided the health care professional's own human reproductive material for assisted reproduction in violation of section 714I.3, subsection 2.

(13) Lascivious acts with a child in violation of section 709.8, subsection 1, paragraph *"a"* or *"b"*.

(14) Continuous sexual abuse of a child in violation of section 709.23.

(15) Kidnapping in violation of section 710.2 if sexual abuse as defined in section 709.1 is committed during the commission of the offense.

(16) Kidnapping of a minor in violation of section 710.2, 710.3, or 710.4, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(17) Assault with intent to commit sexual abuse resulting in serious or bodily injury in violation of section 709.11.

(18) Burglary in the first degree in violation of section 713.3, subsection 1, paragraph *"d"*.

(19) Any other burglary in the first degree offense in violation of section 713.3 that is not included in subparagraph (18), if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(20) Attempted burglary in the first degree in violation of section 713.4, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(21) Burglary in the second degree in violation of section 713.5, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(22) Attempted burglary in the second degree in violation of section 713.6, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(23) Burglary in the third degree in violation of section 713.6A, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(24) Attempted burglary in the third degree in violation of section 713.6B, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(25) Human trafficking in violation of section 710A.2 if sexual abuse or assault with intent to commit sexual abuse is committed or sexual conduct or sexual contact is an element of the offense.

(26) Purchase or sale of an individual in violation of section 710.11 if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(27) Sexual exploitation of a minor in violation of section 728.12, subsection 1.

(28) Indecent contact with a child in violation of section 709.12 if the child is under thirteen years of age.

(29) Sexual exploitation by a counselor, therapist, school employee, or adult providing

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training or instruction in violation of section 709.15, if the child is under thirteen years of age.

(30) Sexual misconduct with offenders and juveniles in violation of section 709.16, if the child is under thirteen years of age.

(31) Child stealing in violation of section 710.5, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(32) Enticing a minor in violation of section 710.10, if the violation includes an intent to commit sexual abuse, sexual exploitation, sexual contact, or sexual conduct directed towards a minor.

(33) Solicitation of commercial sexual activity in violation of section 710A.2A.

(34) Extortion in violation of section 711.4, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(35) Sex trafficking of children in violation of 18 U.S.C. §1591.

(36) Aggravated sexual abuse in violation of 18 U.S.C. §2241.

(37) Sexual abuse in violation of 18 U.S.C. §2242.

(38) Sexual abuse of a minor or ward in violation of 18 U.S.C. §2243.

(39) Abusive sexual contact in violation of 18 U.S.C. §2244.

(40) Offenses resulting in death in violation of 18 U.S.C. §2245.

(41) Sexual exploitation of children in violation of 18 U.S.C. §2251.

(42) Selling or buying of children in violation of 18 U.S.C. §2251A.

(43) Any sex offense specified in the laws of another jurisdiction, or any sex offense that may be prosecuted in federal, military, or foreign court, that is comparable to an offense listed in subparagraphs (1) through (42).

(44) Any sex offense under the prior laws of this state or another jurisdiction, or any sex offense under prior law that was prosecuted in federal, military, or foreign court, that is comparable to a sex offense listed in subparagraphs (1) through (42).

2. A sex offender classified as a tier I offender shall be reclassified as a tier II offender, if it is determined the offender has one previous conviction for an offense classified as a tier I offense.

3. A sex offender classified as a tier II offender, shall be reclassified as a tier III offender, if it is determined the offender has a previous conviction for a tier II offense or has been reclassified as a tier II offender because of a previous conviction.

4. Notwithstanding the classifications of sex offenses in subsection 1, any sex offense which would qualify a sex offender as a sexually violent predator shall be classified as a tier III offense.

5. An offense classified as a tier II offense if committed against a person under thirteen years of age shall be reclassified as a tier III offense.

6. Convictions of more than one sex offense which require registration under this chapter but which are prosecuted within a single indictment shall be considered as a single offense for purposes of registration.

2009 Acts, ch 119, §2; 2010 Acts, ch 1043, §2; 2010 Acts, ch 1074, §2; 2010 Acts, ch 1104, §4 – 7, 23; 2010 Acts, ch 1193, §65, 78; 2011 Acts, ch 95, §8; 2012 Acts, ch 1057, §1; 2013 Acts, ch 30, §244 – 246; 2013 Acts, ch 90, §250, 251; 2014 Acts, ch 1092, §141 – 143; 2014 Acts, ch 1119, §7, 11; 2020 Acts, ch 1115, §3; 2021 Acts, ch 37, §1, 2; 2021 Acts, ch 89, §1; 2021 Acts, ch 102, §2, 3; 2022 Acts, ch 1123, §6; 2022 Acts, ch 1153, §14; 2023 Acts, ch 74, §9, 10; 2024 Acts, ch 1065, §1, 2; 2025 Acts, ch 8, §1

Referred to in §692A.101, 692A.125

692A.103 Offenders required to register.

1. A person who has been convicted of any sex offense classified as a tier I, tier II, or tier III offense, or an offender required to register in another jurisdiction under the other jurisdiction's sex offender registry, shall register as a sex offender as provided in this chapter if the offender resides, is employed, or attends school in this state. A sex offender shall, upon a first or subsequent conviction, register in compliance with the procedures specified in this chapter, for the duration of time specified in this chapter, commencing as follows:

a. From the date of placement on probation.

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b. From the date of release on parole or work release.

c. From the date of release from incarceration.

d. Except as otherwise provided in this section, from the date an adjudicated delinquent is released from placement in a juvenile facility ordered by a court pursuant to section 232.52.

e. Except as otherwise provided in this section, from the date an adjudicated delinquent commences attendance as a student at a public or private educational institution, other than an educational institution located on the real property of a juvenile facility if the juvenile has been ordered placed at such facility pursuant to section 232.52.

f. From the date of conviction for a sex offense requiring registration if probation, incarceration, or placement ordered pursuant to section 232.52 in a juvenile facility is not included in the sentencing, order, or decree of the court, except as otherwise provided in this section for juvenile cases.

2. A sex offender is not required to register while incarcerated. However, the running of the period of registration is tolled pursuant to section 692A.107 if a sex offender is incarcerated.

3. A juvenile adjudicated delinquent for an offense that requires registration shall be required to register as required in this chapter unless the juvenile court waives the requirement and finds that the person should not be required to register under this chapter.

4. Notwithstanding subsections 3 and 5, a juvenile fourteen years of age or older at the time the offense was committed shall be required to register if the adjudication was for an offense committed by force or the threat of serious violence, by rendering the victim unconscious, or by involuntary drugging of the victim. At the time of adjudication the judge shall make a determination as to whether the offense was committed by force or the threat of serious violence, by rendering the victim unconscious, or by involuntary drugging of the victim.

5. If a juvenile is required to register pursuant to subsection 3, the juvenile court may, upon motion of the juvenile, and after reasonable notice to the parties and hearing, modify or suspend the registration requirements if good cause is shown.

a. The motion to modify or suspend shall be made and the hearing shall occur prior to the discharge of the juvenile from the jurisdiction of the juvenile court for the sex offense that requires registration.

b. If at the time of the hearing the juvenile is participating in an appropriate outpatient treatment program for juvenile sex offenders, the juvenile court may enter orders temporarily suspending the requirement that the juvenile register and may defer entry of a final order on the matter until such time that the juvenile has completed or been discharged from the outpatient treatment program.

c. Final orders shall then be entered within thirty days from the date of the juvenile's completion or discharge from outpatient treatment.

d. Any order entered pursuant to this subsection that modifies or suspends the requirement to register shall include written findings stating the reason for the modification or suspension, and shall include appropriate restrictions upon the juvenile to protect the public during any period of time the registry requirements are modified or suspended. Upon entry of an order modifying or suspending the requirement to register, the juvenile court shall notify the superintendent or the superintendent's designee where the juvenile is enrolled of the decision.

e. This subsection does not apply to a juvenile fourteen years of age or older at the time the offense was committed if the adjudication was for a sex offense committed by force or the threat of serious violence, by rendering the victim unconscious, or by involuntary drugging of the victim.

6. If a juvenile is required to register and the court later modifies or suspends the order regarding the requirement to register, the court shall notify the department within five days of the decision.

2009 Acts, ch 119, §3

Referred to in §692A.104, 692A.106

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692A.104 Registration process.

1. A sex offender shall appear in person to register with the sheriff of each county where the offender has a residence, maintains employment, or is in attendance as a student, within three business days of being required to register under section 692A.103 by providing all relevant information to the sheriff. A sheriff shall accept the registration of any person who is required to register in the county pursuant to the provisions of this chapter.

2. A sex offender shall, within three business days of changing a residence, employment, or attendance as a student, appear in person to notify the sheriff of each county where a change has occurred.

3. A sex offender shall, within three business days of a change in relevant information, other than relevant information enumerated in subsection 2, notify the sheriff of the county where the principal residence of the offender is maintained about the change to the relevant information. The department shall establish by rule what constitutes proper notification under this subsection.

4. A sex offender who is required to verify information pursuant to the provisions of section 692A.108 is only required to appear in person in the county where the principal residence of the offender is maintained to verify such information.

5. A sex offender shall, within three business days of the establishment of a residence, employment, or attendance as a student in another jurisdiction, appear in person to notify the sheriff of the county where the principal residence of the offender is maintained, about the establishment of a residence, employment, or attendance in another jurisdiction. A sex offender shall, within three business days of establishing a new residence, employment, or attendance as a student in another jurisdiction, register with the registering agency of the other jurisdiction, if the offender is required to register under the laws of the other jurisdiction. The department shall notify the registering agency in the other jurisdiction of the sex offender's new residence, employment, or attendance as a student in the other jurisdiction.

6. A sex offender, who has multiple residences in this state, shall appear in person to notify the sheriff of each county where a residence is maintained, of the dates the offender will reside at each residence including the date when the offender will move from one residence to another residence.

7. Except as provided in subsection 8, the initial or subsequent registration and any notifications required in subsections 1, 2, 4, 5, and 6 shall be by appearance at the sheriff's office and completion of the initial or subsequent registration or notification shall be on a printed form, which shall be signed and dated by the sex offender. If the sheriff uses an electronic form to complete the initial registration or notification, the electronic form shall be printed upon completion and signed and dated by the sex offender. The sheriff shall transmit the registration or notification form completed by the sex offender within three business days by paper copy, or electronically, using procedures established by the department by rule.

8. The collection of relevant information by a court or releasing agency under section 692A.109 shall serve as the sex offender's initial or subsequent registration for purposes of this section. However, the sex offender shall register by appearing in person in the county of residence to verify the offender's arrival and relevant information. The court or releasing agency shall forward a copy of the registration to the department within three business days of completion of registration using procedures established by the department by rule.

2009 Acts, ch 119, §4; 2026 Acts, ch 1079, §4
Referred to in §692A.105, 692A.105A, 692A.107, 692A.108, 692A.111
Subsections 1, 2, 3, 5, 7, and 8 amended

692A.105 Additional registration requirements — temporary lodging.

In addition to the registration provisions specified in section 692A.104, a sex offender, within three business days of a change, shall also appear in person to notify the sheriff of the county of principal residence of any location in which the offender is staying when

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away from the principal residence of the offender for more than five days by identifying the location and the period of time the offender is staying in such location.

2009 Acts, ch 119, §5; 2026 Acts, ch 1079, §5
Referred to in §692A.107, 692A.108, 692A.111
Section amended

692A.105A Additional registration requirements.

In addition to the registration provisions specified in section 692A.104, a sex offender, within three business days of a change, shall also appear in person to notify the sheriff of the county of the sex offender's principal residence of the following:

1. The name, address, and telephone number of the sex offender's place of employment, and any changes to such information.

2. The license plate number and a physical description, including make, model, and color, of any vehicle owned or regularly operated by the sex offender.

2026 Acts, ch 1079, §6
NEW section

692A.106 Duration of registration.

1. Except as otherwise provided in section 232.54, 692A.103, or 692A.128, or this section, the duration of registration required under this chapter shall be for a period of ten years. The registration period shall begin as provided in section 692A.103.

2. A sex offender who has been sentenced to a special sentence under section 903B.1 or 903B.2, shall be required to register for a period equal to the term of the special sentence, but in no case not less than the period specified in subsection 1.

3. If a sex offender is placed on probation, parole, or work release and the probation, parole, or work release is revoked, the period of registration shall commence anew upon release from custody.

4. A sex offender who is convicted of violating any of the requirements of this chapter shall register for an additional ten years, commencing from the date the offender's registration would have expired under subsection 1 or, in the case of an offender who has been sentenced to a special sentence under section 903B.1 or 903B.2, commencing from the date the offender's registration would have expired under subsection 2.

5. A sex offender, upon a second or subsequent conviction that requires a second registration, upon conviction of an aggravated offense, or if the sex offender has previously been convicted of one or more offenses that would have required registration under this chapter, shall register for life.

6. A sexually violent predator shall register for life.

7. If a sex offender ceases to maintain a residence, employment, or attendance as a student in this state, the offender shall no longer be required to register, and the offender shall be placed on inactive status and relevant information shall not be placed on the sex offender registry internet site, after the department verifies that the offender has complied with the registration requirements in another jurisdiction. If the sex offender subsequently reestablishes residence, employment, or attendance as a student in this state, the registration requirement under this chapter shall apply and the department shall remove the offender from inactive status and place any relevant information and any updated relevant information in the possession of the department on the sex offender registry internet site.

8. A sex offender who is required to register in another jurisdiction under the other jurisdiction's sex offender registry but who resides, is employed, or attends school in this state shall be required to register for a period of time equal to the period of time required under the other jurisdiction's requirements or under Iowa law, whichever is longer.

2009 Acts, ch 119, §6; 2010 Acts, ch 1104, §8, 23; 2021 Acts, ch 89, §2; 2022 Acts, ch 1021, §171

692A.107 Tolling of registration period.

1. If a sex offender is incarcerated during a period of registration, the running of the period of registration is tolled until the offender is released from incarceration for that crime.

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2. If a sex offender violates any requirements of section 692A.104, 692A.105, 692A.108, 692A.112, 692A.113, 692A.114, or 692A.115, in addition to any criminal penalty prescribed for such violation, the period of registration is tolled until the offender complies with the registration provisions of this chapter.

2009 Acts, ch 119, §7
Referred to in §692A.103

692A.108 Verification of relevant information.

1. A sex offender shall appear in person in the county of principal residence after the offender was initially required to register, to verify residence, employment, and attendance as a student, to allow the sheriff to photograph the offender, and to verify the accuracy of other relevant information during the following time periods after the initial registration:

a. For a sex offender classified as a tier I offender, every year.

b. For a sex offender classified as a tier II offender, every six months.

c. For a sex offender classified as a tier III offender, every three months.

2. A sheriff may require a sex offender to appear in person more frequently than provided in subsection 1 to verify relevant information if good cause is shown. The circumstances under which more frequent appearances are required shall be reasonable, documented by the sheriff, and provided to the offender and the department in writing. Any modification to such requirement shall also be provided to the sex offender and the department in writing.

3. *a.* At least thirty days prior to an appearance for the verification of relevant information as required by this section, the department shall mail notification of the required appearance to each reported residence of the sex offender. The department shall not be required to mail notification to any sex offender if the residence described or listed in the sex offender's relevant information is insufficient for the delivery of mail.

b. The notice shall state that the sex offender shall appear in person in the county of principal residence on or before a date specified in the notice to verify and update relevant information. The notice shall not be forwarded to another address and shall be returned to the department if the sex offender no longer resides at the address.

4. A photograph of the sex offender shall be updated, at a minimum, annually. The sheriff shall send the updated photograph to the department using procedures established by the department by rule within five business days of the photograph being taken and the department shall post the updated photograph on the sex offender registry's internet site. The sheriff may require the sex offender to submit to being photographed, fingerprinted, or palm printed, more than once per year during any required appearance to verify relevant information.

5. The sheriff may make a reasonable modification to the date requiring a sex offender to make an appearance based on exigent circumstances including man-made or natural disasters. The sheriff shall notify the department of any modification using procedures established by the department by rule.

6. A waiver of the next immediate in-person verification pursuant to this section may be granted at the discretion of the sheriff, if the sex offender appears in person at the sheriff's office because of changes to relevant information pursuant to section 692A.104 or 692A.105, and if the in-person verification pursuant to this section is within thirty days of such in-person appearance. If a waiver is granted, the sheriff shall notify the department of granting the waiver.

2009 Acts, ch 119, §8
Referred to in §692A.104, 692A.107, 692A.111

692A.109 Duty to facilitate registration.

1. When a sex offender is released from incarceration from a jail, prison, juvenile facility, or other correctional institution or facility, or when the offender is convicted but not incarcerated, the sheriff, warden, or superintendent of a facility or, in the case of release from foster care or residential treatment or conviction without incarceration, the court shall do the following prior to release or sentencing of the convicted offender:

a. Obtain all relevant information from the sex offender. Additional information for

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a sex offender required to register as a sexually violent predator shall include but not be limited to other identifying factors, anticipated future places of residence, offense history, and documentation of any treatment received by the person for a mental abnormality or personality disorder.

b. Inform the sex offender of the duty to register under this chapter and SORNA and ensure registration forms are completed and signed.

c. Inform the sex offender that, within five business days of changing a residence, employment, or attendance as a student, an appearance is required before the sheriff in the county where the change occurred.

d. Inform the sex offender that, within five business days of a change in relevant information other than a change of residence, employment, or attendance as a student, the sex offender shall notify, in a manner prescribed by rule, the sheriff of the county of principal residence of the change.

e. Inform the sex offender that if the offender establishes residence in another jurisdiction, or becomes employed, or becomes a student in another jurisdiction, the offender must report the offender's new residence, employment, or attendance as a student, to the sheriff's office in the county of the offender's principal residence within five business days, and that, if the other jurisdiction has a registration requirement, the offender shall also be required to register in such jurisdiction.

f. Require the sex offender to read and sign a form stating that the duty of the offender to register under this chapter has been explained and the offender understands the registration requirement. If the sex offender cannot read, is unable to write, or refuses to cooperate, the duty and the form shall be explained orally and a written record shall be maintained by the sheriff, warden, superintendent of a facility, or court explaining the duty and the form.

g. Inform the sex offender who was convicted of a sex offense against a minor of the prohibitions established under section 692A.113 by providing the offender with a written copy of section 692A.113 and relevant definitions of section 692A.101.

h. Inform the sex offender who was convicted of an aggravated offense against a minor of the prohibitions established under section 692A.114 by providing the offender with a written copy of section 692A.114 and relevant definitions of section 692A.101.

i. Inform the sex offender that the offender must submit to being photographed by the sheriff of any county in which the offender is required to register upon initial registration and during any appearance to verify relevant information required under this chapter.

j. Inform the sex offender that any violation of this chapter may result in state or federal prosecution.

2. *a.* When a sex offender is released from incarceration from a jail, prison, juvenile facility, or other correctional institution or facility, or when the offender is convicted but not incarcerated, the sheriff, warden, superintendent of a facility, or court shall verify that the person has completed initial or subsequent registration forms, and accept the forms on behalf of the sheriff of the county of registration. The sheriff, warden, superintendent of a facility, or the court shall send the initial or subsequent registration information to the department within five business days of completion of the registration. Probation, parole, work release, or any other form of release after conviction shall not be granted unless the offender has registered as required under this chapter.

b. If the sex offender refuses to register, the sheriff, warden, superintendent of a facility, or court shall notify within five business days the county attorney in the county in which the offender was convicted or, if the offender no longer resides in that county, in the county in which the offender resides of the refusal to register. The county attorney shall bring a contempt of court action against the sex offender in the county in which the offender was convicted or, if the offender no longer resides in that county, in the county in which the offender resides. A sex offender who refuses to register shall be held in contempt and may be incarcerated pursuant to the provisions of chapter 665 following the entry of judgment by the court on the contempt action until the offender complies with the registration requirements.

3. The sheriff, warden, or superintendent of a facility, or if the sex offender is placed on probation, the court shall forward one copy of the registration information to the department

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and to the sheriff of the county in which the principal residence is established within five business days after completion of the registration.

4. The court may order an appropriate law enforcement agency or the county attorney to assist the court in performing the requirements of subsection 1 or 2.

2009 Acts, ch 119, §9
Referred to in §692A.104

692A.110 Registration fees and civil penalty for offenders.

1. A sex offender shall pay an annual fee in the amount of twenty-five dollars to the sheriff of the county of principal residence, beginning with the first required in-person appearance at the sheriff's office after July 1, 2009. If the sex offender has more than one principal residence in this state, the offender shall pay the annual fee in the county where the offender is first required to appear in person after July 1, 2009. The sheriff shall accept the registration. If, at the time of registration, the sex offender is unable to pay the fee, the sheriff may allow the offender time to pay the fee, permit the payment of the fee in installments, or may waive payment of the fee. Fees paid to the sheriff shall be used to defray the costs of duties related to the registration of sex offenders under this chapter.

2. In addition to any other penalty, at the time of conviction for a public offense committed on or after July 1, 1995, which requires a sex offender to register under this chapter, the offender shall be assessed a civil penalty payable to the clerk of the district court as provided in section 602.8105 and distributed as provided in section 602.8108.

3. The fee and penalty required by this section shall not be assessed against a person who has been acquitted by reason of insanity of the offense which requires registration under this chapter.

2009 Acts, ch 119, §10; 2021 Acts, ch 145, §7
Referred to in §602.8105, 602.8108, 692A.119

692A.111 Failure to comply — penalty.

1. A sex offender who violates any requirements of section 692A.104, 692A.105, 692A.108, 692A.112, 692A.113, 692A.114, or 692A.115 commits an aggravated misdemeanor for a first offense and a class "D" felony for a second or subsequent offense. However, a sex offender convicted of an aggravated offense against a minor, a sex offense against a minor, or a sexually violent offense committed while in violation of any of the requirements specified in section 692A.104, 692A.105, 692A.108, 692A.112, 692A.113, 692A.114, or 692A.115 is guilty of a class "C" felony, in addition to any other penalty provided by law. Any fine imposed for a second or subsequent violation shall not be suspended. Notwithstanding section 907.3, the court shall not defer judgment or sentence for any violation of any requirements specified in this chapter. For purposes of this subsection, a violation occurs when a sex offender knows or reasonably should know of the duty to fulfill a requirement specified in this chapter as referenced in the offense charged.

2. Violations in any other jurisdiction under sex offender registry provisions that are substantially similar to those contained in this section shall be counted as previous offenses. The court shall judicially notice the statutes of other states which are substantially similar to this section.

3. Any violation of this chapter prior to July 1, 2009, shall be considered a previous offense for purposes of enhancing any penalty or period of registration under this chapter.

4. A sex offender who violates any provision of this chapter may be prosecuted in any county where registration is required by the provisions of this chapter.

2009 Acts, ch 119, §11; 2010 Acts, ch 1104, §9, 23

692A.112 Knowingly providing false information.

A sex offender shall not knowingly provide false information upon registration, change of relevant information, or during an appearance to verify relevant information.

2009 Acts, ch 119, §12
Referred to in §692A.107, 692A.111

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692A.113 Exclusion zones and prohibition of certain employment-related activities.

1. A sex offender who has been convicted of a sex offense against a minor or a person required to register as a sex offender in another jurisdiction for an offense involving a minor shall not do any of the following:

a. Be present upon the real property of a public or nonpublic elementary or secondary school without the written permission of the school administrator or school administrator's designee, unless enrolled as a student at the school.

b. Loiter within three hundred feet of the real property boundary of a public or nonpublic elementary or secondary school, unless enrolled as a student at the school.

c. Be present on or in any vehicle or other conveyance owned, leased, or contracted by a public or nonpublic elementary or secondary school without the written permission of the school administrator or school administrator's designee when the vehicle is in use to transport students to or from a school or school-related activities, unless enrolled as a student at the school or unless the vehicle is simultaneously made available to the public as a form of public transportation.

d. Be present upon the real property of a child care facility without the written permission of the child care facility administrator.

e. Loiter within three hundred feet of the real property boundary of a child care facility.

f. Be present upon the real property of a public library without the written permission of the library administrator.

g. Loiter within three hundred feet of the real property boundary of a public library.

h. Loiter on or within three hundred feet of the premises of any place intended primarily for the use of minors including but not limited to a playground available to the public, a children's play area available to the public, a recreational or sport-related activity area when in use by a minor, a swimming or wading pool available to the public when in use by a minor, or a beach available to the public when in use by a minor.

2. A sex offender who has been convicted of a sex offense against a minor:

a. Who resides in a dwelling located within three hundred feet of the real property boundary of public or nonpublic elementary or secondary school, child care facility, public library, or place intended primarily for the use of minors as specified in subsection 1, paragraph *"h"*, shall not be in violation of subsection 1 for having an established residence within the exclusion zone.

b. Who is the parent or legal guardian of a minor shall not be in violation of subsection 1 solely during the period of time reasonably necessary to transport the offender's own minor child or protected person to or from a place specified in subsection 1.

c. Who is legally entitled to vote shall not be in violation of subsection 1 solely for the period of time reasonably necessary to exercise the right to vote in a public election if the polling location of the offender is located in a place specified in subsection 1.

3. A sex offender who has been convicted of a sex offense against a minor shall not do any of the following:

a. Operate, manage, be employed by, or act as a contractor or volunteer at any municipal, county, or state fair or carnival when a minor is present on the premises.

b. Operate, manage, be employed by, or act as a contractor or volunteer on the premises of any children's arcade, an amusement center having coin or token operated devices for entertainment, or facilities providing programs or services intended primarily for minors, when a minor is present.

c. Operate, manage, be employed by, or act as a contractor or volunteer at a public or nonpublic elementary or secondary school, child care facility, or public library.

d. Operate, manage, be employed by, or act as a contractor or volunteer at any place intended primarily for use by minors including but not limited to a playground, a children's play area, recreational or sport-related activity area, a swimming or wading pool, or a beach.

e. Operate, manage, be employed by, or act as a contractor or volunteer at a business that

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operates a motor vehicle primarily marketing, from or near the motor vehicle, the sale and dispensing of ice cream or other food products to minors.

2009 Acts, ch 119, §13; 2010 Acts, ch 1104, §10, 23; 2011 Acts, ch 34, §144; 2013 Acts, ch 140, §23; 2024 Acts, ch 1009, §96

Referred to in §692A.107, 692A.109, 692A.111, 692A.121, 692A.129

692A.114 Residency restrictions — presence — child care facilities and schools.

1. As used in this section:

a. "Minor" means a person who is under eighteen years of age or who is enrolled in a secondary school.

b. "School" means a public or nonpublic elementary or secondary school.

c. "Sex offender" means a person required to be registered under this chapter who has been convicted of an aggravated offense against a minor.

2. A sex offender shall not reside within two thousand feet of the real property comprising a school or a child care facility.

3. A sex offender residing within two thousand feet of the real property comprising a school or a child care facility does not commit a violation of this section if any of the following apply:

a. The sex offender is required to serve a sentence at a jail, prison, juvenile facility, or other correctional institution or facility.

b. The sex offender is subject to an order of commitment under chapter 229A.

c. The sex offender has established a residence prior to July 1, 2002.

d. The sex offender has established a residence prior to any newly located school or child care facility being established.

e. The sex offender is a minor.

f. The sex offender is a protected person in a guardianship, and a district judge or associate probate judge grants an exemption from the residency restriction.

g. The sex offender is a patient or resident at a health care facility as defined in section 135C.1 or a patient in a hospice program, and a district judge or associate probate judge grants an exemption from the residency restriction.

2009 Acts, ch 119, §14; 2024 Acts, ch 1009, §97

Referred to in §692A.107, 692A.109, 692A.111, 692A.121, 692A.123, 692A.129

692A.115 Employment where dependent adults reside.

1. Unless authorized as provided in subsection 2, a sex offender shall not be an employee of a facility providing services for dependent adults or at events where dependent adults participate in programming and shall not loiter on the premises or grounds of a facility or at an event providing such services or programming.

2. An adult sex offender who is a patient or resident of a health care facility as defined in section 135C.1, a participant in a medical assistance program home and community-based services waiver program, or a participant in a medical assistance state plan employment services as part of the participant's habilitation plan shall not be considered to be in violation of subsection 1.

2009 Acts, ch 119, §15; 2010 Acts, ch 1192, §83

Referred to in §692A.107, 692A.111

692A.116 Determination of requirement to register.

1. An offender may request that the department determine whether the offense for which the offender has been convicted requires the offender to register under this chapter or whether the period of time during which the offender is required to register under this chapter has expired.

2. Application for determination shall be filed with the department and shall be made on forms provided by the department and accompanied by copies of sentencing or adjudicatory orders with respect to each offense for which the offender asks that a determination be made.

3. The department, after filing of the request and after all documentation or information

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requested by the department is received, shall have ninety days from the filing of the request, to determine whether the offender is required to register under this chapter.

2009 Acts, ch 119, §16

692A.117 Registration forms and electronic registration system.

1. Registration forms and an electronic registration system shall be made available by the department.

2. Copies of blank forms shall be available upon request to any registering agency.

2009 Acts, ch 119, §17

692A.118 Department duties — registry.

The department shall perform all of the following duties:

1. Develop an electronic system and standard forms for use in the registration of, verifying addresses of, and verifying understanding of registration requirements by sex offenders. Forms used to verify addresses of sex offenders shall contain a warning against forwarding a form to another address and of the requirement to return the form if the offender to whom the form is directed no longer resides at the address listed on the form or the mailing.

2. Maintain a central registry of information collected from sex offenders, which shall be known as the sex offender registry.

3. In consultation with the attorney general, adopt rules under chapter 17A which list specific offenses under present and former law which constitute sex offenses or sex offenses against a minor under this chapter.

4. Adopt rules under chapter 17A, as necessary, to ensure compliance with registration and verification requirements of this chapter, to provide guidelines for persons required to assist in obtaining registry information, and to provide a procedure for the dissemination of information contained in the registry. The procedure for the dissemination of information shall include but not be limited to practical guidelines for use by criminal or juvenile justice agencies in determining when public release of relevant information contained in the registry is appropriate and a requirement that if a member of the general public requests information regarding a specific individual in the manner provided in section 692A.121, the relevant information shall be released. The department, in developing the procedure, shall consult with associations which represent the interests of law enforcement officers. Rules adopted shall also include a procedure for removal of information from the registry upon the reversal or setting aside of a conviction of an offender.

5. Submit sex offender registry data to the federal bureau of investigation for entry of the data into the national sex offender registry.

6. Perform the requirements under this chapter and under federal law in cooperation with the office of sex offender sentencing, monitoring, apprehending, registering, and tracking of the office of justice programs of the United States department of justice.

7. Enter and maintain fingerprints and palm prints of sex offenders in an automated fingerprint identification system maintained by the department and made accessible to law enforcement agencies in this state, of the federal government, or in another jurisdiction. The department or any law enforcement agency may use such prints for criminal investigative purposes, to include comparison against finger and palm prints identified or recovered as evidence in a criminal investigation.

8. Notify a jurisdiction that provided information that a sex offender has or intends to maintain a residence, employment, or attendance as a student, in this state, of the failure of the sex offender to register as required under this chapter.

9. Submit a DNA sample to the combined DNA index system, if a sample has not been submitted.

10. Submit the social security number to the national crime information center, if the number has not been submitted.

11. When the department has a reasonable basis to believe that a sex offender has changed residence to an unknown location, has become a fugitive from justice, or has otherwise taken flight, make a reasonable effort to ascertain the whereabouts of the offender, and if such

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effort fails to identify the location of the offender, an appropriate notice shall be made on the sex offender registry internet site of this state and shall be transmitted to the national sex offender registry. The department shall notify other law enforcement agencies as deemed appropriate.

12. Notify appropriate law enforcement agencies including the United States marshal service to investigate and verify possible violations. The department shall ensure any warrants for arrest are entered into the Iowa online warrant and articles system and the national crime information center and pursue prosecution of stated violations through state or federal court.

2009 Acts, ch 119, §18; 2011 Acts, ch 25, §78; 2012 Acts, ch 1021, §111

692A.119 Sex offender registry fund.

A sex offender registry fund is established as a separate fund within the state treasury under the control of the department. The fund shall consist of moneys received as a result of the imposition of the penalty imposed under section 692A.110 and other funds allocated for purposes of establishing and maintaining the sex offender registry, conducting research and analysis related to sex crimes and offenders, and to perform other duties required under this chapter. Notwithstanding section 8.33, unencumbered or unobligated moneys and any interest remaining in the fund on June 30 of any fiscal year shall not revert to the general fund of the state, but shall remain available for expenditure in subsequent fiscal years.

2009 Acts, ch 119, §19

Referred to in §602.8108

692A.120 Duties of the sheriff.

The sheriff of each county shall comply with the requirements of this chapter and rules adopted by the department pursuant to this chapter. The sheriff of each county shall provide information and notices as provided in section 282.9.

2009 Acts, ch 119, §20

692A.121 Availability of records.

1. The department shall maintain an internet site for the public and others to access relevant information about sex offenders. The internet site, at a minimum, shall be searchable by name, county, city, zip code, and geographic radius.

2. The department shall provide updated or corrected relevant information within five business days of the information being updated or corrected, from the sex offender registry to the following:

a. A criminal or juvenile justice agency, an agency of the state, a sex offender registry of another jurisdiction, or the federal government.

b. The general public through the sex offender registry internet site.

(1) The following relevant information about a sex offender shall be disclosed on the internet site:

(a) The date of birth.

(b) The name, nickname, aliases, including ethnic or tribal names.

(c) Photographs.

(d) The physical description, including scars, marks, or tattoos.

(e) The residence.

(f) The statutory citation and text of the offense committed that requires registration under this chapter.

(g) A specific reference indicating whether a particular sex offender is subject to residency restrictions pursuant to section 692A.114.

(h) A specific reference indicating whether a particular sex offender is subject to exclusion zone restrictions pursuant to section 692A.113.

(2) The following relevant information shall not be disclosed on the internet site:

(a) The relevant information about a sex offender who was under twenty years of age at the time the offender committed a violation of section 709.4, subsection 1, paragraph "*b*", subparagraph (2), subparagraph division (d).

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(b) The employer name, address, or location where a sex offender acts as an employee in any form of employment.

(c) The address and name of any school where a student required to be on the registry attends.

(d) The real name of a sex offender protected under 18 U.S.C. §3521.

(e) The statutory citation and text of the offense committed for an incest conviction in violation of section 726.2, however, the citation and text of an incest conviction shall be disclosed on the internet site as a conviction of section 709.4 or 709.8.

(f) Any other relevant information not described in subparagraph (1).

c. The general public through any other means, at the discretion of the department, any relevant information that is available on the internet site.

3. A criminal or juvenile justice agency may provide relevant information from the sex offender registry to the following:

a. A criminal or juvenile justice agency, an agency of the state, or a sex offender registry of another jurisdiction, or the federal government.

b. The general public, any information available to the general public in subsection 2, including public and private agencies, organizations, public places, child care facilities, religious and youth organizations, neighbors, neighborhood associations, community meetings, and employers. The relevant information available to the general public may be distributed to the public through printed materials, visual or audio press releases, radio communications, or through a criminal or juvenile justice agency's internet site.

4. When a sex offender moves into a school district or moves within a school district, the county sheriff of the county of the offender's new residence shall provide relevant information that is available to the general public in subsection 2 to the administrative office of the school district in which the person required to register resides, and shall also provide relevant information to any nonpublic school near the offender's residence.

5. *a.* A member of the public may contact a county sheriff's office to request relevant information from the registry regarding a specific sex offender. A person making a request for relevant information may make the request by telephone, in writing, or in person, and the request shall include the name of the person and at least one of the following identifiers pertaining to the sex offender about whom the information is sought:

(1) The date of birth of the person.

(2) The social security number of the person.

(3) The address of the person.

(4) Internet identifiers.

(5) Telephone numbers, including any landline or wireless numbers.

b. The relevant information made available to the general public pursuant to this subsection shall include all the relevant information provided to the general public on the internet site pursuant to subsection 2, and the following additional relevant information:

(1) Educational institutions attended as a student, including the name and address of such institution.

(2) Employment information including the name and address of employer.

(3) Temporary lodging information, including the dates when residing at the temporary lodging.

(4) Vehicle information.

c. A county sheriff or police department shall not charge a fee relating to a request for relevant information.

6. A county sheriff shall also provide to a person upon request access to a list of all registrants in that county.

7. The following relevant information shall not be provided to the general public:

a. The identity of the victim.

b. Arrests not resulting in a conviction.

c. Passport and immigration documents.

d. A government issued driver's license or identification card.

e. DNA information.

f. Fingerprints.

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g. Palm prints.
h. Professional licensing information.
i. Social security number.
j. Real name protected under 18 U.S.C. §3521.

8. Notwithstanding sections 232.147 through 232.151, records concerning convictions which are committed by a minor may be released in the same manner as records of convictions of adults.

9. A person may contact the department or a county sheriff's office to verify if a particular internet identifier or telephone number is one that has been included in a registration by a sex offender.

10. The department shall include links to sex offender safety information, educational resources pertaining to the prevention of sexual assaults, and the national sex offender registry.

11. The department shall include on the sex offender registry internet site instructions and any applicable forms necessary for a person seeking correction of information that the person contends is erroneous.

12. When the department receives and approves registration data, such data shall be made available on the sex offender registry internet site within five business days.

13. The department shall maintain an automated electronic mail notification system, which shall be available by free subscription to any person, to provide notice of addition, deletion, or changes to any sex offender registration, relevant information within a postal zip code or, if selected by a subscriber, a geographic radius or, if selected by a subscriber, specific to a sex offender.

14. Sex offender registry records are confidential records not subject to examination and copying by a member of the public and shall only be released as provided in this section.

2009 Acts, ch 119, §21; 2013 Acts, ch 30, §247
Referred to in §22.7(48), 256.146, 279.13, 279.69, 282.9, 321.375, 692A.118

692A.122 Cooperation with registration.

An agency of state and local government that possesses information relevant to requirements that an offender register under this chapter shall provide that information to the court or the department upon request. All confidential records provided under this section shall remain confidential, unless otherwise ordered by a court, by the lawful custodian of the records, or by another person duly authorized to release such information.

2009 Acts, ch 119, §22

692A.123 Immunity for good faith conduct.

Criminal or juvenile justice agencies, state agencies, schools as defined in section 692A.114, public libraries, and child care facilities, and their employees shall be immune from liability for acts or omissions arising from a good faith effort to comply with this chapter.

2009 Acts, ch 119, §23; 2010 Acts, ch 1104, §11, 23

692A.124 Electronic monitoring.

1. A sex offender who is placed on probation, parole, work release, special sentence, or any other type of conditional release, may be supervised by an electronic tracking and monitoring system in addition to any other conditions of supervision.

2. The determination to use electronic tracking and monitoring to supervise a sex offender shall be based upon a validated risk assessment approved by the department of corrections, and also upon the sex offender's criminal history, progress in treatment and supervision, and other relevant factors.

3. If a sex offender is under the jurisdiction of the juvenile court, the determination to use electronic tracking and monitoring to supervise the sex offender shall be based upon a risk assessment performed by a juvenile court officer.

2009 Acts, ch 119, §24

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692A.125 Applicability of chapter and retroactivity.

1. The registration requirements of this chapter shall apply to sex offenders convicted on or after July 1, 2009, of a sex offense classified under section 692A.102.

2. The registration requirements of this chapter shall apply to a sex offender convicted of a sex offense or a comparable offense under prior law prior to July 1, 2009, under the following circumstances:

a. Any sex offender including a juvenile offender who is required to be on the sex offender registry as of June 30, 2009.

b. Any sex offender who is incarcerated on or after July 1, 2009, for conviction of a sex offense committed prior to July 1, 2009.

c. Any sex offender who is serving a special sentence pursuant to section 903B.1 or 903B.2 prior to July 1, 2009, or any other person who is sentenced for a criminal offense prior to July 1, 2009, that requires serving a special sentence.

3. For an offense requiring registration due to sexual motivation, the registration requirements of section 692A.126 shall apply to a person convicted of an offense if the department makes the determination that the offense was sexually motivated as provided in section 692A.126, subsection 2.

4. For a sex offender required to register pursuant to subsection 1 or 2, each conviction or adjudication for a sex offense requiring registration, regardless of whether such conviction or adjudication occurred prior to, on, or after July 1, 2009, shall be included in determining the tier requirements pursuant to this chapter.

5. An offender on the sex offender registry as of June 30, 2009, and who is required to be on the registry on or after July 1, 2009, shall be credited for any time on the registry prior to July 1, 2009.

2009 Acts, ch 119, §25; 2010 Acts, ch 1104, §12, 13, 23

692A.126 Sexually motivated offense — determination.

1. If a judge or jury makes a determination, beyond a reasonable doubt, that any of the following offenses for which a conviction has been entered on or after July 1, 2009, are sexually motivated, the person shall be required to register as provided in this chapter:

a. Murder in the first degree in violation of section 707.2.

b. Murder in the second degree in violation of section 707.3.

c. Voluntary manslaughter in violation of section 707.4.

d. Involuntary manslaughter in violation of section 707.5.

e. Attempt to commit murder in violation of section 707.11.

f. Harassment in violation of section 708.7, subsection 1, 2, or 3.

g. Stalking in violation of section 708.11.

h. Any other indictable offense in violation of chapter 708 if the offense was committed against a minor or otherwise involves a minor.

i. Kidnapping in the first degree in violation of section 710.2.

j. Kidnapping in the second degree in violation of section 710.3.

k. Kidnapping in the third degree in violation of section 710.4.

l. Child stealing in violation of section 710.5.

m. Purchase or sale or attempted purchase or sale of an individual in violation of section 710.11.

n. Burglary in the first degree in violation of section 713.3, subsection 1, paragraph "*a*", "*b*", or "*c*".

o. Attempted burglary in the first degree in violation of section 713.4.

p. Burglary in the second degree in violation of section 713.5.

q. Attempted burglary in the second degree in violation of section 713.6.

r. Burglary in the third degree in violation of section 713.6A.

s. Attempted burglary in the third degree in violation of section 713.6B.

t. Pimping in violation of section 725.2 if the offense was committed against a minor or otherwise involves a minor.

u. Pandering in violation of section 725.3, subsection 2.

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v. Any indictable offense in violation of chapter 726 if the offense was committed against a minor or otherwise involves a minor.

w. Extortion in violation of section 711.4.

2. *a.* The following persons shall be required to register as provided in this chapter if the department makes a determination that the offense was sexually motivated:

(1) A person convicted of an offense in this state specified under subsection 1 prior to July 1, 2009.

(2) A person convicted of an offense in another jurisdiction, or convicted of an offense that was prosecuted in a federal, military, or foreign court, prior to, on, or after July 1, 2009, that is comparable to an offense specified in subsection 1.

(3) A juvenile convicted of an offense in another jurisdiction, or convicted of an offense as a juvenile in a similar juvenile court proceeding in a federal, military, or foreign court, prior to, on, or after July 1, 2009, that is comparable to an offense specified in subsection 1.

b. A determination made pursuant to this subsection shall be issued in writing and shall include a summary of the information and evidence considered in making the determination that the offense was sexually motivated.

c. The determination made by the department shall be subject to judicial review in accordance with chapter 17A.

2009 Acts, ch 119, §26; 2010 Acts, ch 1104, §14, 23; 2011 Acts, ch 95, §9; 2021 Acts, ch 89, §3

Referred to in §692A.102, 692A.125, 707.2, 707.3, 707.4, 707.5, 707.11, 708.7, 708.11, 708.15, 710.2, 710.3, 710.4, 710.5, 711.4, 713.3, 713.4, 713.5, 713.6, 713.6A, 713.6B, 726.10

692A.127 Limitations on political subdivisions.

A political subdivision of the state shall not adopt any motion, resolution, or ordinance regulating the residency location of a sex offender or any motion, resolution, or ordinance regulating the exclusion of a sex offender from certain real property. A motion, resolution, or ordinance adopted by a political subdivision of the state in violation of this section is void and unenforceable and any enforcement activity conducted in violation of this section is void.

2009 Acts, ch 119, §27

692A.128 Modification.

1. A sex offender may file an application in district court seeking to modify the registration requirements under this chapter.

2. For an offender whose requirement to register as a sex offender commenced prior to July 1, 2022, an application shall not be granted unless all of the following apply:

a. The date of the commencement of the requirement to register occurred at least two years prior to the filing of the application for a tier I offender and five years prior to the filing of the application for a tier II or tier III offender.

b. The sex offender has successfully completed all sex offender treatment programs that have been required.

c. A risk assessment has been completed and the sex offender was classified as a low risk to reoffend. The risk assessment used to assess an offender as a low risk to reoffend shall be a validated risk assessment approved by the department of corrections.

d. The sex offender is not incarcerated when the application is filed.

e. The director of the judicial district department of correctional services supervising the sex offender, or the director's designee, stipulates to the modification, and a certified copy of the stipulation is attached to the application.

3. For an offender whose requirement to register as a sex offender commenced on or after July 1, 2022, an application shall not be granted unless all of the following apply:

a. A period of time has elapsed since the offender's initial registration as follows:

(1) (a) Except as otherwise provided in subparagraph division (b), a tier I offender initially registered at least ten years prior to the filing of the application.

(b) A tier I offender who was under twenty years of age at the time the offender committed a violation of section 709.4, subsection 1, paragraph *"b"*, subparagraph (2), subparagraph division (d), initially registered at least five years prior to the filing of the application.

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(2) A tier II or tier III offender initially registered at least fifteen years prior to the filing of the application.

b. The sex offender has successfully completed all sex offender treatment programs that have been required.

c. A risk assessment has been completed and the sex offender was classified as a low risk to reoffend. The risk assessment used to assess an offender as a low risk to reoffend shall be a validated risk assessment approved by the department of corrections.

d. The sex offender has successfully completed any pretrial release, probation, parole, or work release for the offense requiring registration.

e. The director of the judicial district department of correctional services supervising the sex offender, or the director's designee, stipulates to the modification, and a certified copy of the stipulation is attached to the application.

f. The sex offender is not incarcerated when the application is filed.

g. A tier I offender must not have been convicted of any criminal offense other than a simple misdemeanor, or a simple or serious misdemeanor or traffic violation under chapter 321, for the ten-year period immediately preceding the filing of the application.

h. A tier II or tier III offender shall not have been convicted of any criminal offense other than a simple misdemeanor, or a simple or serious misdemeanor or traffic violation under chapter 321, for the fifteen-year period immediately preceding the filing of the application.

4. The application shall be filed in the sex offender's county of principal residence.

5. Notice of any application shall be provided to the county attorney of the county of the sex offender's principal residence, the county attorney of any county in this state where a conviction requiring the sex offender's registration occurred, and the department. The county attorney where the conviction occurred shall notify the victim of an application if the victim's address is known.

6. The court may, but is not required to, conduct a hearing on the application to hear any evidence deemed appropriate by the court. The court may modify the registration requirements under this chapter by reducing the registration period.

7. If the court modifies the registration requirements under this chapter, the court shall send a copy of the order to the department, the sheriff of the county of the sex offender's principal residence, any county attorney notified in subsection 4, and the victim, if the victim's address is known.

2009 Acts, ch 119, §28; 2022 Acts, ch 1063, §1; 2023 Acts, ch 64, §99; 2023 Acts, ch 66, §149, 150

Referred to in §692A.106

692A.129 Probation and parole officers.

A probation or parole officer supervising a sex offender is not precluded from imposing more restrictive exclusion zone requirements, employment prohibitions, and residency restrictions than under sections 692A.113 and 692A.114.

2009 Acts, ch 119, §29

692A.130 Rules.

The department shall adopt rules pursuant to chapter 17A to administer this chapter.

2009 Acts, ch 119, §30

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CHAPTER 692B

NATIONAL CRIME PREVENTION AND PRIVACY COMPACT

Referred to in §331.307, 364.22

692B.1 Citation.
692B.2 Crime prevention and privacy compact.
692B.3 Duty of commissioner.

692B.1 Citation.

This chapter may be cited as the *"National Crime Prevention and Privacy Compact Act"*.

2000 Acts, ch 1065, §1

692B.2 Crime prevention and privacy compact.

The national crime prevention and privacy compact is enacted into law and entered into by this state with any other state or jurisdiction legally joining the compact in the form substantially as follows:

1. *Article I — Definitions.* As used in this compact, unless the context clearly requires otherwise:

a. Attorney general. The term *"attorney general"* means the attorney general of the United States.

b. Compact officer. The term *"compact officer"* means

(1) with respect to the federal government, an official so designated by the director of the FBI; and

(2) with respect to a party state, the chief administrator of the state's criminal history record repository or a designee of the chief administrator who is a regular full-time employee of the repository.

c. Council. The term *"council"* means the compact council established under article VI.

d. Criminal history records. The term *"criminal history records"*

(1) means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, or other formal criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, or release; and

(2) does not include identification information such as fingerprint records if such information does not indicate involvement of the individual with the criminal justice system.

e. Criminal history record repository. The term *"criminal history record repository"* means the state agency designated by the governor or other appropriate executive official or the legislature of a state to perform centralized record-keeping functions for criminal history records and services in the state.

f. Criminal justice. The term *"criminal justice"* includes activities relating to the detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice includes criminal identification activities and the collection, storage, and dissemination of criminal history records.

g. Criminal justice agency. The term *"criminal justice agency"*

(1) means

(a) courts; and

(b) a governmental agency or any subunit thereof that

(i) performs the administration of criminal justice pursuant to a statute or executive order; and

(ii) allocates a substantial part of its annual budget to the administration of criminal justice; and

(2) includes federal and state inspectors general offices.

h. Criminal justice services. The term *"criminal justice services"* means services provided by the FBI to criminal justice agencies in response to a request for information

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about a particular individual or as an update to information previously provided for criminal justice purposes.

i. Criterion offense. The term *"criterion offense"* means any felony or misdemeanor offense not included on the list of nonserious offenses published periodically by the FBI.

j. Direct access. The term *"direct access"* means access to the national identification index by computer terminal or other automated means not requiring the assistance of or intervention by any other party or agency.

k. Executive order. The term *"executive order"* means an order of the president of the United States or the chief executive officer of a state that has the force of law and that is promulgated in accordance with applicable law.

l. FBI. The term *"FBI"* means the federal bureau of investigation.

m. Interstate identification index system. The term *"interstate identification index system"* or *"III system"*

(1) means the cooperative federal-state system for the exchange of criminal history records; and

(2) includes the national identification index, the national fingerprint file and, to the extent of their participation in such system, the criminal history record repositories of the states and the FBI.

n. National fingerprint file. The term *"national fingerprint file"* means a database of fingerprints, or other uniquely personal identifying information, relating to an arrested or charged individual maintained by the FBI to provide positive identification of record subjects indexed in the III system.

o. National identification index. The term *"national identification index"* means an index maintained by the FBI consisting of names, identifying numbers, and other descriptive information relating to record subjects about whom there are criminal history records in the III system.

p. National indices. The term *"national indices"* means the national identification index and the national fingerprint file.

q. Nonparty state. The term *"nonparty state"* means a state that has not ratified this compact.

r. Noncriminal justice purposes. The term *"noncriminal justice purposes"* means uses of criminal history records for purposes authorized by federal or state law other than purposes relating to criminal justice activities, including employment suitability, licensing determinations, immigration and naturalization matters, and national security clearances.

s. Party state. The term *"party state"* means a state that has ratified this compact.

t. Positive identification. The term *"positive identification"* means a determination, based upon a comparison of fingerprints or other equally reliable biometric identification techniques, that the subject of a record search is the same person as the subject of a criminal history record or records indexed in the III system. Identifications based solely upon a comparison of subjects' names or other nonunique identification characteristics or numbers, or combinations thereof, shall not constitute positive identification.

u. Sealed record information. The term *"sealed record information"* means

(1) with respect to adults, that portion of a record that is

(a) not available for criminal justice uses;

(b) not supported by fingerprints or other accepted means of positive identification; or

(c) subject to restrictions on dissemination for noncriminal justice purposes pursuant to a court order related to a particular subject or pursuant to a federal or state statute that requires action on a sealing petition filed by a particular record subject; and

(2) with respect to juveniles, whatever each state determines is a sealed record under its own law and procedure.

v. State. The term *"state"* means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

2. *Article II — Purposes.* The purposes of this compact are to

a. provide a legal framework for the establishment of a cooperative federal-state system for the interstate and federal-state exchange of criminal history records for noncriminal justice uses;

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b. require the FBI to permit use of the national identification index and the national fingerprint file by each party state, and to provide, in a timely fashion, federal and state criminal history records to requesting states, in accordance with the terms of this compact and with rules, procedures, and standards established by the council under article VI;

c. require party states to provide information and records for the national identification index and the national fingerprint file and to provide criminal history records, in a timely fashion, to criminal history record repositories of other states and the federal government for noncriminal justice purposes, in accordance with the terms of this compact and with rules, procedures, and standards established by the council under article VI;

d. provide for the establishment of a council to monitor III system operations and to prescribe system rules and procedures for the effective and proper operation of the III system for noncriminal justice purposes; and

e. require the FBI and each party state to adhere to III system standards concerning record dissemination and use, response times, system security, data quality, and other duly established standards, including those that enhance the accuracy and privacy of such records.

3. *Article III — Responsibilities of compact parties.*

a. FBI responsibilities. The director of the FBI shall

(1) appoint an FBI compact officer who shall

(a) administer this compact within the department of justice and among federal agencies and other agencies and organizations that submit search requests to the FBI pursuant to article V, paragraph "c";

(b) ensure that compact provisions and rules, procedures, and standards prescribed by the council under article VI are complied with by the department of justice and the federal agencies and other agencies and organizations referred to in subparagraph division (a); and

(c) regulate the use of records received by means of the III system from party states when such records are supplied by the FBI directly to other federal agencies;

(2) provide to federal agencies and to state criminal history record repositories, criminal history records maintained in its database for the noncriminal justice purposes described in article IV, including

(a) information from nonparty states; and

(b) information from party states that is available from the FBI through the III system, but is not available from the party state through the III system;

(3) provide a telecommunications network and maintain centralized facilities for the exchange of criminal history records for both criminal justice purposes and the noncriminal justice purposes described in article IV, and ensure that the exchange of such records for criminal justice purposes has priority over exchange for noncriminal justice purposes; and

(4) modify or enter into user agreements with nonparty state criminal history record repositories to require them to establish record request procedures conforming to those prescribed in article V.

b. State responsibilities. Each party state shall

(1) appoint a compact officer who shall

(a) administer this compact within that state;

(b) ensure that compact provisions and rules, procedures, and standards established by the council under article VI are complied with in the state; and

(c) regulate the in-state use of records received by means of the III system from the FBI or from other party states;

(2) establish and maintain a criminal history record repository, which shall provide

(a) information and records for the national identification index and the national fingerprint file; and

(b) the state's III system-indexed criminal history records for noncriminal justice purposes described in Article IV;

(3) participate in the national fingerprint file; and

(4) provide and maintain telecommunications links and related equipment necessary to support the services set forth in this compact.

c. Compliance with III system standards. In carrying out their responsibilities under this

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compact, the FBI and each party state shall comply with III system rules, procedures, and standards duly established by the council concerning record dissemination and use, response times, data quality, system security, accuracy, privacy protection, and other aspects of III system operation.

d. Maintenance of record services.

(1) Use of the III system for noncriminal justice purposes authorized in this compact shall be managed so as not to diminish the level of services provided in support of criminal justice purposes.

(2) Administration of compact provisions shall not reduce the level of service available to authorized noncriminal justice users on the effective date of this compact.*

4. *Article IV — Authorized record disclosures.*

a. State criminal history record repositories. To the extent authorized by 5 U.S.C. §552a, commonly known as the Privacy Act of 1974, the FBI shall provide on request criminal history records (excluding sealed records) to state criminal history record repositories for noncriminal justice purposes allowed by federal statute, federal executive order, or a state statute that has been approved by the attorney general and that authorizes national indices checks.

b. Criminal justice agencies and other governmental or nongovernmental agencies. The FBI, to the extent authorized by 5 U.S.C. §552a, commonly known as the Privacy Act of 1974, and state criminal history record repositories shall provide criminal history records (excluding sealed records) to criminal justice agencies and other governmental or nongovernmental agencies for noncriminal justice purposes allowed by federal statute, federal executive order, or a state statute that has been approved by the attorney general, that authorizes national indices checks.

c. Procedures. Any record obtained under this compact may be used only for the official purposes for which the record was requested. Each compact officer shall establish procedures, consistent with this compact and with rules, procedures, and standards established by the council under article VI, which procedures shall protect the accuracy and privacy of the records, and shall

(1) ensure that records obtained under this compact are used only by authorized officials for authorized purposes;

(2) require that subsequent record checks are requested to obtain current information whenever a new need arises; and

(3) ensure that record entries that may not legally be used for a particular noncriminal justice purpose are deleted from the response and, if no information authorized for release remains, an appropriate "no record" response is communicated to the requesting official.

5. *Article V — Record request procedures.*

a. Positive identification. Subject fingerprints or other approved forms of positive identification shall be submitted with all requests for criminal history record checks for noncriminal justice purposes.

b. Submission of state requests. Each request for a criminal history record check utilizing the national indices made under any approved state statute shall be submitted through that state's criminal history record repository. A state criminal history record repository shall process an interstate request for noncriminal justice purposes through the national indices only if such request is transmitted through another state criminal history record repository or the FBI.

c. Submission of federal requests. Each request for criminal history record checks utilizing the national indices made under federal authority shall be submitted through the FBI or, if the state criminal history record repository consents to process fingerprint submissions, through the criminal history record repository in the state in which such request originated. Direct access to the national identification index by entities other than the FBI and state criminal history records repositories shall not be permitted for noncriminal justice purposes.

d. Fees. A state criminal history record repository or the FBI

(1) may charge a fee, in accordance with applicable law, for handling a request involving fingerprint processing for noncriminal justice purposes; and

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(2) may not charge a fee for providing criminal history records in response to an electronic request for a record that does not involve a request to process fingerprints.

e. Additional search.

(1) If a state criminal history record repository cannot positively identify the subject of a record request made for noncriminal justice purposes, the request, together with fingerprints or other approved identifying information, shall be forwarded to the FBI for a search of the national indices.

(2) If, with respect to a request forwarded by a state criminal history record repository under subparagraph (1), the FBI positively identifies the subject as having a III system indexed record or records

(a) the FBI shall so advise the state criminal history record repository; and

(b) the state criminal history record repository shall be entitled to obtain the additional criminal history record information from the FBI or other state criminal history record repositories.

6. *Article VI — Establishment of compact council.*

a. Establishment.

(1) *In general.* There is established a council to be known as the compact council, which shall have the authority to promulgate rules and procedures governing the use of the III system for noncriminal justice purposes, not to conflict with FBI administration of the III system for criminal justice purposes.

(2) *Organization.* The council shall

(a) continue in existence as long as this compact remains in effect;

(b) be located, for administrative purposes, within the FBI; and

(c) be organized and hold its first meeting as soon as practicable after the effective date of this compact.*

b. Membership. The council shall be composed of fifteen members, each of whom shall be appointed by the attorney general, as follows:

(1) Nine members, each of whom shall serve a two-year term, who shall be selected from among the compact officers of party states based on the recommendation of the compact officers of all party states, except that, in the absence of the requisite number of compact officers available to serve, the chief administrators of the criminal history record repositories of nonparty states shall be eligible to serve on an interim basis.

(2) Two at-large members, nominated by the director of the FBI, each of whom shall serve a three-year term, of whom

(a) One shall be a representative of the criminal justice agencies of the federal government and may not be an employee of the FBI; and

(b) One shall be a representative of the noncriminal justice agencies of the federal government.

(3) Two at-large members, nominated by the chairperson of the council, once the chairperson is elected pursuant to paragraph "c", each of whom shall serve a three-year term, of whom

(a) One shall be a representative of state or local criminal justice agencies; and

(b) One shall be a representative of state or local noncriminal justice agencies.

(4) One member, who shall serve a three-year term, and who shall simultaneously be a member of the FBI's advisory policy board on criminal justice information services, nominated by the membership of that policy board.

(5) One member, nominated by the director of the FBI, who shall serve a three-year term, and who shall be an employee of the FBI.

c. Chairperson and vice chairperson.

(1) *In general.* From its membership, the council shall elect a chairperson and a vice chairperson of the council, respectively. Both the chairperson and vice chairperson of the council

(a) shall be a compact officer, unless there is no compact officer on the council who is willing to serve, in which case the chairperson may be an at-large member; and

(b) shall serve a two-year term and may be reelected to only one additional two-year term.

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(2) *Duties of vice chairperson.* The vice chairperson of the council shall serve as the chairperson of the council in the absence of the chairperson.

d. Meetings.

(1) *In general.* The council shall meet at least once each year at the call of the chairperson. Each meeting of the council shall be open to the public. The council shall provide prior public notice in the federal register of each meeting of the council, including the matters to be addressed at such meeting.

(2) *Quorum.* A majority of the council or any committee of the council shall constitute a quorum of the council or of such committee, respectively, for the conduct of business. A lesser number may meet to hold hearings, take testimony, or conduct any business not requiring a vote.

e. Rules, procedures, and standards. The council shall make available for public inspection and copying at the council office within the FBI, and shall publish in the federal register, any rules, procedures, or standards established by the council.

f. Assistance from FBI. The council may request from the FBI such reports, studies, statistics, or other information or materials as the council determines to be necessary to enable the council to perform its duties under this compact. The FBI, to the extent authorized by law, may provide such assistance or information upon such a request.

g. Committees. The chairperson may establish committees as necessary to carry out this compact and may prescribe their membership, responsibilities, and duration.

7. *Article VII — Ratification of compact.* This compact shall take effect upon being entered into by two or more states as between those states and the federal government. Upon subsequent entering into this compact by additional states, it shall become effective among those states and the federal government and each party state that has previously ratified it. When ratified, this compact shall have the full force and effect of law within the ratifying jurisdictions. The form of ratification shall be in accordance with the laws of the executing state.

8. *Article VIII — Miscellaneous provisions.*

a. Relation of compact to certain FBI activities. Administration of this compact shall not interfere with the management and control of the director of the FBI over the FBI's collection and dissemination of criminal history records and the advisory function of the FBI's advisory policy board chartered under the Federal Advisory Committee Act, 5 U.S.C. App., for all purposes other than noncriminal justice.

b. No authority for nonappropriated expenditures. Nothing in this compact shall require the FBI to obligate or expend funds beyond those appropriated to the FBI.

c. Relating to Pub. L. No. 92-544. Nothing in this compact shall diminish or lessen the obligations, responsibilities, and authorities of any state, whether a party state or a nonparty state, or of any criminal history record repository or other subdivision or component thereof, under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973, Pub. L. No. 92-544, or regulations and guidelines promulgated thereunder, including the rules and procedures promulgated by the council under article VI, paragraph "*a*", regarding the use and dissemination of criminal history records and information.

9. *Article IX — Renunciation.*

a. In general. This compact shall bind each party state until renounced by the party state.

b. Effect. Any renunciation of this compact by a party state shall

(1) be effected in the same manner by which the party state ratified this compact; and

(2) become effective one hundred eighty days after written notice of renunciation is provided by the party state to each other party state and to the federal government.

10. *Article X — Severability.* The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any participating state, or to the Constitution of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If a portion of this compact is held contrary to the constitution of any party state, all other portions of this compact shall

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remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected, as to all other provisions.

11. *Article XI — Adjudication of disputes.*

a. In general. The council shall

(1) have initial authority to make determinations with respect to any dispute regarding

(a) interpretation of this compact;

(b) any rule or standard established by the council pursuant to article VI; and

(c) any dispute or controversy between any parties to this compact; and

(2) hold a hearing concerning any dispute described in subparagraph (1) at a regularly scheduled meeting of the council and only render a decision based upon a majority vote of the members of the council. Such decision shall be published pursuant to the requirements of article VI, paragraph *"e"*.

b. Duties of FBI. The FBI shall exercise immediate and necessary action to preserve the integrity of the III system, maintain system policy and standards, protect the accuracy and privacy of records, and to prevent abuses, until the council holds a hearing on such matters.

c. Right of appeal. The FBI or a party state may appeal any decision of the council to the attorney general, and thereafter may file suit in the appropriate district court of the United States, which shall have original jurisdiction of all cases or controversies arising under this compact. Any suit arising under this compact and initiated in a state court shall be removed to the appropriate district court of the United States in the manner provided by 28 U.S.C. §1446, or other statutory authority.

2000 Acts, ch 1065, §2; 2000 Acts, ch 1232, §84; 2006 Acts, ch 1010, §159; 2008 Acts, ch 1032, §201; 2009 Acts, ch 41, §263

*Legislation enacting compact is effective July 1, 2000; 2000 Acts, ch 1065, §1 – 3

692B.3 Duty of commissioner.

The commissioner of public safety shall be responsible to implement and administer this compact.

2000 Acts, ch 1065, §3

CHAPTER 692C

NATIONAL CRIMINAL HISTORY RECORD CHECKS

Referred to in §331.307, 364.22

692C.1 National criminal history record checks — persons providing child care, elder care, and care for individuals with disabilities.

692C.1 National criminal history record checks — persons providing child care, elder care, and care for individuals with disabilities.

1. For purposes of this section:

a. "Covered individual" means an individual who has, seeks to have, or may have access to children, the elderly, or individuals with disabilities served by a qualified entity and who is employed by, volunteers with, or seeks to volunteer with a qualified entity; or owns or operates or seeks to own or operate, a qualified entity.

b. "Department" means the department of public safety.

c. "Qualified entity" means a business or organization, whether public, private, for-profit, nonprofit, or voluntary, that provides care or care placement services, including a business or organization that licenses or certifies others to provide care or care placement services.

2. A qualified entity may request a national criminal history record check by the federal bureau of investigation on covered individuals through the department of public safety.

3. The qualified entity shall submit fingerprints and other identifying information to the

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division of criminal investigation of the department on a form and in a manner as prescribed by the department. The department shall submit the information through the state criminal history repository to the federal bureau of investigation.

4. The department may use authority conferred under the National Child Protection Act, as codified in 34 U.S.C. §40104, in conducting national criminal history record checks on covered individuals.

5. The department may require a qualified entity to pay a fee associated with a national criminal history record check. The fee shall not exceed the actual cost of the national criminal history record check.

6. The results of national criminal history record checks are a confidential record under section 22.7.

7. The department shall adopt rules as necessary for the administration of this section pursuant to chapter 17A.

2019 Acts, ch 60, §1; 2019 Acts, ch 89, §20

CHAPTER 693

POLICE RADIO BROADCASTING SYSTEM

Referred to in §80.9B, 139A.19, 331.307, 364.22

693.1 Contract authorized.
693.2 Expenses.
693.3 Notification to supervisors.
693.4 Duty of supervisors to install — costs.
693.5 Option of city council to install — costs.
693.6 Repealed by 81 Acts, ch 117, §1097.
693.7 Communication with local agencies.
693.8 Repealed by 80 Acts, ch 1008, §2.

693.1 Contract authorized.

The commissioner of public safety may enter into such contracts as the commissioner may deem necessary for the purpose of utilizing a special radio broadcasting system for law enforcement and police work and for direct and rapid communication with the various peace officers of the state. The said commissioner shall be empowered, subject to the approval of the governor and executive council, to equip divisional headquarters, cars, and motorcycles in the department with radio sending or receiving apparatus or both.

[C31, 35, §13417-d1; C39, §**13417.3;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §750.1; C79, 81, §693.1]

Referred to in §321.266, 693.2

693.2 Expenses.

Any such contract authorized in section 693.1 shall involve no expense to the state, except that the state may buy its own radio remote control system and install the same in the offices of the department of public safety in broadcasting communications and information direct to the peace officers of the state.

[C31, 35, §13417-d2; C39, §**13417.4;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §750.2; C79, 81, §693.2]

693.3 Notification to supervisors.

Whenever the commissioner of public safety has entered into a contract and has established radio broadcasting facilities as is provided in this chapter, the commissioner shall at once notify the boards of supervisors of the respective counties that such a radio service has been established.

[C31, 35, §13417-d3; C39, §**13417.5;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §750.3; C79, 81, §693.3]

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693.4 Duty of supervisors to install — costs.

The board of supervisors of each county shall install in the office of the sheriff a radio receiving set, and a set in at least one motor vehicle used by the sheriff, for use in connection with the state radio broadcasting system. The board of supervisors may install as many additional radio receiving sets as it deems necessary.

[C31, 35, §13417-d4; C39, §**13417.6;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §750.4; C79, 81, §693.4]

83 Acts, ch 123, §200, 209

Referred to in §331.322

693.5 Option of city council to install — costs.

The council of each city of two thousand or more population may install at least one radio receiving set for use in law enforcement and police work.

[C31, 35, §13417-d5; C39, §**13417.7;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §750.5; C79, 81, §693.5]

693.6 Repealed by 81 Acts, ch 117, §1097.

693.7 Communication with local agencies.

The department of public safety shall maintain law enforcement communications with local enforcement agencies.

[C75, 77, §750.7; C79, 81, §693.7]

693.8 Repealed by 80 Acts, ch 1008, §2.

CHAPTER 694

MISSING PERSONS

Referred to in §331.307, 364.22

694.1 Definitions.
694.2 Complaint of missing person.
694.3 Report on missing person.
694.4 Dissemination of report.
694.5 Unemancipated minors.
694.6 False information — penalty.
694.7 through 694.9 Reserved.
694.10 Missing person information clearinghouse.

694.1 Definitions.

As used in this chapter, unless the context otherwise indicates:

1. *"Missing person"* means a person who is missing and meets one of the following characteristics:

a. Is a person with a physical or mental disability.

b. Is missing under circumstances indicating that the person's safety may be in danger.

c. Is missing under circumstances indicating that the disappearance was not voluntary.

d. Is an unemancipated minor.

2. *"Unemancipated minor"* means a minor who has not married and who resides with a parent or other legal guardian.

84 Acts, ch 1084, §1; 90 Acts, ch 1051, §1; 90 Acts, ch 1233, §40; 96 Acts, ch 1129, §107; 2013 Acts, ch 90, §220

Referred to in §692.3, 694.10

694.2 Complaint of missing person.

1. A person may file a complaint of a missing person with a law enforcement agency having jurisdiction. The complaint shall include, but is not limited to, the following information:

a. The name of the complainant.

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b. The relationship of the complainant to the missing person.

c. The name, age, address, and all identifying characteristics of the missing person.

d. The length of time the person has been missing.

e. All other information deemed relevant by either the complainant or the law enforcement agency.

2. A report of the complaint of missing person shall be given to all law enforcement personnel currently on active duty for that agency through internal means and over the law enforcement administration network immediately upon its being filed.

84 Acts, ch 1084, §2
Referred to in §694.10

694.3 Report on missing person.

A law enforcement agency in which a complaint of a missing person has been filed shall prepare, as soon as practicable, a report on a missing person. That report shall include, but is not limited to, the following:

1. All information contained in the complaint on a missing person.

2. All information or evidence gathered by a preliminary investigation, if one was made.

3. A statement, by the law enforcement officer in charge, setting forth that officer's assessment of the case based upon all evidence and information received.

4. An explanation of the next steps to be taken by the law enforcement agency filing the report.

84 Acts, ch 1084, §3
Referred to in §694.10

694.4 Dissemination of report.

Upon completion of the report, a copy of the report shall be forwarded to:

1. All law enforcement agencies having jurisdiction of the location in which the missing person lives or was last seen.

2. All law enforcement agencies considered to be potentially involved by the law enforcement agency filing the report.

3. All law enforcement agencies which the complainant requests the report to be sent to, if the request is reasonable in light of the information contained in the report.

4. Any law enforcement agency requesting a copy of the missing person report.

84 Acts, ch 1084, §4

694.5 Unemancipated minors.

1. If a report of missing person involves an unemancipated minor, the law enforcement agency shall immediately transmit the proper information for inclusion in the national crime information center computer.

2. If a report of missing person involves an unemancipated minor, a law enforcement agency shall not prevent an immediate active investigation on the basis of an agency rule which specifies an automatic time limitation for a missing person investigation.

84 Acts, ch 1084, §5

694.6 False information — penalty.

A person who knowingly makes a false report of missing person, or knowingly makes a false statement in the report, to a law enforcement agency is guilty of a simple misdemeanor.

84 Acts, ch 1084, §6

694.7 through 694.9 Reserved.

694.10 Missing person information clearinghouse.

1. As used in this section:

a. *"Missing person"* means a missing person as defined in section 694.1 whose temporary or permanent residence is in Iowa, or is believed to be in Iowa, whose location has not been determined, and who has been reported as missing to a law enforcement agency.

b. *"Missing person report"* is a report prepared on a form designed by the department

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of public safety for use by private citizens and law enforcement agencies to report missing person information to the missing person information clearinghouse.

2. The department of public safety shall establish a statewide missing person information clearinghouse. In connection with the clearinghouse, the department shall:

a. Collect, process, maintain, and disseminate information concerning missing persons in Iowa.

b. Develop training programs for local law enforcement personnel concerning appropriate procedures to report missing persons to the clearinghouse and to comply with legal procedures relating to missing person cases.

c. Provide specialized training to law enforcement officers, in conjunction with the law enforcement academy, to enable the officers to more efficiently handle the tracking of missing persons and unidentified bodies on the local level.

d. Develop training programs to assist parents in avoiding child kidnapping.

e. Cooperate with other states and the national crime information center in efforts to locate missing persons.

f. Maintain a toll-free telephone line, available twenty-four hours a day, seven days a week, to receive and disseminate information related to missing persons.

g. Distribute monthly bulletins to all local law enforcement agencies and to media outlets which request missing person information, containing the names, photos, and descriptions of missing persons, information related to the events surrounding the disappearance of the missing persons, the law enforcement agency or person to contact if missing persons are located or if other relevant information is discovered relating to missing persons, and the names of persons reported missing whose locations have been determined and confirmed.

h. Produce, update at least weekly, and distribute public service announcements to media outlets which request missing person information, containing the same or similar information as contained in the monthly bulletins.

i. Encourage and seek both financial and in-kind support from private individuals and organizations in the production and distribution of clearinghouse bulletins and public service announcements under paragraphs *"g"* and *"h"*.

j. Maintain a registry of approved prevention and education materials and programs regarding missing and runaway children.

k. Coordinate public and private programs for missing and runaway children.

3. A law enforcement agency shall submit all missing person reports compiled pursuant to section 694.3 and updated information relating to the reports to the clearinghouse.

4. Subsequent to the filing of a complaint of a missing person with a law enforcement agency pursuant to section 694.2, the person filing the complaint may submit information regarding the missing person to the clearinghouse. If the person reported missing is an unemancipated minor, any person may submit information regarding the missing unemancipated minor to the clearinghouse.

5. A person who has filed a missing person complaint with a law enforcement agency shall immediately notify that law enforcement agency when the location of the missing person has been determined.

6. After the location of a person reported missing to the clearinghouse has been determined and confirmed, the clearinghouse shall only release information described in subsection 2, paragraphs *"g"* and *"h"* concerning the located person. After the location of a missing person has been determined and confirmed, other information concerning the history of the missing person case shall be disclosed only to law enforcement officers of this state and other jurisdictions when necessary for the discharge of their official duties and to the juvenile court in the county of a formerly missing child's residence. All information relating to a missing person in the clearinghouse shall be purged when the person's location has been determined and confirmed, except that information relating to a missing child shall be purged when the child reaches eighteen years of age and the child's location has been determined and confirmed.

85 Acts, ch 173, §29

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CHAPTERS 695 to 700

RESERVED

CHAPTER 701

GENERAL CRIMINAL LAW PROVISIONS

Referred to in §331.307, 364.22

701.1 Short title.
701.2 Public offense.
701.3 Presumption of innocence.
701.4 Insanity.
701.5 Intoxicants or drugs.
701.6 Ignorance or mistake.
701.7 Felony defined and classified.
701.8 Misdemeanor defined and classified.
701.9 Merger of lesser included offenses.
701.10 Civil remedies preserved.
701.11 Evidence of similar offenses — sexual abuse.
701.12 Persons under the age of twenty-one seeking emergency assistance for overdose — immunity.
701.13 Depositions before indictment.

701.1 Short title.

Chapters 701 through 728 shall be known and may be cited as the "*Iowa Criminal Code*".

[C79, 81, §701.1]

2020 Acts, ch 1063, §373

701.2 Public offense.

A public offense is that which is prohibited by statute and is punishable by fine or imprisonment.

[C51, §2816 – 2818; R60, §4428 – 4430; C73, §4103 – 4105; C97, §5092 – 5094; C24, 27, 31, 35, 39, §**12889 – 12891;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §687.1, 687.2, 687.4; C79, 81, §701.2]

Referred to in §664A.1, 671A.1, 671A.2

701.3 Presumption of innocence.

Every person is presumed innocent until proved guilty. No person shall be convicted of any offense unless the person's guilt thereof is proved beyond a reasonable doubt.

[C51, §2819; R60, §4431, 4807; C73, §4106, 4428; C97, §5095, 5376; C24, 27, 31, 35, 39, §**12892, 13917;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §687.5, 785.3; C79, 81, §701.3]

See R.Cr.P. 2.22(2)

701.4 Insanity.

A person shall not be convicted of a crime if at the time the crime is committed the person suffers from such a diseased or deranged condition of the mind as to render the person incapable of knowing the nature and quality of the act the person is committing or incapable of distinguishing between right and wrong in relation to that act. Insanity need not exist for any specific length of time before or after the commission of the alleged criminal act. If the defense of insanity is raised, the defendant must prove by a preponderance of the evidence that the defendant at the time of the crime suffered from such a deranged condition of the mind as to render the defendant incapable of knowing the nature and quality of the act the defendant was committing or was incapable of distinguishing between right and wrong in relation to the act.

[C79, 81, §701.4]

84 Acts, ch 1320, §1

701.5 Intoxicants or drugs.

The fact that a person is under the influence of intoxicants or drugs neither excuses the person's act nor aggravates the person's guilt, but may be shown where it is relevant

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in proving the person's specific intent or recklessness at the time of the person's alleged criminal act or in proving any element of the public offense with which the person is charged.

[C79, 81, §701.5]

701.6 Ignorance or mistake.

All persons are presumed to know the law. Evidence of an accused person's ignorance or mistake as to a matter of either fact or law shall be admissible in any case where it shall tend to prove the existence or nonexistence of some element of the crime with which the person is charged.

[C79, 81, §701.6]

701.7 Felony defined and classified.

A public offense is a felony of a particular class when the statute defining the crime declares it to be a felony. Felonies are class "A" felonies, class "B" felonies, class "C" felonies, and class "D" felonies. Where the statute defining the offense declares it to be a felony but does not state what class of felony it is or provide for a specific penalty, that felony shall be a class "D" felony.

[C51, §2817; R60, §4429; C73, §4104; C97, §5093; C24, 27, 31, 35, 39, §**12890;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §687.2; C79, 81, §701.7]

Referred to in §39.3, 48A.6, 48A.30, 57.1, 135B.34, 135C.33, 152.5A, 277.29

See §902.9; see also §724.25

701.8 Misdemeanor defined and classified.

All public offenses which are not felonies are misdemeanors. Misdemeanors are aggravated misdemeanors, serious misdemeanors, or simple misdemeanors. Where an act is declared to be a public offense, crime or misdemeanor, but no other designation is given, such act shall be a simple misdemeanor.

[C51, §2675, 2818; R60, §4302, 4430; C73, §3966, 4105; C97, §4905, 5094; C24, 27, 31, 35, 39, §**12891,12893;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §687.4, 687.6; C79, 81, §701.8]

See also §903.1

701.9 Merger of lesser included offenses.

No person shall be convicted of a public offense which is necessarily included in another public offense of which the person is convicted. If the jury returns a verdict of guilty of more than one offense and such verdict conflicts with this section, the court shall enter judgment of guilty of the greater of the offenses only.

[C79, 81, §701.9]

See R.Cr.P. 2.6(1)

701.10 Civil remedies preserved.

The fact that one may be subjected to a criminal prosecution in no way limits the right which anyone may have to a civil remedy.

[C79, 81, §701.10]

701.11 Evidence of similar offenses — sexual abuse.

1. In a criminal prosecution in which a defendant has been charged with sexual abuse, evidence of the defendant's commission of another sexual abuse is admissible and may be considered for its bearing on any matter for which the evidence is relevant. This evidence, though relevant, may be excluded if the probative value of the evidence is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence. This evidence is not admissible unless the state presents clear proof of the commission of the prior act of sexual abuse.

2. If the prosecution intends to offer evidence pursuant to this section, the prosecution shall disclose such evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, ten days prior to

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the scheduled date of trial. The court may for good cause shown permit disclosure less than ten days prior to the scheduled date of trial.

3. For purposes of this section, *"sexual abuse"* means any commission of or conviction for a crime defined in chapter 709. *"Sexual abuse"* also means any commission of or conviction for a crime in another jurisdiction under a statute that is substantially similar to any crime defined in chapter 709.

2003 Acts, ch 132, §1

701.12 Persons under the age of twenty-one seeking emergency assistance for overdose — immunity.

1. A person under the age of twenty-one years shall not be charged or prosecuted for the violation of any of the following offenses if the evidence for the charge was obtained as a result of the person in good faith seeking emergency medical assistance for the person or another person due to an alcohol overdose:

a. Section 123.46.

b. Section 123.47, subsection 3 or 4.

c. Section 321.216B.

2. To be eligible for immunity under this section, the reporting person, or persons acting in concert, must do all of the following:

a. Be the first person to seek emergency assistance.

b. Provide the reporting person's name and contact information to medical or law enforcement personnel.

c. Remain on the scene until assistance arrives or is provided.

d. Cooperate with medical and law enforcement personnel.

3. The person for whom emergency assistance was sought as described in subsection 1 shall not be charged or prosecuted for an offense listed in subsection 1.

2020 Acts, ch 1080, §6

Referred to in §123.46, 123.47, 123.47B, 262.9, 321.216B

701.13 Depositions before indictment.

A person expecting to be made a party to a criminal prosecution shall not be entitled to conduct a deposition in the criminal proceeding prior to the person being indicted for a criminal offense.

2023 Acts, ch 98, §1

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CHAPTER 702

DEFINITIONS

Referred to in §331.307, 364.22, 701.1

702.1	Policy of uniformity.	702.14	Property.
702.1A	Computer terminology.	702.15	Prostitute.
702.2	Act.	702.16	Reckless.
702.3	Animal.	702.17	Sex act.
702.4	Brothel.	702.18	Serious injury.
702.5	Child.	702.19	Steal.
702.6	Controlled substance.	702.20	Viability.
702.7	Dangerous weapon.	702.20A	Video rental property.
702.8	Death.	702.21	Incendiary device.
702.9	Deception.	702.22	Library materials and equipment.
702.10	Dwelling.	702.23	Strip search.
702.11	Forcible felony.	702.24	Visual strip search.
702.12	Occupied structure.	702.25	Film.
702.13	Participating in a public offense.		

702.1 Policy of uniformity.

Wherever a term, word or phrase is defined in the criminal code, such meaning shall be given wherever it appears in the Code, unless it is being specially defined for a special purpose.

[C79, 81, §702.1]

702.1A Computer terminology.

For purposes of section 714.1, subsection 8, and section 716.6B:

1. *"Computer"* means an electronic device which performs logical, arithmetical, and memory functions by manipulation of electronic or magnetic impulses, and includes all input, output, processing, storage, computer software, and communication facilities which are connected or related to the computer in a computer system or computer network.

2. *"Computer access"* means to instruct, communicate with, store data in, or retrieve data from a computer, computer system, or computer network.

3. *"Computer data"* means a representation of information, knowledge, facts, concepts, or instructions that has been prepared or is being prepared in a formalized manner and has been processed, or is intended to be processed in a computer. Computer data may be in any form including, but not limited to, printouts, magnetic storage media, punched cards, and as stored in the memory of a computer.

4. *"Computer network"* means a set of related, remotely connected devices and communication facilities including two or more computers with capability to transmit data among them through communication facilities.

5. *"Computer program"* means an ordered set of instructions or statements that, when executed by a computer, causes the computer to process data.

6. *"Computer services"* means the use of a computer, computer system, or computer network and includes, but is not limited to, computer time, data processing, and storage functions.

7. *"Computer software"* means a set of computer programs, procedures, or associated documentation used in the operation of a computer.

8. *"Computer system"* means related, connected or unconnected, computers or peripheral equipment.

9. *"Loss of property"* means the greatest of the following:

a. The retail value of the property involved.

b. The reasonable replacement or repair cost, whichever is less.

10. *"Loss of services"* means the reasonable value of the damage created by the unavailability or lack of utility of the property or services involved until repair or replacement can be effected.

2000 Acts, ch 1201, §6

Referred to in §716A.1

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702.2 Act.
The term *"act"* includes a failure to do any act which the law requires one to perform.
[C79, 81, §702.2]
Referred to in §670A.1

702.3 Animal.
An *"animal"* is a nonhuman vertebrate.
[C79, 81, §702.3]

702.4 Brothel.
A *"brothel"* is any building, structure, or part thereof, or other place offering shelter or seclusion, which is principally or regularly used for the purpose of prostitution, with the consent or connivance of the owner, tenant, or other person in possession of it.
[C79, 81, §702.4]

702.5 Child.
For purposes of Title XVI,* unless another age is specified, a *"child"* is any person under the age of fourteen years.
[C79, 81, §702.5]
Referred to in §232.68, 726.2, 915.38
*This provision does not include chapters 709A, 718A, 822, 904, 913, and 914, which were moved into Title XVI by the Code editor. Chapters 709A, 718A, 822, 904, 913, and 914 contain the applicable provisions pertaining to those chapters.

702.6 Controlled substance.
The term *"controlled substance"* means controlled substance as that term is defined and used in chapter 124.
[C79, 81, §702.6]

702.7 Dangerous weapon.
A *"dangerous weapon"* is any instrument or device designed primarily for use in inflicting death or injury upon a human being or animal, and which is capable of inflicting death upon a human being when used in the manner for which it was designed, except a bow and arrow when possessed and used for hunting or any other lawful purpose. Additionally, any instrument or device of any sort whatsoever which is actually used in such a manner as to indicate that the defendant intends to inflict death or serious injury upon the other, and which, when so used, is capable of inflicting death upon a human being, is a dangerous weapon. Dangerous weapons include but are not limited to any offensive weapon, pistol, revolver, or other firearm, dagger, razor, stiletto, switchblade knife, knife having a blade exceeding five inches in length, or any portable device or weapon directing an electric current, impulse, wave, or beam that produces a high-voltage pulse designed to immobilize a person.
[S13, §4775-1a; C24, 27, 31, §12936; C35, §12935-g1, 12936; C39, §**12935.1, 12936;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §695.1, 695.2; C79, 81, §702.7]
88 Acts, ch 1164, §1; 2008 Acts, ch 1151, §1
Referred to in §123.56, 280.17A, 280.17B, 657.12, 671A.2, 708.11, 708.13, 719.1

702.8 Death.
"Death" means the condition determined by the following standard: A person will be considered dead if in the announced opinion of a physician licensed pursuant to chapter 148, a physician associate licensed pursuant to chapter 148C, or a registered nurse or a licensed practical nurse licensed pursuant to chapter 152, based on ordinary standards of medical practice, that person has experienced an irreversible cessation of spontaneous respiratory and circulatory functions. In the event that artificial means of support preclude a determination that these functions have ceased, a person will be considered dead if in the announced opinion of two physicians, based on ordinary standards of medical practice, that

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person has experienced an irreversible cessation of spontaneous brain functions. Death will have occurred at the time when the relevant functions ceased.

[C79, 81, §702.8]

2001 Acts, ch 113, §5; 2008 Acts, ch 1088, §137; 2026 Acts, ch 1008, §3

Referred to in §704.9

Code editor directive applied

702.9 Deception.

"Deception" consists of knowingly doing any of the following:

1. Creating or confirming another's belief or impression as to the existence or nonexistence of a fact or condition which is false and which the actor does not believe to be true.

2. Failing to correct a false belief or impression as to the existence or nonexistence of a fact or condition which the actor previously has created or confirmed.

3. Preventing another from acquiring information pertinent to the disposition of the property involved in any commercial or noncommercial transaction or transfer.

4. Selling or otherwise transferring or encumbering property and failing to disclose a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether such impediment is or is not valid, or is or is not a matter of official record.

5. Promising payment, the delivery of goods, or other performance which the actor does not intend to perform or knows the actor will not be able to perform. Failure to perform, standing alone, is not evidence that the actor did not intend to perform.

6. Inserting anything other than lawful money or authorized token into the money slot of any machine which dispenses goods or services.

[C79, 81, §702.9]

Referred to in §15A.3, 717A.3B

702.10 Dwelling.

A *"dwelling"* is any building or structure, permanent or temporary, or any land, water or air vehicle, adapted for overnight accommodation of persons, and actually in use by some person or persons as permanent or temporary sleeping quarters, whether such person is present or not.

[C79, 81, §702.10]

702.11 Forcible felony.

1. A *"forcible felony"* is any felonious child endangerment, assault, murder, sexual abuse, kidnapping, robbery, human trafficking, arson in the first degree, or burglary in the first degree.

2. Notwithstanding subsection 1, the following offenses are not forcible felonies:

a. Willful injury in violation of section 708.4, subsection 2.

b. Sexual abuse in the third degree committed between spouses.

c. Sexual abuse in violation of section 709.4, subsection 1, paragraph *"b"*, subparagraph (2), subparagraph division (d).

d. Sexual exploitation by a counselor, therapist, school employee, or adult providing training or instruction in violation of section 709.15.

e. Child endangerment subject to penalty under section 726.6, subsection 8.

f. Assault in violation of section 708.2, subsection 5.

g. Domestic abuse assault in violation of section 708.2A, subsection 5.

h. Removal of an officer's communication or control device in violation of section 708.12, subsection 3, paragraph *"f"*.

[C79, 81, §702.11]

85 Acts, ch 180, §2; 89 Acts, ch 138, §2; 91 Acts, ch 130, §1; 92 Acts, ch 1163, §117; 94 Acts, ch 1023, §69; 99 Acts, ch 65, §2; 2001 Acts, ch 3, §1; 2001 Acts, ch 176, §79; 2003 Acts, ch 180, §64; 2004 Acts, ch 1151, §2; 2010 Acts, ch 1072, §1; 2012 Acts, ch 1002, §3; 2013 Acts, ch 30, §248; 2013 Acts, ch 52, §1; 2015 Acts, ch 138, §137, 161, 162; 2021 Acts, ch 102, §4

Referred to in §232.52, 256.146, 272C.15, 670A.1, 718.6, 723A.1, 808B.3, 811.1, 915.10

Sentencing options excluded, see §907.3

Section not amended; internal reference change applied

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702.12 Occupied structure.

An *"occupied structure"* is any building, structure, appurtenances to buildings and structures, land, water or air vehicle, or similar place adapted for overnight accommodation of persons, or occupied by persons for the purpose of carrying on business or other activity therein, or for the storage or safekeeping of anything of value. Such a structure is an *"occupied structure"* whether or not a person is actually present. However, for purposes of chapter 713, a box, chest, safe, changer, or other object or device which is adapted or used for the deposit or storage of anything of value but which is too small or not designed to allow a person to physically enter or occupy it is not an "occupied structure".

[C79, 81, §702.12]

84 Acts, ch 1247, §1

702.13 Participating in a public offense.

A person is *"participating in a public offense,"* during part or the entire period commencing with the first act done directly toward the commission of the offense and for the purpose of committing that offense, and terminating when the person has been arrested or has withdrawn from the scene of the intended crime and has eluded pursuers, if any there be. A person is *"participating in a public offense"* during this period whether the person is successful or unsuccessful in committing the offense.

[C79, 81, §702.13]

Referred to in §462A.34B

702.14 Property.

"Property" is anything of value, whether publicly or privately owned, including but not limited to computers and computer data, computer software, and computer programs. The term includes both tangible and intangible property, labor, and services. The term includes all that is included in the terms *"real property"* and *"personal property"*.

[C79, 81, §702.14]

2000 Acts, ch 1201, §7

Referred to in §249F.1, 714.8

702.15 Prostitute.

A *"prostitute"* is a person who sells or offers for sale the person's services as a participant in a sex act.

[C79, 81, §702.15]

702.16 Reckless.

A person is *"reckless"* or acts recklessly when the person willfully or wantonly disregards the safety of persons or property.

[C79, 81, §702.16]

702.17 Sex act.

The term *"sex act"* or *"sexual activity"* means any sexual contact between two or more persons by any of the following:

1. Penetration of the penis into the vagina or anus.
2. Contact between the mouth and genitalia or mouth and anus or by contact between the genitalia of one person and the genitalia or anus of another person.
3. Contact between the finger, hand, or other body part of one person and the genitalia or anus of another person, except in the course of examination or treatment by a person licensed pursuant to chapter 148, 148C, 151, or 152.
4. Ejaculation onto the person of another.
5. By use of artificial sexual organs or substitutes therefor in contact with the genitalia or anus.

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6. The touching of a person's own genitals or anus with a finger, hand, or artificial sexual organ or other similar device at the direction of another person.

[C75, 77, §725.1(7); C79, 81, §702.17]

89 Acts, ch 105, §1; 89 Acts, ch 296, §86; 2008 Acts, ch 1088, §138; 2013 Acts, ch 43, §1; 2014 Acts, ch 1092, §144; 2021 Acts, ch 36, §1, 2; 2022 Acts, ch 1021, §172

Referred to in §235B.2, 235E.1, 256.11, 692A.101, 708.7, 709.15, 709.18, 728.1, 728.14

702.18 Serious injury.

1. *"Serious injury"* means any of the following:

a. Disabling mental illness.

b. Bodily injury which does any of the following:

(1) Creates a substantial risk of death.

(2) Causes serious permanent disfigurement.

(3) Causes protracted loss or impairment of the function of any bodily member or organ.

c. Any injury to a child that requires surgical repair and necessitates the administration of general anesthesia.

2. *"Serious injury"* includes but is not limited to skull fractures, rib fractures, and metaphyseal fractures of the long bones of children under the age of four years.

[C51, §2577; R60, §4200; C73, §3857; C97, §4752; C24, 27, 31, 35, 39, §**12928;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §693.1; C79, 81, §702.18]

94 Acts, ch 1172, §41; 99 Acts, ch 11, §1

Referred to in §147.111, 235B.2, 321.261, 321.482A, 321J.1, 462A.2, 707.6A, 726.24, 805.10

702.19 Steal.

"Steal" means to take by theft.

[C79, 81, §702.19]

702.20 Viability.

"Viability" is that stage of fetal development when the life of the unborn child may be continued indefinitely outside the womb by natural or artificial life support systems. The time when viability is achieved may vary with each pregnancy, and the determination of whether a particular fetus is viable is a matter of responsible medical judgment.

[C79, 81, §702.20]

702.20A Video rental property.

"Video rental property" means an audiovisual recording, including a videotape, videodisc, or other tangible medium of expression on which an audiovisual work is recorded or otherwise stored, or any equipment or supplies used to view the recording, and which is held out for rental to the public in the ordinary course of business.

2000 Acts, ch 1201, §8

702.21 Incendiary device.

An *"incendiary device"* is a device, contrivance, or material causing or designed to cause destruction of property by fire.

[C71, 73, 75, 77, §697.10(2); C79, 81, §702.21]

702.22 Library materials and equipment.

1. *"Library materials"* include books, plates, pictures, photographs, engravings, paintings, drawings, maps, newspapers, magazines, pamphlets, broadsides, manuscripts, documents, letters, public records, microforms, sound recordings, audiovisual materials in any format, magnetic or other tapes, electronic data processing records, artifacts, and written or printed materials regardless of physical form or characteristics, belonging to, on loan to, or otherwise in the custody of any of the following:

a. A public library.

b. A library of an educational, historical, or eleemosynary institution, organization, or society.

c. A museum.

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d. A repository of public records.

2. *"Library equipment"* includes audio, visual, or audiovisual machines, machinery or equipment belonging to, on loan to or otherwise in the custody of one of the institutions or agencies listed in subsection 1.

[C81, §702.22]

85 Acts, ch 187, §1

Referred to in §714.5

702.23 Strip search.

"Strip search" means having a person remove or arrange some or all of the person's clothing so as to permit an inspection of the genitalia, buttocks, anus, female breasts or undergarments of that person or a physical probe of any body cavity.

[C81, §702.23]

702.24 Visual strip search.

A *"visual strip search"* means having a person remove or arrange some or all of the person's clothing so as to permit a visual inspection of the genitalia, buttocks, anus, female breasts, or undergarments of that person.

2015 Acts, ch 71, §1

702.25 Film.

"Film" means capturing moving images upon a membrane or other thin flexible material coated with light sensitive emulsion; capturing moving images electronically or digitally in such a manner that the images are stored by a computer or other electronic device; or receiving moving images in a continuous flow.

2016 Acts, ch 1082, §1

CHAPTER 703

PARTIES TO CRIME

Referred to in §331.307, 364.22, 701.1, 717A.3A

703.1 Aiding and abetting.
703.2 Joint criminal conduct.
703.3 Accessory after the fact.
703.4 Responsibility of employers.
703.5 Liability of corporations, partnerships and voluntary associations.

703.1 Aiding and abetting.

All persons concerned in the commission of a public offense, whether they directly commit the act constituting the offense or aid and abet its commission, shall be charged, tried and punished as principals. The guilt of a person who aids and abets the commission of a crime must be determined upon the facts which show the part the person had in it, and does not depend upon the degree of another person's guilt.

[C51, §2928; R60, §4668; C73, §4314; C97, §5299; C24, 27, 31, 35, 39, §**12895;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §688.1; C79, 81, §703.1]

Referred to in §714.27A

703.2 Joint criminal conduct.

When two or more persons, acting in concert, knowingly participate in a public offense, each is responsible for the acts of the other done in furtherance of the commission of the offense or escape therefrom, and each person's guilt will be the same as that of the person so acting, unless the act was one which the person could not reasonably expect to be done in the furtherance of the commission of the offense.

[C79, 81, §703.2]

Referred to in §714.2C, 717A.3A

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703.3 Accessory after the fact.

Any person having knowledge that a public offense has been committed and that a certain person committed it, and who does not stand in the relation of husband or wife to the person who committed the offense, who harbors, aids, or conceals the person who committed the offense, with the intent to prevent the apprehension of the person who committed the offense, commits the following:

1. A class "D" felony if the public offense was a violation of section 707.2, 707.3, or 707.3A.
2. An aggravated misdemeanor if the public offense committed was a felony not included in subsection 1.
3. A simple misdemeanor if the public offense was a misdemeanor.

[C51, §2929; R60, §4669; C73, §4315; C97, §5300; C24, 27, 31, 35, 39, §**12896;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §688.2; C79, 81, §703.3; 81 Acts, ch 204, §1]

2024 Acts, ch 1076, §1

Referred to in §714.27A, 717A.3A

703.4 Responsibility of employers.

An employer or an employer's agent, officer, director, or employee who supervises or directs the work of other employees, is guilty of the same public offense committed by an employee acting under the employer's control, supervision, or direction in any of the following cases:

1. The person has directed the employee to commit a public offense.
2. The person knowingly permits an employee to commit a public offense, under circumstances in which the employer expects to benefit from the illegal activity of the employee.
3. The person assigns the employee some duty or duties which the person knows cannot be accomplished, or are not likely to be accomplished, unless the employee commits a public offense, provided that the offense committed by the employee is one which the employer can reasonably anticipate will follow from this assignment.

[C79, 81, §703.4]

703.5 Liability of corporations, partnerships and voluntary associations.

1. A public or private corporation, partnership, or other voluntary association shall have the same level of culpability as an individual committing the crime when any of the following is true:

a. The conduct constituting the offense consists of an omission to discharge a specific duty or an affirmative performance imposed on the accused by law.

b. The conduct or act constituting the offense is committed by an agent, officer, director, or employee of the accused while acting within the scope of the authority of the agent, officer, director or employee and in behalf of the accused and when said act or conduct is authorized, requested, or tolerated by the board of directors or by a high managerial agent.

2. *"High managerial agent"* means an officer of the corporation, partner, or other agent in a position of comparable authority with respect to the formulation of policy or the supervision in a managerial capacity of subordinate employees.

[C79, 81, §703.5]

2013 Acts, ch 30, §261

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CHAPTER 704

FORCE — REASONABLE OR DEADLY — DEFENSES

Referred to in §331.307, 364.22, 701.1

704.1	Reasonable force.	704.6	When defense not available.
704.2	Deadly force.	704.7	Resisting forcible felony.
704.2A	Justifiable use of deadly force.	704.8	Escape from place of confinement.
704.2B	Use of deadly force — duties — evidence.	704.9	Death.
704.3	Defense of self or another.	704.10	Compulsion.
704.4	Defense of property.	704.11	Police activity.
704.5	Aiding another in the defense of property.	704.12	Use of force in making an arrest.
		704.13	Immunity.

704.1 Reasonable force.

1. *"Reasonable force"* means that force and no more which a reasonable person, in like circumstances, would judge to be necessary to prevent an injury or loss and can include deadly force if it is reasonable to believe that such force is necessary to avoid injury or risk to one's life or safety or the life or safety of another, or it is reasonable to believe that such force is necessary to resist a like force or threat.

2. A person may be wrong in the estimation of the danger or the force necessary to repel the danger as long as there is a reasonable basis for the belief of the person and the person acts reasonably in the response to that belief.

3. A person who is not engaged in illegal activity has no duty to retreat from any place where the person is lawfully present before using force as specified in this chapter.

[C51, §2773; R60, §4442; C73, §4112; C97, §5102; C24, 27, 31, 35, 39, §**12921;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §691.1; C79, 81, §704.1; 81 Acts, ch 204, §2]

2017 Acts, ch 69, §37

Referred to in §234.40, 280.21

704.2 Deadly force.

1. The term *"deadly force"* means any of the following:

a. Force used for the purpose of causing serious injury.

b. Force which the actor knows or reasonably should know will create a strong probability that serious injury will result.

c. The discharge of a firearm, other than a firearm loaded with less lethal munitions and discharged by a peace officer, corrections officer, or corrections official in the line of duty, in the direction of some person with the knowledge of the person's presence there, even though no intent to inflict serious physical injury can be shown.

d. The discharge of a firearm, other than a firearm loaded with less lethal munitions and discharged by a peace officer, corrections officer, or corrections official in the line of duty, at a vehicle in which a person is known to be.

2. *"Deadly force"* does not include a threat to cause serious injury or death, by the production, display, or brandishing of a deadly weapon, as long as the actions of the person are limited to creating an expectation that the person may use deadly force to defend oneself, another, or as otherwise authorized by law.

3. As used in this section, *"less lethal munitions"* means projectiles which are designed to stun, temporarily incapacitate, or cause temporary discomfort to a person without penetrating the person's body.

[C79, 81, §704.2]

97 Acts, ch 166, §1, 2; 2013 Acts, ch 30, §197; 2017 Acts, ch 69, §38

704.2A Justifiable use of deadly force.

1. For purposes of this chapter, a person is presumed to reasonably believe that deadly force is necessary to avoid injury or risk to one's life or safety or the life or safety of another in either of the following circumstances:

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a. The person against whom force is used, at the time the force is used, is doing any of the following:

(1) Unlawfully entering by force or stealth the dwelling, place of business or employment, or occupied vehicle of the person using force, or has unlawfully entered by force or stealth and remains within the dwelling, place of business or employment, or occupied vehicle of the person using force.

(2) Unlawfully removing or is attempting to unlawfully remove another person against the other person's will from the dwelling, place of business or employment, or occupied vehicle of the person using force.

b. The person using force knows or has reason to believe that any of the conditions set forth in paragraph *"a"* are occurring.

2. The presumption set forth in subsection 1 does not apply if, at the time force is used, any of the following circumstances are present:

a. The person using defensive force is engaged in a criminal offense, is attempting to escape from the scene of a criminal offense that the person has committed, or is using the dwelling, place of business or employment, or occupied vehicle to further a criminal offense.

b. The person sought to be removed is a child or grandchild or is otherwise in the lawful custody or under the lawful guardianship of the person against whom force is used.

c. The person against whom force is used is a peace officer who has entered or is attempting to enter a dwelling, place of business or employment, or occupied vehicle in the lawful performance of the peace officer's official duties.

d. The person against whom the force is used has the right to be in, or is a lawful resident of, the dwelling, place of business or employment, or occupied vehicle of the person using force, and a protective or no-contact order is not in effect against the person against whom the force is used.

2017 Acts, ch 69, §39; 2018 Acts, ch 1026, §170

704.2B Use of deadly force — duties — evidence.

1. If a person uses deadly force, the person shall notify or cause another to notify a law enforcement agency about the person's use of deadly force within a reasonable time period after the person's use of the deadly force, if the person or another person is capable of providing such notification.

2. The person using deadly force shall not intentionally destroy, alter, conceal, or disguise physical evidence relating to the person's use of deadly force, and the person shall not intentionally intimidate witnesses into refusing to cooperate with any investigation relating to the use of such deadly force or induce another person to alter testimony about the use of such deadly force.

2017 Acts, ch 69, §40

704.3 Defense of self or another.

A person is justified in the use of reasonable force when the person reasonably believes that such force is necessary to defend oneself or another from any actual or imminent use of unlawful force.

[C51, §2773 – 2775; R60, §4442 – 4444; C73, §4112 – 4114; C97, §5102 – 5104; C24, 27, 31, 35, 39, §**12921 – 12923;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §691.1, 691.2(1), 691.3; C79, 81, §704.3]

2017 Acts, ch 69, §41

Referred to in §236.12

704.4 Defense of property.

A person is justified in the use of reasonable force to prevent or terminate criminal interference with the person's possession or other right in property. Nothing in this section authorizes the use of any spring gun or trap which is left unattended and unsupervised and

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which is placed for the purpose of preventing or terminating criminal interference with the possession of or other right in property.

[C51, §2774; R60, §4443; C73, §4113; C97, §5103; C24, 27, 31, 35, 39, §**12922;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §691.2(2); C79, 81, §704.4]

Referred to in §704.13
Spring guns and traps, see §708.9

704.5 Aiding another in the defense of property.

A person is justified in the use of reasonable force to aid another in the lawful defense of the other person's rights in property or in any public property.

[C51, §2775; R60, §4444; C73, §4114; C97, §5104; C24, 27, 31, 35, 39, §**12923;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §691.3; C79, 81, §704.5]

704.6 When defense not available.

The defense of justification is not available to the following:

1. One who is participating in a forcible felony, or riot, or a duel.
2. One who initially provokes the use of force against oneself, with the intent to use such force as an excuse to inflict injury on the assailant.
3. One who initially provokes the use of force against oneself by one's unlawful acts, unless:

a. Such force is grossly disproportionate to the provocation, and is so great that the person reasonably believes that the person is in imminent danger of death or serious injury or

b. The person withdraws from physical contact with the other and indicates clearly to the other that the person desires to terminate the conflict but the other continues or resumes the use of force.

[C79, 81, §704.6]

Forcible felony defined, see §702.11

704.7 Resisting forcible felony.

A person who reasonably believes that a forcible felony is being or will imminently be perpetrated is justified in using reasonable force, including deadly force, against the perpetrator or perpetrators to prevent or terminate the perpetration of that felony.

[C79, 81, §704.7]
2017 Acts, ch 69, §42

Forcible felony defined, see §702.11
Liability of perpetrator of forcible felony, see chapter 670A

704.8 Escape from place of confinement.

A correctional officer or peace officer is justified in using reasonable force, including deadly force, which is necessary to prevent the escape of any person from any jail, penal institution, correctional facility, or similar place of confinement, or place of trial or other judicial proceeding, or to prevent the escape from custody of any person who is being transported from any such place of confinement, trial or judicial proceeding to any other such place, except that deadly force may not be used to prevent the escape of one who the correctional officer or peace officer knows is confined on a charge or conviction of any class of misdemeanor.

[C79, 81, §704.8]
2001 Acts, ch 131, §2

704.9 Death.

A physician or a person acting on the direct orders of a physician who ceases to provide medical attention to a person who is dead, as death is defined in section 702.8, shall not be criminally liable for such cessation of medical attention.

[C79, 81, §704.9]

704.10 Compulsion.

No act, other than an act by which one intentionally or recklessly causes physical injury to another, is a public offense if the person so acting is compelled to do so by another's threat

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or menace of serious injury, provided that the person reasonably believes that such injury is imminent and can be averted only by the person doing such act.

[C79, 81, §704.10]

704.11 Police activity.

1. A peace officer or person acting as an agent of or directed by any police agency who participates in the commission of a crime by another person solely for the purpose of gathering evidence leading to the prosecution of such other person shall not be guilty of that crime or of the crime of solicitation as set forth in section 705.1, provided that all of the following are true:

a. The officer or person is not an instigator of the criminal activity.

b. The officer or person does not intentionally injure a nonparticipant in the crime.

c. The officer or person acts with the consent of superiors, or the necessity of immediate action precludes obtaining such consent.

d. The officer's or person's actions are reasonable under the circumstances.

2. This section is not intended to preclude the use of undercover or surveillance persons by law enforcement agencies in appropriate circumstances and manner. It is intended to discourage such activity to tempt, urge or persuade the commission of offenses by persons not already disposed to commit offenses of that kind.

[C79, 81, §704.11]

2013 Acts, ch 30, §261

704.12 Use of force in making an arrest.

A peace officer or other person making an arrest or securing an arrested person may use such force as is permitted by sections 804.8, 804.10, 804.13 and 804.15.

[C51, §2844; R60, §4553; C73, §4205; C97, §5200; C24, 27, 31, 35, 39, §**13472;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §755.8; C79, 81, §704.12]

704.13 Immunity.

A person who is justified in using reasonable force against an aggressor in defense of oneself, another person, or property pursuant to section 704.4 is immune from criminal or civil liability for all damages incurred by the aggressor pursuant to the application of reasonable force.

2017 Acts, ch 69, §43

CHAPTER 705

SOLICITATION

Referred to in §331.307, 364.22, 701.1

705.1 Solicitation. 705.2 Renunciation.

705.1 Solicitation.

1. A person solicits another person to commit a felony or aggravated misdemeanor when the person commands, entreats, or otherwise attempts to persuade the other person to commit a particular felony or aggravated misdemeanor, with the intent that such act be done and under circumstances which corroborates that intent by clear and convincing evidence.

2. A person who solicits another person to commit a felony of any class commits a class "D" felony.

3. A person who solicits another person to commit an aggravated misdemeanor commits an aggravated misdemeanor.

[C79, 81, §705.1]

2013 Acts, ch 90, §221

Referred to in §692A.102, 704.11

Solicitation to commit murder, see §707.3A

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705.2 Renunciation.

It is a defense to a prosecution for solicitation that the defendant, after soliciting another person to commit a felony or aggravated misdemeanor, persuaded the person not to do so or otherwise prevented the commission of the offense, under circumstances manifesting a complete and voluntary renunciation of the defendant's criminal intent. A renunciation is not "*voluntary and complete*" if it is motivated in whole or in part by either of the following:

1. The person's belief that circumstances exist which increase the possibility of detection or apprehension of the defendant or another or which make more difficult the consummation of the offense.

2. The person's decision to postpone the offense until another time or to substitute another victim or another but similar objective.

[C79, 81, §705.2]

2013 Acts, ch 90, §222

Referred to in §707.3A

CHAPTER 706

CONSPIRACY

Referred to in §331.307, 364.22, 701.1, 717A.3A

706.1	Conspiracy.	706.3	Penalties.
706.2	Locus of conspiracy.	706.4	Multiple convictions.

706.1 Conspiracy.

1. A person commits conspiracy with another if, with the intent to promote or facilitate the commission of a crime which is an aggravated misdemeanor or felony, the person does either of the following:

a. Agrees with another that they or one or more of them will engage in conduct constituting the crime or an attempt or solicitation to commit the crime.

b. Agrees to aid another in the planning or commission of the crime or of an attempt or solicitation to commit the crime.

2. It is not necessary for the conspirator to know the identity of each and every conspirator.

3. A person shall not be convicted of conspiracy unless it is alleged and proven that at least one conspirator committed an overt act evidencing a design to accomplish the purpose of the conspiracy by criminal means.

4. A person shall not be convicted of conspiracy if the only other person or persons involved in the conspiracy were acting at the behest of or as agents of a law enforcement agency in an investigation of the criminal activity alleged at the time of the formation of the conspiracy.

[C51, §2758, 2996; R60, §4408, 4790; C73, §4087, 4425; C97, §5059, 5490; C24, 27, 31, 35, 39, §**13162, 13902;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §719.1, 782.6; C79, 81, §706.1]

87 Acts, ch 129, §1

Referred to in §717A.3B

706.2 Locus of conspiracy.

A person commits a conspiracy in any county where the person is physically present when the person makes such agreement or combination, and in any county where the person with whom the person makes such agreement or combination is physically present at such time, whether or not any of the other conspirators are also present in that county or in this state, and in any county in which any criminal act is done by any person pursuant to the conspiracy, whether or not the person is or has ever been present in such county; provided, that a person may not be prosecuted more than once for a conspiracy based on the same agreement or combination.

[C79, 81, §706.2]

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706.3 Penalties.

1. A person who commits a conspiracy to commit a forcible felony is guilty of a class "C" felony.

2. A person who commits a conspiracy to commit a felony, other than a forcible felony, is guilty of a class "D" felony.

3. A person who commits a conspiracy to commit a misdemeanor is guilty of a misdemeanor of the same class.

[C51, §2758; R60, §4408; C73, §4087; C97, §5059; C24, 27, 31, 35, 39, §**13162;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §719.1; C79, 81, §706.3]

2013 Acts, ch 30, §198

Forcible felony defined, §702.11

706.4 Multiple convictions.

A conspiracy to commit a public offense is an offense separate and distinct from any public offense which might be committed pursuant to such conspiracy. A person may not be convicted and sentenced for both the conspiracy and for the public offense.

[C79, 81, §706.4]

CHAPTER 706A

ONGOING CRIMINAL CONDUCT

Referred to in §331.307, 364.22, 701.1, 706B.2, 808B.3

706A.1 Definitions.
706A.2 Violations.
706A.3 Civil remedies — actions.
706A.4 Criminal sanctions.
706A.5 Uniformity of construction and application.

706A.1 Definitions.

In this chapter, unless the context otherwise requires:

1. *"Criminal network"* means any combination of persons engaging, for financial gain on a continuing basis, in conduct which is an indictable offense under the laws of this state regardless of whether such conduct is charged or indicted. As used in this subsection, persons combine if they collaborate or act in concert in carrying on or furthering the activities or purposes of a network even though such persons may not know each other's identity, membership in the network changes from time to time, or one or more members of the network stand in a wholesaler-retailer, service provider, or other arm's length relationship with others as to conduct in the furtherance of the financial goals of the network.

2. *"Enterprise"* includes any sole proprietorship, partnership, corporation, trust, or other legal entity, or any unchartered union, association, or group of persons associated in fact although not a legal entity, and includes unlawful as well as lawful enterprises.

3. *"Proceeds"* means property acquired or derived directly or indirectly from, produced through, realized through, or caused by an act or omission and includes any property of any kind.

4. *"Property"* means anything of value, and includes any interest in property, including any benefit, privilege, claim, or right with respect to anything of value, whether real or personal, tangible or intangible, without reduction for expenses incurred for acquisition, maintenance, production, or any other purpose.

5. *"Specified unlawful activity"* means any act, including any preparatory or completed offense, committed for financial gain on a continuing basis, that is punishable as an indictable offense under the laws of the state in which it occurred and under the laws of this state.

96 Acts, ch 1133, §26

Referred to in §706A.2

706A.2 Violations.

1. *Specified unlawful activity influenced enterprises.*

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a. It is unlawful for any person who has knowingly received any proceeds of specified unlawful activity to use or invest, directly or indirectly, any part of such proceeds in the acquisition of any interest in any enterprise or any real property, or in the establishment or operation of any enterprise.

b. It is unlawful for any person to knowingly acquire or maintain, directly or indirectly, any interest in or control of any enterprise or real property through specified unlawful activity.

c. It is unlawful for any person to knowingly conduct the affairs of any enterprise through specified unlawful activity or to knowingly participate, directly or indirectly, in any enterprise that the person knows is being conducted through specified unlawful activity.

d. It is unlawful for any person to conspire or attempt to violate or to solicit or facilitate the violations of the provisions of paragraph "*a*", "*b*", or "*c*".

2. *Facilitation of a criminal network.* It is unlawful for a person acting with knowledge of the financial goals and criminal objectives of a criminal network to knowingly facilitate criminal objectives of the network by doing any of the following:

a. Engaging in violence or intimidation or inciting or inducing another to engage in violence or intimidation.

b. Inducing or attempting to induce a person believed to have been called or who may be called as a witness to unlawfully withhold any testimony, testify falsely, or absent themselves from any official proceeding to which the potential witness has been legally summoned.

c. Attempting by means of bribery, misrepresentation, intimidation, or force to obstruct, delay, or prevent the communication of information or testimony relating to a violation of any criminal statute to a peace officer, magistrate, prosecutor, grand jury, or petit jury.

d. Injuring or damaging another person's body or property because that person or any other person gave information or testimony to a peace officer, magistrate, prosecutor, or grand jury.

e. Attempting to suppress by an act of concealment, alteration, or destruction any physical evidence that might aid in the discovery, apprehension, prosecution, or conviction of any person.

f. Making any property available to a member of the criminal network.

g. Making any service other than legal services available to a member of the criminal network.

h. Inducing or committing any act or omission by a public servant in violation of the public servant's official duty.

i. Obtaining any benefit for a member of a criminal network by means of false or fraudulent pretenses, representation, promises, or material omissions.

j. Making a false sworn statement regarding a material issue, believing it to be false, or making any statement, believing it to be false, regarding a material issue to a public servant in connection with an application for any benefit, privilege, or license, or in connection with any official investigation or proceeding.

3. *Money laundering.* It is unlawful for a person to commit money laundering in violation of chapter 706B.

4. *Acts of specified unlawful activity.* It is unlawful for a person to commit specified unlawful activity as defined in section 706A.1.

5. *Negligent empowerment of specified unlawful activity.*

a. It is unlawful for a person to negligently allow property owned or controlled by the person or services provided by the person, other than legal services, to be used to facilitate specified unlawful activity, whether by entrustment, loan, rent, lease, bailment, or otherwise.

b. Damages for negligent empowerment of specified unlawful activity shall include all reasonably foreseeable damages proximately caused by the specified unlawful activity, including, in a case brought or intervened in by the state, the costs of investigation and criminal and civil litigation of the specified unlawful activity incurred by the government for the prosecution and defense of any person involved in the specified unlawful activity, and the imprisonment, probation, parole, or other expense reasonably necessary to detain, punish, and rehabilitate any person found guilty of the specified unlawful activity, except for the following:

(1) If the person empowering the specified unlawful activity acted only negligently and

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was without knowledge of the nature of the activity and could not reasonably have known of the unlawful nature of the activity or that it was likely to occur, damages shall be limited to the greater of the following:

(a) The cost of the investigation and litigation of the person's own conduct plus the value of the property or service involved as of the time of its use to facilitate the specified unlawful activity.

(b) All reasonably foreseeable damages to any person, except any person responsible for the specified unlawful activity, and to the general economy and welfare of the state proximately caused by the person's own conduct.

(2) If the property facilitating the specified unlawful activity was taken from the possession or control of the person without that person's knowledge and against that person's will in violation of the criminal law, damages shall be limited to reasonably foreseeable damages to any person, except persons responsible for the taking or the specified unlawful activity, and to the general economy and welfare of the state proximately caused by the person's negligence, if any, in failing to prevent its taking.

(3) If the person was aware of the possibility that the property or service would be used to facilitate some form of specified unlawful activity and acted to prevent the unlawful use, damages shall be limited to reasonably foreseeable damages to any person, except any person responsible for the specified unlawful activity, and to the general economy and welfare of the state proximately caused by the person's failure, if any, to act reasonably to prevent the unlawful use.

(4) The plaintiff shall carry the burden of proof by a preponderance of the evidence that the specified unlawful activity occurred and was facilitated by the property or services. The defendant shall have the burden of proof by a preponderance of the evidence as to circumstances constituting lack of negligence and on the limitations on damages in this subsection.

96 Acts, ch 1133, §27; 98 Acts, ch 1074, §33
Referred to in §706A.3, 706A.4

706A.3 Civil remedies — actions.

1. The prosecuting attorney or an aggrieved person may institute civil proceedings against any person in district court seeking relief from conduct constituting a violation of this chapter or to prevent, restrain, or remedy such violation.

2. The district court has jurisdiction to prevent, restrain, or remedy such violations by issuing appropriate orders. Prior to a determination of liability such orders may include, but are not limited to, entering restraining orders or injunctions, requiring the execution of satisfactory performance bonds, creating receiverships, and enforcing constructive trusts in connection with any property or interest subject to damages, forfeiture, or other remedies or restraints pursuant to this chapter.

3. If the plaintiff in such a proceeding proves the alleged violation by a preponderance of the evidence, the district court, after making due provision for the rights of innocent persons, shall grant relief by entering any appropriate order or judgment, including any of the following:

a. Ordering any defendant to divest the defendant of any interest in any enterprise, or in any real property.

b. Imposing reasonable restrictions upon the future activities or investments of any defendant, including, but not limited to, prohibiting any defendant from engaging in the same type of endeavor as any enterprise in which the defendant was engaged in a violation of this chapter.

c. Ordering the dissolution or reorganization of any enterprise.

d. Ordering the payment of all reasonable costs and expenses of the investigation and prosecution of any violation, civil or criminal, including reasonable attorney fees in the trial and appellate courts. Such payments received by the state, by judgment, settlement, or otherwise, shall be considered forfeited property and disposed of pursuant to section 809A.17.

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e. Ordering the forfeiture of any property subject to forfeiture under chapter 809A, pursuant to the provisions and procedures of that chapter.

f. Ordering the suspension or revocation of any license, permit, or prior approval granted to any person by any agency of the state.

g. Ordering the surrender of the certificate of existence of any corporation organized under the laws of this state or the revocation of any certificate authorizing a foreign corporation to conduct business within this state, upon finding that for the prevention of future violations, the public interest requires the certificate of the corporation to be surrendered and the corporation dissolved or the certificate revoked.

4. Relief under subsection 3, paragraphs *"e"*, *"f"*, and *"g"*, shall not be granted in civil proceedings instituted by an aggrieved person unless the prosecuting attorney has instituted the proceedings or intervened. In any action under this section brought by the state or in which the state has intervened, the state may employ any of the powers of seizure and restraint of property as are provided for forfeiture actions under chapter 809A, or as are provided for the collection of taxes payable and past due, and whose collection has been determined to be in jeopardy.

5. In a proceeding initiated under this section, injunctive relief shall be granted in conformity with the principles that govern the granting of relief from injury or threatened injury in other civil cases, but no showing of special or irreparable injury is required. Pending final determination of a proceeding initiated under this section, a temporary restraining order or a preliminary injunction may be issued upon a showing of immediate danger of significant injury, including the possibility that a judgment for money damages might be difficult to execute, and, in a proceeding initiated by a nongovernmental aggrieved person, upon the execution of proper bond against injury for an injunction improvidently granted.

6. Any person who is in possession or control of proceeds of any violation of this chapter, is an involuntary trustee and holds the property in constructive trust for the benefit of the person entitled to remedies under this chapter, unless the holder acquired the property as a bona fide purchaser for value who was not knowingly taking part in an illegal transaction.

7. Any person whose business or property is directly or indirectly injured by conduct constituting a violation of this chapter, by any person, may bring a civil action, subject to the in pari delicto defense, and shall recover threefold the actual damages sustained and the costs and expenses of the investigation and prosecution of the action including reasonable attorney fees in the trial and appellate courts. Damages shall not include pain and suffering. Any person injured shall have a claim to any property against which any fine, or against which treble damages under subsection 11 or 12, may be imposed, superior to any right or claim of the state to the property, up to the value of actual damages and costs awarded in an action under this subsection. The state shall have a right of subrogation to the extent that an award made to a person so injured is satisfied out of property against which any fine or civil remedy in favor of the state may be imposed.

8. *a.* If liability of a legal entity is based on the conduct of another, through respondeat superior or otherwise, the legal entity shall not be liable for more than actual damages and costs, including a reasonable attorney fee, if the legal entity affirmatively shows by a preponderance of the evidence that both of the following apply:

(1) The conduct was not engaged in, authorized, solicited, commanded, or recklessly tolerated by the legal entity, by the directors of the legal entity, or by a high managerial agent of the legal entity acting within the scope of employment.

(2) The conduct was not engaged in by an agent of the legal entity acting within the scope of employment and in behalf of the legal entity.

b. For the purposes of this subsection:

(1) *"Agent"* means any officer, director, or employee of the legal entity, or any other person who is authorized to act in behalf of the legal entity.

(2) *"High managerial agent"* means any officer of the legal entity or, in the case of a partnership, a partner, or any other agent in a position of comparable authority with respect to the formulation of policy of the legal entity.

9. *a.* Notwithstanding any other provision of law, any pleading, motion, or other paper

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filed by a nongovernmental aggrieved party in connection with a proceeding or action under subsection 7 shall be verified.

(1) If such aggrieved person is represented by an attorney, such pleading, motion, or other paper shall be signed by at least one attorney of record in the attorney's individual name, whose address shall be stated.

(2) If such pleading, motion, or other paper includes an averment of fraud, coercion, accomplice, respondent superior, conspiratorial, enterprise, or other vicarious accountability, it shall state, insofar as practicable, the circumstances with particularity.

b. The verification and the signature by an attorney required by this subsection shall constitute a certification by the signer that the attorney has carefully read the pleading, motion, or other paper and, based on a reasonable inquiry, believes that all of the following exist:

(1) It is well grounded in fact.

(2) It is warranted by existing law, or a good faith argument for the extension, modification, or reversal of existing law.

(3) It is not made for an improper purpose, including to harass, to cause unnecessary delay, or to impose a needless increase in the cost of litigation.

c. The court may, after a hearing and appropriate findings of fact, impose upon any person who verified the complaint, cross-claim, or counterclaim, or any attorney who signed it in violation of this subsection, or both, a fit and proper sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the complaint or claim, including reasonable attorney fees.

d. If the court determines that the filing of a complaint or claim under subsection 7 by a nongovernmental party was frivolous in whole or in part, the court shall award double the actual expenses, including attorney fees, incurred because of the frivolous portion of the complaint or claim.

10. Upon the filing of a complaint, cross-claim, or counterclaim under this section, an aggrieved person, as a jurisdictional prerequisite, shall immediately notify the attorney general of its filing and serve one copy of the pleading on the attorney general. Service of the notice on the attorney general does not limit or otherwise affect the right of the state to maintain an action under this section or intervene in a pending action and does not authorize the aggrieved person to name the state or the attorney general as a party to the action. The attorney general, upon timely application, may intervene or appear as amicus curiae in any civil proceeding or action brought under this section if the attorney general certifies that, in the opinion of the attorney general, the proceeding or action is of general public importance. In any proceeding or action brought under this section by an aggrieved person, the state shall be entitled to the same relief as if it had instituted the proceeding or action.

11. *a.* Any prosecuting attorney may bring a civil action on behalf of a person whose business or property is directly or indirectly injured by conduct constituting a violation of this chapter, and shall recover threefold the damages sustained by such person and the costs and expenses of the investigation and prosecution of the action, including reasonable attorney fees in the trial and appellate courts. The court shall exclude from the amount of monetary relief awarded any amount of monetary relief which is any of the following:

(1) Which duplicates amounts which have been awarded for the same injury.

(2) Which is properly allocable to persons who have excluded their claims under paragraph "*c*".

b. In any action brought under this subsection, the prosecuting attorney, at such times, in such manner, and with such content as the court may direct, shall cause notice of the action to be given by publication. If the court finds that notice given solely by publication would deny due process to any person, the court may direct further notice to such person according to the circumstances of the case.

c. A person on whose behalf an action is brought under this subsection may elect to exclude from adjudication the portion of the state claim for monetary relief attributable to the person by filing notice of such election within such time as specified in the notice given under this subsection.

d. A final judgment in an action under this subsection shall preclude any claim under this

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subsection by a person on behalf of whom such action was brought who fails to give notice of exclusion within the times specified in the notice given under paragraph *"b"*.

e. An action under this subsection on behalf of a person other than the state shall not be dismissed or compromised without the approval of the court, and notice of any proposed dismissal or compromise shall be given in such manner as the court directs.

12. The attorney general may bring a civil action as parens patriae on behalf of the general economy, resources, and welfare of this state, and shall recover threefold the proceeds acquired, maintained, produced, or realized by or on behalf of the defendant by reason of a violation of this chapter, plus the costs and expenses of the investigation and prosecution of the action, including reasonable attorney fees in the trial and appellate courts.

a. A person who has knowingly conducted or participated in the conduct of an enterprise in violation of section 706A.2, subsection 1, paragraph *"c"*, is also jointly and severally liable for the greater of threefold the damage sustained directly or indirectly by the state by reason of conduct in furtherance of the violation or threefold the total of all proceeds acquired, maintained, produced, or realized by, or on behalf of, any person by reason of participation in the enterprise except for the following:

(1) A person is not liable for conduct occurring prior to the person's first knowing participation in or conduct of the enterprise.

(2) If a person shows that, under circumstances manifesting a voluntary and complete renunciation of culpable intent, the person withdrew from the enterprise by giving a complete and timely warning to law enforcement authorities or by otherwise making a reasonable and substantial effort to prevent the conduct or result which is the criminal objective of the enterprise, the person is not liable for conduct occurring after the person's withdrawal.

b. A person who has facilitated a criminal network in violation of section 706A.2, subsection 2, is also jointly and severally liable for all of the following:

(1) The damages resulting from the conduct in furtherance of the criminal objectives of the criminal network, to the extent that the person's facilitation was of substantial assistance to the conduct.

(2) The proceeds of conduct in furtherance of the criminal objectives of the criminal network, to the extent that the person's facilitation was of substantial assistance to the conduct.

(3) A person who has engaged in money laundering in violation of chapter 706B is also jointly and severally liable for the greater of threefold the damages resulting from the person's conduct or threefold the property that is the subject of the violation.

96 Acts, ch 1133, §28; 98 Acts, ch 1074, §34; 2013 Acts, ch 90, §223

706A.4 Criminal sanctions.

A person who violates section 706A.2, subsection 1, 2, or 4, commits a class "B" felony.

96 Acts, ch 1133, §29

706A.5 Uniformity of construction and application.

1. The provisions of this chapter shall be liberally construed to effectuate its remedial purposes. Civil remedies under this chapter shall be supplemental and not mutually exclusive. Civil remedies under this chapter do not preclude and are not precluded by other provisions of law.

2. The provisions of this chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting the law.

3. The attorney general may enter into reciprocal agreements with the attorney general or chief prosecuting attorney of any state to effectuate the purposes of this chapter.

96 Acts, ch 1133, §30

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CHAPTER 706B

MONEY LAUNDERING

Referred to in §331.307, 364.22, 422.72, 533C.607, 701.1, 706A.2, 706A.3, 808B.3

706B.1 Definitions.
706B.2 Money laundering penalty — civil remedies.
706B.3 Uniformity of construction and application.

706B.1 Definitions.

In this chapter, unless the context otherwise requires:

1. *"Proceeds"* means property acquired or derived directly or indirectly from, produced through, realized through, or caused by an act or omission and includes any property of any kind.

2. *"Property"* means anything of value, and includes any interest in property, including any benefit, privilege, claim, or right with respect to anything of value, whether real or personal, tangible or intangible.

3. *"Specified unlawful activity"* means any act, including any preparatory or completed offense, committed for financial gain on a continuing basis, that is punishable by confinement of one year or more under the laws of this state, or, if the act occurred outside this state, would be punishable by confinement of one year or more under the laws of the state in which it occurred and under the laws of this state.

4. *"Transaction"* includes a purchase, sale, trade, loan, pledge, investment, gift, transfer, transmission, delivery, deposit, withdrawal, payment, transfer between accounts, exchange of currency, extension of credit, purchase, or sale of any monetary instrument, use of a safe deposit box, or any other acquisition or disposition of property by whatever means effected.

5. *"Unlawful activity"* means any act which is chargeable or indictable as a public offense of any degree under the laws of the state in which the act occurred or under federal law and, if the act occurred in a state other than this state, would be chargeable or indictable as a public offense of any degree under the laws of this state or under federal law.

96 Acts, ch 1133, §31

706B.2 Money laundering penalty — civil remedies.

1. It is unlawful for a person to commit money laundering by doing any of the following:

a. To knowingly transport, receive, or acquire property or to conduct a transaction involving property, knowing that the property involved is the proceeds of some form of unlawful activity, when, in fact, the property is the proceeds of specified unlawful activity.

b. To make property available to another, by transaction, transportation, or otherwise, knowing that it is intended to be used for the purpose of committing or furthering the commission of specified unlawful activity.

c. To conduct a transaction knowing that the property involved in the transaction is the proceeds of some form of unlawful activity with the intent to conceal or disguise the nature, location, source, ownership, or control of the property or the intent to avoid a transaction-reporting requirement under chapter 529, the Iowa financial transaction reporting Act, or federal law.

d. To knowingly engage in the business of conducting, directing, planning, organizing, initiating, financing, managing, supervising, or facilitating transactions involving property, knowing that the property involved in the transaction is the proceeds of some form of unlawful activity, that, in fact, is the proceeds of specified unlawful activity.

2. A person who violates:

a. Subsection 1, paragraph *"a"*, *"b"*, or *"c"*, commits a class "C" felony, and may be fined not more than ten thousand dollars or twice the value of the property involved, whichever is greater, or be imprisoned for not more than ten years, or both.

b. Subsection 1, paragraph *"d"*, commits a class "D" felony, and may be fined not more than seven thousand five hundred dollars or twice the value of the property involved, whichever is greater, or be imprisoned for not more than five years, or both.

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3. A person who violates subsection 1, paragraph *"a"*, *"b"*, *"c"*, or *"d"*, is subject to a civil penalty of three times the value of the property involved in the transaction, in addition to any criminal sanction imposed.

4. A person who is found guilty of a violation under this section also may be charged with violations of chapter 706A, and property involved in a violation under this chapter is subject to forfeiture under chapter 809A.

96 Acts, ch 1133, §32; 98 Acts, ch 1074, §35, 36
Referred to in §152C.10

706B.3 Uniformity of construction and application.

1. The provisions of this chapter shall be liberally construed to effectuate its remedial purposes. Civil remedies under this chapter shall be supplemental and not mutually exclusive. The civil remedies do not preclude and are not precluded by other provisions of law.

2. The provisions of this chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting the law.

3. The attorney general may enter into reciprocal agreements with the attorney general or chief prosecuting attorney of any state to effectuate the purposes of this chapter.

96 Acts, ch 1133, §33

CHAPTER 707

HOMICIDE AND RELATED CRIMES

Referred to in §232.52, 331.307, 364.22, 633.535, 701.1

707.1	Murder defined.	707.8	Nonconsensual termination — serious injury to a human pregnancy.
707.2	Murder in the first degree.		
707.3	Murder in the second degree.	707.8A	Partial-birth abortion prohibited — exceptions — penalties.
707.3A	Solicitation to commit murder.		
707.4	Voluntary manslaughter.	707.9	Murder of fetus aborted alive.
707.5	Involuntary manslaughter.	707.10	Duty to preserve the life of the fetus.
707.6	Civil liability.		
707.6A	Homicide or serious injury by vehicle.	707.11	Attempt to commit murder.
707.7	Feticide.		

707.1 Murder defined.

A person who kills another person with malice aforethought either express or implied commits murder.

[C51, §2568; R60, §4191; C73, §3848; C97, §4727, 4796; C24, 27, 31, 35, 39, §**12910, 12961;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §690.1, 697.1; C79, 81, §707.1]
Referred to in §229A.2, 707.3A

707.2 Murder in the first degree.

1. A person commits murder in the first degree when the person commits murder under any of the following circumstances:

a. The person willfully, deliberately, and with premeditation kills another person.

b. The person kills another person while participating in a forcible felony.

c. The person kills another person while escaping or attempting to escape from lawful custody.

d. The person intentionally kills a peace officer, correctional officer, public employee, or hostage while the person is imprisoned in a correctional institution under the jurisdiction of the Iowa department of corrections, or in a city or county jail.

e. The person kills a child while committing child endangerment under section 726.6,

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subsection 2, paragraph *"b"*, or while committing assault under section 708.1 upon the child, and the death occurs under circumstances manifesting an extreme indifference to human life.

f. The person kills another person while participating in an act of terrorism as defined in section 708A.1.

2. Murder in the first degree is a class "A" felony.

3. For purposes of determining whether a person should register as a sex offender pursuant to the provisions of chapter 692A, the fact finder shall make a determination as provided in section 692A.126.

[C51, §2569, 2572; R60, §4192, 4195; C73, §3849, 3852; C97, §4728, 4747, 4796; C24, 27, 31, 35, 39, §**12911, 12924, 12961;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §690.2, 692.1, 697.1; C79, 81, §707.2]

83 Acts, ch 96, §118, 159; 94 Acts, ch 1172, §42; 2002 Acts, ch 1075, §1; 2009 Acts, ch 119, §48; 2013 Acts, ch 30, §199

Referred to in §331.802, 671A.2, 692A.101, 692A.102, 692A.126, 703.3, 811.1, 902.1, 910.3A
Definition of forcible felony, see §702.11
Section not amended; internal reference change applied

707.3 Murder in the second degree.

1. A person commits murder in the second degree when the person commits murder which is not murder in the first degree.

2. Murder in the second degree is a class "B" felony. However, notwithstanding section 902.9, subsection 1, paragraph *"b"*, the maximum sentence for a person convicted under this section shall be a period of confinement of not more than fifty years.

3. For purposes of determining whether a person should register as a sex offender pursuant to the provisions of chapter 692A, the fact finder shall make a determination as provided in section 692A.126.

[C51, §2570; R60, §4193; C73, §3850; C97, §4729; C24, 27, 31, 35, 39, §**12912;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §690.3; C79, 81, §707.3; 82 Acts, ch 1239, §1]

2009 Acts, ch 119, §49; 2013 Acts, ch 30, §200

Referred to in §331.802, 671A.2, 692A.101, 692A.102, 692A.126, 703.3, 726.26, 902.12, 910.3A
Intentional or reckless dependent adult abuse resulting in death, §726.26
Definition of forcible felony, §702.11
Sentencing options excluded, see §907.3

707.3A Solicitation to commit murder.

1. A person who commands, entreats, or otherwise attempts to persuade another to commit murder as defined in section 707.1, with the intent that such act be done and under circumstances which corroborate that intent by clear and convincing evidence, solicits another to commit that murder.

2. Renunciation, as provided for in section 705.2, is a defense to a prosecution for solicitation under this section.

3. A person who solicits another to commit murder commits a class "C" felony.

2012 Acts, ch 1046, §1

Referred to in §703.3

707.4 Voluntary manslaughter.

1. A person commits voluntary manslaughter when that person causes the death of another person, under circumstances which would otherwise be murder, if the person causing the death acts solely as the result of sudden, violent, and irresistible passion resulting from serious provocation sufficient to excite such passion in a person and there is not an interval between the provocation and the killing in which a person of ordinary reason and temperament would regain control and suppress the impulse to kill.

2. Voluntary manslaughter is a class "C" felony.

3. Voluntary manslaughter is an included offense under an indictment for murder in the first or second degree.

4. For purposes of determining whether a person should register as a sex offender

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pursuant to the provisions of chapter 692A, the fact finder shall make a determination as provided in section 692A.126.

[C51, §2576; R60, §4199; C73, §3856; C97, §4751; C24, 27, 31, 35, 39, §**12919;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §690.10; C79, 81, §707.4]

2009 Acts, ch 119, §50; 2013 Acts, ch 90, §224

Referred to in §321.208, 331.802, 692A.102, 692A.126, 910.3A

707.5 Involuntary manslaughter.

1. A person commits involuntary manslaughter punishable as:

a. A class "D" felony when the person unintentionally causes the death of another person by the commission of a public offense other than a forcible felony or escape.

b. An aggravated misdemeanor when the person unintentionally causes the death of another person by the commission of an act in a manner likely to cause death or serious injury.

2. Involuntary manslaughter as defined in this section is an included offense under an indictment for murder in the first or second degree or voluntary manslaughter.

3. For purposes of determining whether a person should register as a sex offender pursuant to the provisions of chapter 692A, the fact finder shall make a determination as provided in section 692A.126.

[C51, §2576; R60, §4199; C73, §3856; C97, §4751; C24, 27, 31, 35, 39, §**12919, 12920;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §690.10, 690.11; C79, 81, §707.5]

2009 Acts, ch 119, §51; 2013 Acts, ch 90, §225

Referred to in §321.208, 321J.10, 331.802, 692A.102, 692A.126, 901C.3, 910.3A

707.6 Civil liability.

1. A person who injures or causes the death of the aggressor through application of reasonable force in defense of the person's person or property shall not be held civilly liable for such injury or death.

2. A person who injures or causes the death of the aggressor through application of reasonable force in defense of a second person shall not be held civilly liable for such injury or death.

[C79, 81, §707.6]

2017 Acts, ch 69, §44

707.6A Homicide or serious injury by vehicle.

1. A person commits a class "B" felony when the person unintentionally causes the death of another by operating a motor vehicle while intoxicated, as prohibited by section 321J.2.

1A. Upon a plea or verdict of guilty of a violation of subsection 1, the defendant shall surrender to the court any Iowa license or permit and the court shall forward the license or permit to the department with a copy of the order of conviction. Upon receipt of the order of conviction, the department shall revoke the defendant's driver's license or nonresident operating privilege for a period of six years. The defendant shall not be eligible for a temporary restricted license for at least two years after the revocation.

1B. Upon a plea or verdict of guilty of a violation of subsection 1, the court shall order the defendant, at the defendant's expense, to do the following:

a. Enroll, attend, and satisfactorily complete a course for drinking drivers, as provided in section 321J.22.

b. Submit to evaluation and treatment or rehabilitation services.

1C. A driver's license or nonresident operating privilege shall not be reinstated until proof of completion of the requirements of subsection 1B is presented to the department.

1D. Where the program is available and appropriate for the defendant, the court shall also order the defendant to participate in a reality education substance use disorder prevention program as provided in section 321J.24.

2. A person commits a class "C" felony when the person unintentionally causes the death of another by any of the following means:

a. Driving a motor vehicle in a reckless manner with willful or wanton disregard for the safety of persons or property, in violation of section 321.277.

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(1) For purposes of this paragraph *"a"*, a person's use of an electronic device while driving a motor vehicle shall be considered prima facie evidence that the person was driving the motor vehicle in a reckless manner with willful or wanton disregard for the safety of persons or property, in violation of section 321.277.

(2) Subparagraph (1) does not apply to any of the following:

(a) A person using an electronic device in a voice-activated or hands-free mode.

(b) A person listed in section 321.276, subsection 2, paragraph *"b"*.

(3) For purposes of this paragraph *"a"*, the following definitions apply:

(a) *"Electronic device"* means the same as defined in section 321.276.

(b) *"Use"* means the same as defined in section 321.276.

(c) *"Voice-activated or hands-free mode"* means the same as defined in section 321.276.

b. Eluding or attempting to elude a pursuing law enforcement vehicle, in violation of section 321.279, if the death of the other person directly or indirectly results from the violation.

c. Exceeding a speed limit established or lawfully posted pursuant to section 262.68, section 321.236, subsection 5 or 11, section 321.236, subsection 13, paragraph *"a"*, section 321.285, section 321.288, subsection 2, paragraph *"f"*, or section 321.289, 321.290, 321.293, 321.295, or 461A.36, by twenty-five miles per hour or more, if the violation is the proximate cause of the death of the other person. This paragraph does not apply to a member of a public safety agency, as defined in section 34.1, performing official duties.

3. A person commits a class "D" felony when the person unintentionally causes the death of another while drag racing, in violation of section 321.278.

4. A person commits a class "D" felony when the person unintentionally causes a serious injury, as defined in section 702.18, by any of the means described in subsection 1 or 2.

5. As used in this section, *"motor vehicle"* includes any vehicle defined as a motor vehicle in section 321.1.

6. Except for the purpose of sentencing under section 321J.2, subsections 3, 4, and 5, a conviction or deferral of judgment for a violation of this section, where a violation of section 321J.2 is admitted or proved, shall be treated as a conviction or deferral of judgment for a violation of section 321J.2 for the purposes of chapters 321, 321A, and 321J, and section 907.3, subsection 1.

7. Notwithstanding the provisions of sections 901.5 and 907.3, the court shall not defer judgment or sentencing, or suspend execution of any part of the sentence applicable to the defendant for a violation of subsection 1, or for a violation of subsection 4 involving the operation of a motor vehicle while intoxicated.

86 Acts, ch 1220, §41; 89 Acts, ch 211, §1; 90 Acts, ch 1251, §55; 94 Acts, ch 1069, §2; 97 Acts, ch 177, §26 – 28; 98 Acts, ch 1073, §9; 2010 Acts, ch 1097, §12; 2010 Acts, ch 1124, §3, 9; 2011 Acts, ch 34, §145; 2017 Acts, ch 76, §1; 2021 Acts, ch 131, §1; 2023 Acts, ch 19, §1299; 2025 Acts, ch 14, §13

Referred to in §321.208, 321.210D, 321.555, 321J.10, 331.802, 707.8, 811.1, 902.12, 907.3, 910.3A, 915.80
See also penalties applicable under §707.5, 707.8, and 708.2

707.7 Feticide.

1. Any person who intentionally terminates a human pregnancy, with the knowledge and voluntary consent of the pregnant female, after the end of the second trimester of the pregnancy resulting in the death of the fetus commits feticide. Feticide is a class "C" felony.

2. Any person who attempts to intentionally terminate a human pregnancy, with the knowledge and voluntary consent of the pregnant female, after the end of the second trimester of the pregnancy that does not result in the death of the fetus commits attempted feticide. Attempted feticide is a class "D" felony.

3. Any person who terminates a human pregnancy, with the knowledge and voluntary consent of the pregnant female, who is not a person licensed to practice medicine and surgery or osteopathic medicine and surgery under the provisions of chapter 148, commits a class "C" felony.

4. This section shall not apply to the termination of a human pregnancy performed by a physician licensed in this state to practice medicine or surgery or osteopathic medicine or

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surgery when in the best clinical judgment of the physician the termination is performed to preserve the life or health of the pregnant female or of the fetus and every reasonable medical effort not inconsistent with preserving the life of the pregnant female is made to preserve the life of a viable fetus.

[R60, §4221; C73, §3864; C97, §4759; SS15, §4759; C24, 27, 31, 35, 39, §**12973;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §701.1; C79, 81, §707.7]

96 Acts, ch 1077, §1; 2009 Acts, ch 133, §175; 2026 Acts, ch 1035, §1

Referred to in §714I.4
Definition of "viability", §702.20
Section amended

707.8 Nonconsensual termination — serious injury to a human pregnancy.

1. A person who terminates a human pregnancy without the consent of the pregnant female during the commission of a forcible felony is guilty of a class "B" felony.

2. A person who terminates a human pregnancy without the consent of the pregnant female during the commission of a felony or felonious assault is guilty of a class "C" felony.

3. *a.* A person who intentionally terminates a human pregnancy without the knowledge and voluntary consent of the pregnant female is guilty of a class "C" felony.

b. A person who attempts to intentionally terminate a human pregnancy without the knowledge and voluntary consent of the pregnant female is guilty of a class "D" felony.

4. A person who unintentionally terminates a human pregnancy by any of the means provided pursuant to section 707.6A, subsection 1, is guilty of a class "C" felony.

5. A person who by force or intimidation procures the consent of the pregnant female to a termination of a human pregnancy is guilty of a class "C" felony.

6. A person who unintentionally terminates a human pregnancy while drag racing in violation of section 321.278 is guilty of a class "D" felony.

7. A person who unintentionally terminates a human pregnancy without the knowledge and voluntary consent of the pregnant female by the commission of an act in a manner likely to cause the termination of or serious injury to a human pregnancy is guilty of an aggravated misdemeanor.

8. A person commits an aggravated misdemeanor when the person intentionally causes serious injury to a human pregnancy by the commission of an act in a manner likely to cause the termination of or serious injury to a human pregnancy.

9. A person commits an aggravated misdemeanor when the person unintentionally causes serious injury to a human pregnancy by any of the means described in section 707.6A, subsection 1.

10. A person commits a serious misdemeanor when the person unintentionally causes serious injury to a human pregnancy by the commission of an act in a manner likely to cause the termination of or serious injury to the human pregnancy.

11. For the purposes of this section "*serious injury to a human pregnancy*" means, relative to the human pregnancy, disabling mental illness, or bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ, and includes but is not limited to skull fractures, rib fractures, and metaphyseal fractures of the long bones.

12. As used in this section, actions which cause the termination of or serious injury to a pregnancy do not apply to any of the following:

a. An act or omission of the pregnant female.

b. A termination of or a serious injury to a pregnancy that is caused by the performance of an approved medical procedure performed by a person licensed in this state to practice medicine and surgery or osteopathic medicine and surgery, irrespective of the duration of the pregnancy and with or without the voluntary consent of the pregnant female when circumstances preclude the pregnant female from providing consent.

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c. An act committed in self-defense or in defense of another person or any other act committed if legally justified or excused.

[C79, 81, §707.8]

96 Acts, ch 1077, §2; 2022 Acts, ch 1083, §1; 2026 Acts, ch 1035, §2, 3
Subsections 1, 2, 3, 5, and 7 amended
Subsection 12, paragraphs a and b amended

707.8A Partial-birth abortion prohibited — exceptions — penalties.

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

a. *"Abortion"* means abortion as defined in section 146.1.

b. *"Fetus"* means a human fetus.

c. *"Partial-birth abortion"* means an abortion in which a person partially vaginally delivers a living fetus before killing the fetus and completing the delivery.

d. *"Vaginally delivers a living fetus before killing the fetus"* means deliberately and intentionally delivering into the vagina a living fetus or a substantial portion of a living fetus for the purpose of performing a procedure the person knows will kill the fetus, and then killing the fetus.

2. A person shall not knowingly perform or attempt to perform a partial-birth abortion. This prohibition shall not apply to a partial-birth abortion that is necessary to save the life of the mother whose life is endangered by a physical disorder, physical illness, or physical injury.

3. This section shall not be construed to create a right to an abortion.

4. *a.* The mother on whom a partial-birth abortion is performed, the father of the fetus, or, if the mother is less than eighteen years of age or unmarried at the time of the partial-birth abortion, a maternal grandparent of the fetus may bring an action against a person violating subsection 2 to obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the partial-birth abortion.

b. In an action brought under this subsection, appropriate relief may include any of the following:

(1) Statutory damages which are equal to three times the cost of the partial-birth abortion.

(2) Compensatory damages for all injuries, psychological and physical, resulting from violation of subsection 2.

5. A person who violates subsection 2 is guilty of a class "C" felony.

6. A mother upon whom a partial-birth abortion is performed shall not be prosecuted for violation of subsection 2 or for conspiracy to violate subsection 2.

7. *a.* A licensed physician subject to the authority of the board of medicine who is accused of a violation of subsection 2 may seek a hearing before the board on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury.

b. The board's findings concerning the physician's conduct are admissible at the criminal trial of the physician. Upon a motion of the physician, the court shall delay the beginning of the trial for not more than thirty days to permit the hearing before the board of medicine to take place.

98 Acts, ch 1009, §1; 2007 Acts, ch 10, §181

707.9 Murder of fetus aborted alive.

A person who intentionally kills a viable fetus aborted alive shall be guilty of a class "B" felony.

[C79, 81, §707.9]
Definition of "viability", §702.20

707.10 Duty to preserve the life of the fetus.

A person who performs or induces a termination of a human pregnancy and who willfully fails to exercise that degree of professional skill, care, and diligence available to preserve the life and health of a viable fetus shall be guilty of a serious misdemeanor.

[C79, 81, §707.10]
Definition of "viability", §702.20

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707.11 Attempt to commit murder.

1. A person commits the offense of attempt to commit murder when, with the intent to cause the death of another person and not under circumstances which would justify the person's actions, the person does any act by which the person expects to set in motion a force or chain of events which will cause or result in the death of the other person.

2. Attempt to commit murder is a class "B" felony.

3. It is not a defense to an indictment for attempt to commit murder that the acts proved could not have caused the death of any person, provided that the actor intended to cause the death of some person by so acting, and the actor's expectations were not unreasonable in the light of the facts known to the actor.

4. For purposes of determining whether the person should register as a sex offender pursuant to the provisions of chapter 692A, the fact finder shall make a determination as provided in section 692A.126.

5. *a.* As used in this subsection, *"peace officer"* means the same as defined in section 801.4.

b. For purposes of determining the category of sentence under section 903A.2, the fact finder shall determine whether the attempt to commit murder was committed against a peace officer, with the knowledge that the person against whom the attempt to commit murder was committed was a peace officer acting in the officer's official capacity.

c. If the fact finder determines the attempt to commit murder was against a peace officer as described in paragraph *"b"*, the person shall serve one hundred percent of the term of confinement imposed and shall be denied parole, work release, or other early release.

[C51, §2591, 2596; R60, §4214, 4219; C73, §3872, 3877; C97, §4768, 4773, 4797; S13, §4768; C24, 27, 31, 35, 39, §**12915, 12918, 12962;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §690.6, 690.9, 697.2; C79, 81, §707.11; 82 Acts, ch 1239, §2]

2009 Acts, ch 119, §52; 2013 Acts, ch 90, §226; 2014 Acts, ch 1026, §134; 2017 Acts, ch 122, §12; 2018 Acts, ch 1026, §171

Referred to in §692A.102, 692A.126, 902.12, 903A.2

CHAPTER 707A

ASSISTING SUICIDE

Referred to in §331.307, 364.22, 701.1

707A.1 Definitions.
707A.2 Assisting suicide.
707A.3 Acts or omissions not considered assisting suicide.

707A.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Licensed health care professional"* means a physician and surgeon, podiatric physician, osteopathic physician and surgeon, physician associate, nurse, dentist, or pharmacist required to be licensed under chapter 147.

2. *"Suicide"* means the act or instance of taking a person's own life voluntarily and intentionally.

96 Acts, ch 1002, §1; 96 Acts, ch 1079, §19; 2008 Acts, ch 1088, §141; 2026 Acts, ch 1008, §3

Code editor directive applied

707A.2 Assisting suicide.

A person commits a class "C" felony if the person intentionally or knowingly assists, solicits, or incites another person to commit or attempt to commit suicide, or participates in a physical act by which another person commits or attempts to commit suicide.

96 Acts, ch 1002, §2

Referred to in §144E.9, 707A.3, 901.3

707A.3 Acts or omissions not considered assisting suicide.

1. A licensed health care professional who administers, prescribes, or dispenses

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medications or who performs or prescribes procedures to relieve another person's pain or discomfort, even if the medication or procedure may hasten or increase the risk of death, does not violate section 707A.2 unless the medications or procedures are intentionally or knowingly administered, prescribed, or dispensed with the primary intention of causing death.

2. A licensed health care professional who withholds or withdraws a life-sustaining procedure in compliance with chapter 144A or 144B does not violate section 707A.2.

96 Acts, ch 1002, §3

CHAPTER 707B

HUMAN CLONING

Repealed by 2007 Acts, ch 6, §5; see chapter 707C

CHAPTER 707C

HUMAN STEM CELL RESEARCH AND CLONING

Referred to in §331.307, 364.22, 701.1

707C.1 Title.
707C.2 Purpose.
707C.3 Definitions.
707C.4 Human reproductive cloning — prohibitions — penalty.

707C.1 Title.

This chapter shall be known and may be cited as the *"Iowa Stem Cell Research and Cures Initiative"*.

2007 Acts, ch 6, §1

707C.2 Purpose.

It is the purpose of this chapter to ensure that Iowa patients have access to stem cell therapies and cures and that Iowa researchers may conduct stem cell research and develop therapies and cures in the state, and to prohibit human reproductive cloning.

2007 Acts, ch 6, §2

707C.3 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Human reproductive cloning"* means human asexual reproduction, using somatic cell nuclear transfer, for implantation or attempted implantation into a woman's uterus or substitute for a woman's uterus. *"Human reproductive cloning"* does not include somatic cell nuclear transfer performed for the purpose of creating embryonic stem cells.

2. *"Human somatic cell"* means a diploid cell having a complete set of chromosomes obtained or derived from a living or deceased human body at any stage of development.

3. *"Oocyte"* means a human ovum.

4. *"Somatic cell nuclear transfer"* means a technique in which the nucleus of a human somatic cell is injected or transplanted into a fertilized or unfertilized oocyte from which the nucleus has been removed.

2007 Acts, ch 6, §3

707C.4 Human reproductive cloning — prohibitions — penalty.

1. A person shall not intentionally or knowingly do any of the following:

a. Perform or attempt to perform human reproductive cloning.

b. Participate in performing or in an attempt to perform human reproductive cloning.

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c. Transfer or receive, in whole or in part, for the purpose of shipping, receiving, or importing, the product of human reproductive cloning.

2. *a.* A person who violates subsection 1, paragraph *"a"* or *"b"*, is guilty of a class "C" felony.

b. A person who violates subsection 1, paragraph *"c"*, is guilty of an aggravated misdemeanor.

3. A person who violates this section in a manner that results in a pecuniary gain to the person is subject to a civil penalty in an amount that is twice the amount of the gross gain.

4. A person who violates this section and who is licensed pursuant to chapter 148 is subject to revocation of the person's license.

5. A violation of this section is grounds for denial of an application for, denial of renewal of, or revocation of any license, permit, certification, or any other form of permission required to practice or engage in any trade, occupation, or profession regulated by the state.

2007 Acts, ch 6, §4; 2008 Acts, ch 1088, §139

CHAPTER 708

ASSAULT

Referred to in §13.2, 135B.34, 135C.33, 152.5A, 331.307, 364.22, 633.535, 692A.102, 692A.126, 701.1, 724.8

708.1 Assault defined.
708.2 Penalties for assault.
708.2A Domestic abuse assault — mandatory minimums, penalties enhanced — extension of no-contact order.
708.2B Treatment of domestic abuse offenders.
708.2C Assault in violation of individual rights — penalties.
708.2D Older individual assault — mandatory minimums, penalties enhanced — extension of no-contact order.
708.2E Assault committed by a person against whom a protective order is issued.
708.3 Assault while participating in a felony.
708.3A Assaults on persons engaged in certain occupations.
708.3B Inmate assaults — bodily fluids or secretions.
708.4 Willful injury.
708.5 Administering harmful substances.
708.6 Intimidation with a dangerous weapon.
708.7 Harassment.
708.8 Going armed with intent.
708.9 Spring guns and traps.
708.10 Hazing.
708.11 Stalking.
708.11A Unauthorized placement of global positioning device.
708.12 Removal of an officer's communication or control device.
708.13 Disarming a peace officer of a dangerous weapon.
708.14 Abuse of a corpse.
708.15 Sexual motivation.
708.16 Female genital mutilation.
708.17 Threatening a member of the general assembly, a judicial officer, or an immediate family member of a member of the general assembly or a judicial officer.
708.18 Malicious sharing of personal information of a general assembly member or a judicial officer or an immediate family member of a general assembly member or a judicial officer.

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708.1 Assault defined.

1. An assault as defined in this section is a general intent crime.

2. A person commits an assault when, without justification, the person does any of the following:

a. Any act which is intended to cause pain or injury to, or which is intended to result in physical contact which will be insulting or offensive to another, coupled with the apparent ability to execute the act.

b. Any act which is intended to place another in fear of immediate physical contact which

will be painful, injurious, insulting, or offensive, coupled with the apparent ability to execute the act.

c. Intentionally points any firearm toward another, or displays in a threatening manner any dangerous weapon toward another.

d. (1) (a) Intentionally points a laser emitting a visible light beam toward another person with the intent to cause pain or injury to another, or toward an aircraft.

(b) For purposes of this paragraph *"d"*:

(i) *"Aircraft"* means any contrivance intended for and capable of transporting persons through the airspace.

(ii) *"Laser"* means a device that emits a visible light beam amplified by the stimulated emission of radiation and any light which simulates the appearance of a laser.

(2) This paragraph does not apply to any of the following:

(a) A law enforcement officer who uses a laser in discharging or attempting to discharge the officer's official duties.

(b) A health care professional who uses a laser in providing services within the scope of practice of that professional or any other person who is licensed or authorized by law to use a laser or who uses a laser in the performance of the person's official duties.

(c) A person who uses a laser to play laser tag, paintball, and other similar games using light-emitting diode technology.

3. An act described in subsection 2 shall not be an assault under the following circumstances:

a. If the person doing any of the enumerated acts, and such other person, are voluntary participants in a sport, social or other activity, not in itself criminal, and such act is a reasonably foreseeable incident of such sport or activity, and does not create an unreasonable risk of serious injury or breach of the peace.

b. If the person doing any of the enumerated acts is employed by a school district or accredited nonpublic school, or is an area education agency staff member who provides services to a school or school district, and intervenes in a fight or physical struggle, or other disruptive situation, that takes place in the presence of the employee or staff member performing employment duties in a school building, on school grounds, or at an official school function regardless of the location, whether the fight or physical struggle or other disruptive situation is between students or other individuals, if the degree and the force of the intervention is reasonably necessary to restore order and to protect the safety of those assembled.

[C51, §2594, 2597; R60, §4217, 4220; C73, §3875, 3878, 3879; C97, §4771, 4774, 4775; S13, §4771; C24, 27, 31, 35, 39, §**12929, 12930, 12934;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §694.1, 694.2, 694.6; C79, 81, §708.1]

95 Acts, ch 191, §49; 2002 Acts, ch 1094, §1; 2013 Acts, ch 90, §183; 2021 Acts, ch 183, §39, 43; 2024 Acts, ch 1008, §1; 2025 Acts, ch 30, §99

Referred to in §9E.2, 135.108, 232.52, 236.2, 279.65B, 282.4, 671A.2, 707.2, 708.2, 708.2A, 708.2B, 708.2C, 708.2D, 708.2E, 708.3, 708.3A, 708.3B, 709.11, 711.3B, 719.1, 720.4, 724.26, 811.1, 907.3

708.2 Penalties for assault.

1. A person who commits an assault, as defined in section 708.1, with the intent to inflict a serious injury upon another, is guilty of an aggravated misdemeanor.

2. A person who commits an assault, as defined in section 708.1, and who causes bodily injury or mental illness, is guilty of a serious misdemeanor.

3. A person who commits an assault, as defined in section 708.1, and uses or displays a dangerous weapon in connection with the assault, is guilty of an aggravated misdemeanor. This subsection does not apply if section 708.6 or 708.8 applies.

4. A person who commits a violation of subsection 3 against another person who the person knows or reasonably should know is a pregnant female is guilty of a class "D" felony.

5. A person who commits an assault, as defined in section 708.1, without the intent to inflict serious injury, but who causes serious injury, is guilty of a class "D" felony.

6. A person who commits an assault, as defined in section 708.1, and who uses any object to penetrate the genitalia or anus of another person, is guilty of a class "C" felony.

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7. Any other assault, except as otherwise provided, is a simple misdemeanor.

[C51, §2593 – 2595, 2597; R60, §4216 – 4218, 4220; C73, §3874 – 3876, 3878, 3879; C97, §4770 – 4772, 4774, 4775; C24, 27, 31, 35, 39, §**12929 – 12935;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §694.1 – 694.7; C79, 81, §708.2; 81 Acts, ch 204, §3]

87 Acts, ch 154, §8; 98 Acts, ch 1026, §1; 99 Acts, ch 65, §3; 2003 Acts, ch 132, §2; 2010 Acts, ch 1072, §2; 2023 Acts, ch 23, §1; 2026 Acts, ch 1035, §4

Referred to in §232.22, 671A.2, 692A.102, 702.11, 708.2A, 708.2D, 711.3B, 901C.3, 907.3
Definition of forcible felony, §702.11
Subsection 4 amended

708.2A Domestic abuse assault — mandatory minimums, penalties enhanced — extension of no-contact order.

1. For the purposes of this chapter, *"domestic abuse assault"* means an assault, as defined in section 708.1, which is domestic abuse as defined in section 236.2, subsection 2, paragraph *"a"*, *"b"*, *"c"*, or *"d"*.

2. On a first offense of domestic abuse assault, the person commits:

a. A simple misdemeanor for a domestic abuse assault, except as otherwise provided.

b. A serious misdemeanor, if the domestic abuse assault causes bodily injury or mental illness.

c. An aggravated misdemeanor, if the domestic abuse assault is committed with the intent to inflict a serious injury upon another, or if the person uses or displays a dangerous weapon in connection with the assault. This paragraph does not apply if section 708.6 or 708.8 applies.

d. An aggravated misdemeanor, if the domestic abuse assault is committed by knowingly impeding the normal breathing or circulation of the blood of another by applying pressure to the throat or neck of the other person or by obstructing the nose or mouth of the other person.

e. A class "D" felony, if the domestic abuse assault is committed against a person who is known to be, or reasonably should be known to be, pregnant, and that is a violation of paragraph *"c"* or *"d"*.

3. Except as otherwise provided in subsection 2, on a second domestic abuse assault, a person commits:

a. A serious misdemeanor, if the first offense was classified as a simple misdemeanor, and the second offense would otherwise be classified as a simple misdemeanor.

b. An aggravated misdemeanor, if the first offense was classified as a simple or aggravated misdemeanor, and the second offense would otherwise be classified as a serious misdemeanor, or the first offense was classified as a serious or aggravated misdemeanor, and the second offense would otherwise be classified as a simple or serious misdemeanor.

c. A class "D" felony if the first offense was classified as a class "D" felony, and the second offense would otherwise be classified as an aggravated misdemeanor.

4. On a third or subsequent offense of domestic abuse assault, a person commits a class "D" felony.

5. For a domestic abuse assault committed by knowingly impeding the normal breathing or circulation of the blood of another by applying pressure to the throat or neck of the other person or by obstructing the nose or mouth of the other person, and causing bodily injury, the person commits a class "D" felony.

6. *a.* For the purpose of determining if a violation charged is a second or subsequent offense, deferred judgments issued pursuant to section 907.3 for violations of section 708.2 or this section, which were issued on domestic abuse assaults, and convictions or the equivalent of deferred judgments for violations in any other states under statutes substantially corresponding to this section shall be counted as previous offenses. The courts shall judicially notice the statutes of other states which define offenses substantially equivalent to the offenses defined in this section and can therefore be considered corresponding statutes. Each previous violation on which conviction or deferral of judgment was entered prior to the date of the offense charged shall be considered and counted as a separate previous offense.

b. An offense shall be considered a prior offense regardless of whether it was committed upon the same victim.

7. *a.* A person convicted of violating subsection 2 or 3 shall serve a minimum term of two

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days of the sentence imposed by law, and shall not be eligible for suspension of the minimum sentence. The minimum term shall be served on consecutive days. The court shall not impose a fine in lieu of the minimum sentence, although a fine may be imposed in addition to the minimum sentence. This section does not prohibit the court from sentencing and the person from serving the maximum term of confinement or from paying the maximum fine permitted pursuant to chapters 902 and 903, and does not prohibit the court from entering a deferred judgment or sentence pursuant to section 907.3, if the person has not previously received a deferred sentence or judgment for a violation of section 708.2 or this section which was issued on a domestic abuse assault.

b. A person convicted of a violation referred to in subsection 4 shall be sentenced as provided under section 902.13.

8. If a person is convicted for, receives a deferred judgment for, or pleads guilty to a violation of this section, the court shall modify the no-contact order issued upon initial appearance in the manner provided in section 664A.5, regardless of whether the person is placed on probation.

9. The clerk of the district court shall provide notice and copies of a judgment entered under this section to the applicable law enforcement agencies and the twenty-four hour dispatcher for the law enforcement agencies, in the manner provided for protective orders under section 236.5. The clerk shall provide notice and copies of modifications of the judgment in the same manner.

10. In addition to the mandatory minimum term of confinement imposed by subsection 7, paragraph *"a"*, the court shall order a person convicted under subsection 2 or 3 to participate in a batterers' treatment program as required under section 708.2B. In addition, as a condition of deferring judgment or sentence pursuant to section 907.3, the court shall order the person to participate in a batterers' treatment program. The clerk of the district court shall send a copy of the judgment or deferred judgment to the judicial district department of correctional services.

87 Acts, ch 154, §9; 91 Acts, ch 218, §27; 91 Acts, ch 219, §19, 20; 92 Acts, ch 1163, §118; 93 Acts, ch 157, §9; 94 Acts, ch 1093, §2; 95 Acts, ch 90, §1; 96 Acts, ch 1131, §3; 97 Acts, ch 33, §14; 98 Acts, ch 1192, §1; 99 Acts, ch 65, §4; 99 Acts, ch 114, §45; 2002 Acts, ch 1004, §4; 2006 Acts, ch 1101, §13, 14; 2012 Acts, ch 1002, §4, 5; 2013 Acts, ch 30, §249; 2017 Acts, ch 83, §1; 2023 Acts, ch 23, §2, 3; 2023 Acts, ch 76, §1

Referred to in §9E.2, 232.22, 232.52, 232.82, 236.12, 236.18, 272C.15, 598.41, 598C.305, 600A.8, 664A.1, 664A.2, 664A.6, 664A.7, 671A.2, 702.11, 708.2B, 708.2D, 708.2E, 901C.3, 902.13, 904.913, 907.3, 911.2B, 915.22

708.2B Treatment of domestic abuse offenders.

1. As used in this section, *"district department"* means a judicial district department of correctional services, established pursuant to section 904.104A.

2. A person convicted of, or receiving a deferred judgment for, domestic abuse assault as defined in section 708.2A, shall report to the district department in order to participate in a batterers' treatment program for domestic abuse offenders. In addition, a person convicted of, or receiving a deferred judgment for, an assault, as defined in section 708.1, which is domestic abuse, as defined in section 236.2, subsection 2, paragraph *"e"*, may be ordered by the court to participate in a batterers' treatment program. Participation in the batterers' treatment program shall not require a person to be placed on probation, but a person on probation may participate in the program.

3. The district departments may contract for services in completing the duties relating to the batterers' treatment programs. The district departments shall assess the fees for participation in the program, and shall either collect or contract for the collection of the fees to recoup the costs of treatment, but may waive the fee or collect a lesser amount upon a showing of cause. The fees shall be used by each of the district departments or contract service providers for the establishment, administration, coordination, and provision of direct services of the batterers' treatment programs.

4. District departments or contract service providers shall receive upon request peace officers' investigative reports regarding persons participating in programs under this section.

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The receipt of reports under this section shall not waive the confidentiality of the reports under section 22.7.

91 Acts, ch 218, §28; 91 Acts, ch 219, §35; 95 Acts, ch 180, §15; 2002 Acts, ch 1004, §5; 2018 Acts, ch 1041, §115; 2024 Acts, ch 1182, §52

Referred to in §232.29, 232.46, 232.52, 236.18, 708.2A, 904.301B

708.2C Assault in violation of individual rights — penalties.

1. For the purposes of this chapter, *"assault in violation of individual rights"* means an assault, as defined in section 708.1, which is a hate crime as defined in section 729A.2.

2. A person who commits an assault in violation of individual rights, with the intent to inflict a serious injury upon another, is guilty of a class "D" felony.

3. A person who commits an assault in violation of individual rights, and who causes bodily injury or mental illness, is guilty of an aggravated misdemeanor.

4. A person who commits an assault in violation of individual rights and uses or displays a dangerous weapon in connection with the assault, is guilty of a class "D" felony.

5. Any other assault in violation of individual rights, except as otherwise provided, is a serious misdemeanor.

92 Acts, ch 1157, §3; 95 Acts, ch 90, §2

Referred to in §729A.2

708.2D Older individual assault — mandatory minimums, penalties enhanced — extension of no-contact order.

1. For the purposes of this section:

a. "Older individual" means an individual who is sixty years of age or older.

b. "Older individual assault" means an assault, as defined in section 708.1, of an older individual.

2. On a first offense of older individual assault, the person commits:

a. A simple misdemeanor, except as otherwise provided.

b. A serious misdemeanor, if the older individual assault causes bodily injury or mental illness.

c. An aggravated misdemeanor, if the older individual assault is committed with the intent to inflict a serious injury upon an older individual, or if the person uses or displays a dangerous weapon in connection with the assault. This paragraph does not apply if section 708.6 or 708.8 applies.

d. An aggravated misdemeanor, if the older individual assault is committed by knowingly impeding the normal breathing or circulation of the blood of an older individual by applying pressure to the throat or neck of the older individual or by obstructing the nose or mouth of the older individual.

3. Except as otherwise provided in subsection 2, on a second offense of older individual assault, a person commits:

a. A serious misdemeanor if the first offense was classified as a simple misdemeanor and the second offense would otherwise be classified as a simple misdemeanor.

b. An aggravated misdemeanor if the first offense was classified as a simple or aggravated misdemeanor and the second offense would otherwise be classified as a serious misdemeanor, or the first offense was classified as a serious or aggravated misdemeanor, and the second offense would otherwise be classified as a simple or serious misdemeanor.

4. On a third or subsequent offense of older individual assault, a person commits a class "D" felony.

5. For an older individual assault committed by knowingly impeding the normal breathing or circulation of the blood of an older individual by applying pressure to the throat or neck of the older individual or by obstructing the nose or mouth of the older individual, and causing bodily injury, the person commits a class "D" felony.

6. *a.* A conviction for, deferred judgment for, or plea of guilty to, a violation of this section which occurred more than twelve years prior to the date of the violation charged shall not be considered in determining that the violation charged is a second or subsequent offense.

b. For the purpose of determining if a violation charged is a second or subsequent

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offense, deferred judgments issued pursuant to section 907.3 for violations of section 708.2 or 708.2A, or this section, which were issued on older individual assaults, and convictions or the equivalent of deferred judgments for violations in any other states under statutes substantially corresponding to this section shall be counted as previous offenses. The courts shall judicially notice the statutes of other states which define offenses substantially equivalent to the offenses defined in this section and can therefore be considered corresponding statutes. Each previous violation on which conviction or deferral of judgment was entered prior to the date of the offense charged shall be considered and counted as a separate previous offense.

c. An offense shall be considered a prior offense regardless of whether it was committed upon the same victim.

7. *a.* A person convicted of violating subsection 2 or 3 shall serve a minimum term of two days of the sentence imposed by law, and shall not be eligible for suspension of the minimum sentence. The minimum term shall be served on consecutive days. The court shall not impose a fine in lieu of the minimum sentence, although a fine may be imposed in addition to the minimum sentence. This section does not prohibit the court from sentencing and the person from serving the maximum term of confinement or from paying the maximum fine permitted pursuant to chapters 902 and 903, and does not prohibit the court from entering a deferred judgment or sentence pursuant to section 907.3, if the person has not previously received a deferred sentence or judgment for a violation of section 708.2 or 708.2A, or this section, which was issued on an older individual assault.

b. A person convicted of violating subsection 4 shall be sentenced as provided under section 902.9, subsection 1, paragraph *"e"*, and shall be denied parole or work release until the person has served a minimum of one year of the person's sentence. Notwithstanding section 901.5, subsections 1, 3, and 5, and section 907.3, the person cannot receive a suspended or deferred sentence or a deferred judgment; however, the person sentenced shall receive credit for any time the person was confined in a jail or detention facility following arrest.

8. If a person is convicted for, receives a deferred judgment for, or pleads guilty to a violation of this section, the court shall modify the no-contact order issued upon initial appearance in the manner provided in section 664A.5, regardless of whether the person is placed on probation.

9. The clerk of the district court shall provide notice and copies of a judgment entered under this section to the applicable law enforcement agencies and the twenty-four-hour dispatcher for the law enforcement agencies, in the manner provided for protective orders under chapter 235F. The clerk shall provide notice and copies of modifications of the judgment in the same manner.

2022 Acts, ch 1132, §1; 2023 Acts, ch 66, §151
Referred to in §13.2, 633.669, 664A.1, 664A.2, 664A.7, 726.24, 726.25, 915.22

708.2E Assault committed by a person against whom a protective order is issued.

1. For purposes of this section:

a. "Assault" means any offense defined in section 708.1 or 708.2A.

b. "Protective order" means a protective order issued by a court of this state and in effect pursuant to chapter 236 or chapter 664A, or a protective order issued by a court of another state under conditions substantially similar to those provided in chapter 236 or chapter 664A if the order would have been issued in this state.

2. A person against whom a protective order has been issued who commits an assault against a person protected by the same protective order, if the protective order is in effect at the time of the assault, is guilty of a class "D" felony.

3. An offense charged under this section shall constitute a separate and distinct violation from any other offense charged under this chapter or chapter 664A.

2024 Acts, ch 1132, §1

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708.3 Assault while participating in a felony.

Any person who commits an assault as defined in section 708.1 while participating in a felony other than a sexual abuse is guilty of:

1. A class "C" felony if the person thereby causes serious injury to any person.
2. A class "D" felony if no serious injury results.

[C51, §2592, 2593, 2595; R60, §4215, 4216, 4218; C73, §3873, 3874, 3876; C97, §4769, 4770, 4772; C24, 27, 31, 35, 39, §**12933, 12935, 12968;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §694.5, 694.7, 698.4; C79, 81, §708.3; 81 Acts, ch 204, §4]

2013 Acts, ch 90, §227

Referred to in §80A.4

708.3A Assaults on persons engaged in certain occupations.

1. A person who commits an assault, as defined in section 708.1, against a peace officer, jailer, correctional or juvenile detention staff, member or employee of the board of parole, health care provider, employee of the department of health and human services, employee of the department of inspections, appeals, and licensing who conducts investigations or inspections, employee of the department of revenue, national guard member engaged in national guard duty or state active duty, civilian employee of a law enforcement agency, civilian employee of a fire department, or fire fighter, whether paid or volunteer, with the knowledge that the person against whom the assault is committed is a peace officer, jailer, correctional or juvenile detention staff, member or employee of the board of parole, health care provider, employee of the department of health and human services, employee of the department of inspections, appeals, and licensing who conducts investigations or inspections, employee of the department of revenue, national guard member engaged in national guard duty or state active duty, civilian employee of a law enforcement agency, civilian employee of a fire department, or fire fighter and with the intent to inflict a serious injury upon the peace officer, jailer, correctional or juvenile detention staff, member or employee of the board of parole, health care provider, employee of the department of health and human services, employee of the department of inspections, appeals, and licensing who conducts investigations or inspections, employee of the department of revenue, national guard member engaged in national guard duty or state active duty, civilian employee of a law enforcement agency, civilian employee of a fire department, or fire fighter, is guilty of a class "C" felony.

2. A person who commits an assault, as defined in section 708.1, against a peace officer, jailer, correctional or juvenile detention staff, member or employee of the board of parole, health care provider, employee of the department of health and human services, employee of the department of inspections, appeals, and licensing who conducts investigations or inspections, employee of the department of revenue, national guard member engaged in national guard duty or state active duty, civilian employee of a law enforcement agency, civilian employee of a fire department, or fire fighter, whether paid or volunteer, who knows that the person against whom the assault is committed is a peace officer, jailer, correctional or juvenile detention staff, member or employee of the board of parole, health care provider, employee of the department of health and human services, employee of the department of inspections, appeals, and licensing who conducts investigations or inspections, employee of the department of revenue, national guard member engaged in national guard duty or state active duty, civilian employee of a law enforcement agency, civilian employee of a fire department, or fire fighter and who uses or displays a dangerous weapon in connection with the assault, is guilty of a class "C" felony.

3. A person who commits an assault, as defined in section 708.1, against a peace officer, jailer, correctional or juvenile detention staff, member or employee of the board of parole, health care provider, employee of the department of health and human services, employee of the department of inspections, appeals, and licensing who conducts investigations or inspections, employee of the department of revenue, national guard member engaged in national guard duty or state active duty, civilian employee of a law enforcement agency, civilian employee of a fire department, or fire fighter, whether paid or volunteer, who knows that the person against whom the assault is committed is a peace officer, jailer, correctional

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or juvenile detention staff, member or employee of the board of parole, health care provider, employee of the department of health and human services, employee of the department of inspections, appeals, and licensing who conducts investigations or inspections, employee of the department of revenue, national guard member engaged in national guard duty or state active duty, civilian employee of a law enforcement agency, civilian employee of a fire department, or fire fighter, and who causes bodily injury or mental illness, is guilty of a class "D" felony.

4. Any other assault, as defined in section 708.1, including an assault causing another to come into contact with saliva by throwing, tossing, spitting, or expelling the fluid, committed against a peace officer, jailer, correctional or juvenile detention staff, member or employee of the board of parole, health care provider, employee of the department of health and human services, employee of the department of inspections, appeals, and licensing who conducts investigations or inspections, employee of the department of revenue, national guard member engaged in national guard duty or state active duty, civilian employee of a law enforcement agency, civilian employee of a fire department, or fire fighter, whether paid or volunteer, by a person who knows that the person against whom the assault is committed is a peace officer, jailer, correctional or juvenile detention staff, member or employee of the board of parole, health care provider, employee of the department of health and human services, employee of the department of inspections, appeals, and licensing who conducts investigations or inspections, employee of the department of revenue, national guard member engaged in national guard duty or state active duty, civilian employee of a law enforcement agency, civilian employee of a fire department, or fire fighter, is an aggravated misdemeanor. A person convicted of violating this subsection shall serve a minimum term of seven days of the sentence imposed by law, and shall not be eligible for suspension of the minimum sentence.

5. As used in this section, the following definitions apply:

a. "Correctional staff" means a person who is not a peace officer but who is employed by the department of corrections or a judicial district department of correctional services to work at or in a correctional institution, community-based correctional facility, or an institution under the management of the Iowa department of corrections which is used for the purposes of confinement of persons who have committed public offenses.

b. "Employee of the department of health and human services" means a person who is an employee of an institution controlled by the director of health and human services that is listed in section 218.1, or who is an employee of the civil commitment unit for sex offenders operated by the department of health and human services. A person who commits an assault under this section against an employee of the department of health and human services at a department of health and human services institution or unit is presumed to know that the person against whom the assault is committed is an employee of the department of health and human services.

c. "Employee of the department of revenue" means a person who is employed as an auditor, agent, tax collector, or any contractor or representative acting in the same capacity. The employee, contractor, or representative shall maintain current identification indicating that the person is an employee, contractor, or representative of the department.

d. "Health care provider" means an emergency medical care provider as defined in chapter 147A or a person licensed or registered under chapter 148, 148C, 148D, or 152 who is providing or who is attempting to provide emergency medical services, as defined in section 147A.1, or anyone who is working, volunteering, or participating in an educational course of instruction at a hospital or rural emergency hospital as defined in chapter 135B, or at a nursing facility as defined in chapter 135C. A person who commits an assault under this section against a health care provider in a hospital, or at the scene or during out-of-hospital patient transportation in an ambulance, is presumed to know that the person against whom the assault is committed is a health care provider.

e. "Jailer" means a person who is employed by a county or other political subdivision of the state to work at a county jail or other facility used for purposes of the confinement of persons who have committed public offenses, but who is not a peace officer.

f. "National guard" means the same as defined in section 29A.1.

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g. *"National guard duty"* means the same as defined in section 29A.1.

h. *"State active duty"* means the same as defined in section 29A.1.

95 Acts, ch 90, §3; 96 Acts, ch 1069, §1; 98 Acts, ch 1026, §2; 99 Acts, ch 64, §1; 2004 Acts, ch 1135, §1, 2; 2005 Acts, ch 3, §109; 2005 Acts, ch 140, §69, 70; 2008 Acts, ch 1088, §140; 2021 Acts, ch 183, §40, 43; 2022 Acts, ch 1153, §45, 46; 2023 Acts, ch 19, §1300, 1301; 2025 Acts, ch 18, §1; 2025 Acts, ch 119, §1; 2025 Acts, ch 120, §72

Referred to in §719.1

Assault on national guard, see also §29A.44

708.3B Inmate assaults — bodily fluids or secretions.

A person who, while confined in a jail or in an institution or facility under the control of the department of corrections, commits any of the following acts commits a class "D" felony:

1. An assault, as defined under section 708.1, upon an employee of the jail or institution or facility under the control of the department of corrections that results in the employee's contact with blood, seminal fluid, urine, saliva, or feces.

2. An act that is intended to cause pain or injury or be insulting or offensive and that results in blood, seminal fluid, urine, saliva, or feces being cast or expelled upon an employee of the jail or institution or facility under the control of the department of corrections.

97 Acts, ch 79, §1; 2025 Acts, ch 18, §2

708.4 Willful injury.

Any person who does an act which is not justified and which is intended to cause serious injury to another commits willful injury, which is punishable as follows:

1. A class "C" felony, if the person causes serious injury to another.

2. A class "D" felony, if the person causes bodily injury to another.

[C51, §2577, 2594; R60, §4200, 4217; C73, §3857, 3875; C97, §4752, 4771, 4797; S13, §4771; C24, 27, 31, 35, 39, §**12928, 12934, 12962;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §693.1, 694.6, 697.2; C79, 81, §708.4]

99 Acts, ch 65, §5; 2013 Acts, ch 90, §184

Referred to in §80A.4, 702.11

Serious injury, §702.18

708.5 Administering harmful substances.

Any person who administers to another or causes another to take, without the other person's consent or by threat or deception, and for other than medicinal purposes, any poisonous, stupefying, stimulating, depressing, tranquilizing, narcotic, hypnotic, hallucinating, or anesthetic substance in sufficient quantity to have such effect, commits a class "D" felony.

[C79, 81, §708.5]

Referred to in §80A.4

Controlled substances, drugs, and poisons generally, see chapters 124, 126, and 205

708.6 Intimidation with a dangerous weapon.

1. A person commits a class "C" felony when the person, with the intent to injure or provoke fear or anger, shoots, throws, launches, or discharges a dangerous weapon at another person or at, into, or in a building, vehicle, airplane, railroad engine, railroad car, or boat, occupied by another person, or threatens to commit such an act under circumstances raising a reasonable expectation that the threat will be carried out.

2. A person commits a class "D" felony when the person shoots, throws, launches, or discharges a dangerous weapon at another person or at, into, or in a building, vehicle, airplane, railroad engine, railroad car, or boat, occupied by another person, or threatens to commit such an act under circumstances raising a reasonable expectation that the threat will be carried out.

[C97, §4799, 4810; C24, 27, 31, 35, 39, §**13081, 13123;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §714.2, 716.11; C79, 81, §708.6; 81 Acts, ch 204, §5]

93 Acts, ch 112, §1, 2; 2002 Acts, ch 1075, §8; 2018 Acts, ch 1041, §127; 2026 Acts, ch 1006, §1

Referred to in §80A.4, 708.2, 708.2A, 708.2D, 718.6, 723A.1, 804.21

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708.7 Harassment.

1. *a.* A person commits harassment when, with intent to intimidate, annoy, or alarm another person, the person does any of the following:

(1) Communicates with another by telephone, telegraph, writing, or via electronic communication without legitimate purpose and in a manner likely to cause the other person annoyance or harm.

(2) Places a simulated explosive or simulated incendiary device in or near a building, vehicle, airplane, railroad engine or railroad car, or boat occupied by another person.

(3) Orders merchandise or services in the name of another, or to be delivered to another, without the other person's knowledge or consent.

(4) Reports or causes to be reported false information to a law enforcement authority implicating another in some criminal activity, knowing that the information is false, or reports the alleged occurrence of a criminal act, knowing the act did not occur.

(5) Disseminates, publishes, distributes, posts, or causes to be disseminated, published, distributed, or posted a visual depiction as defined in section 728.1 showing another person in a state of full or partial nudity or engaged in a sex act, to which the other person has not consented to the dissemination, publication, distribution, or posting. Notwithstanding subsection 5, a person eighteen years of age or older who commits a violation of this subparagraph shall be required to register as a sex offender pursuant to the provisions of chapter 692A. For purposes of this section, "*another person*" includes an individual, recognizable by the person's face, likeness, or other distinguishing features, whose image is used to create, adapt, or modify a visual depiction to depict that other person in a manner as described in this subparagraph.

b. A person commits harassment when the person, purposefully and without legitimate purpose, has personal contact with another person, with the intent to threaten, intimidate, or alarm that other person.

c. A person commits harassment when the person communicates a true threat, including an intent to cause bodily injury to a public official, as defined in section 68B.2, and the public official becomes aware of such communication within one year of the threat.

2. *a.* A person commits harassment in the first degree when the person commits harassment involving any of the following:

(1) A threat to commit a forcible felony.

(2) A violation of subsection 1, paragraph "*a*", subparagraph (5).

(3) Commits harassment and has previously been convicted of harassment three or more times under this section or any similar statute during the preceding ten years.

(4) Harassment that occurs against another person who is lawfully in a place of public accommodation as defined in section 216.2.

b. Harassment in the first degree is an aggravated misdemeanor.

3. *a.* A person commits harassment in the second degree when the person commits harassment involving a threat to commit bodily injury, or commits harassment and has previously been convicted of harassment two times under this section or any similar statute during the preceding ten years.

b. Harassment in the second degree is a serious misdemeanor.

4. *a.* Any other act of harassment is harassment in the third degree.

b. Harassment in the third degree is a simple misdemeanor.

5. For purposes of determining whether or not the person should register as a sex offender pursuant to the provisions of chapter 692A, the fact finder shall make a determination as provided in section 692A.126. However, the fact finder shall not make a determination as provided in section 692A.126 regarding a juvenile convicted of a violation of subsection 1, paragraph "*a*", subparagraph (5), and the juvenile shall not be required to register as a sex offender with regard to the violation.

6. The following do not constitute harassment under subsection 1, paragraph "*a*", subparagraph (5):

a. A photograph or film involving voluntary exposure by a person in public or commercial settings.

b. Disclosures made in the public interest, including but not limited to the reporting

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of unlawful conduct, disclosures by law enforcement, news reporting, legal proceeding disclosures, or medical treatment disclosures.

c. Disclosures by an interactive computer service of information provided by another information content provider, as those terms are defined in 47 U.S.C. §230.

7. A person injured by a violation of subsection 1, paragraph *"a"*, subparagraph (4), may bring a civil action against the person whose conduct violated subsection 1, paragraph *"a"*, subparagraph (4).

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

a. "Full or partial nudity" means the showing of any part of the human genitals or pubic area or buttocks, or any part of the nipple of the breast of a female, with less than fully opaque covering.

b. "Personal contact" means an encounter in which two or more people are in visual or physical proximity to each other. *"Personal contact"* does not require a physical touching or oral communication, although it may include these types of contacts.

c. "Photographs or films" means the making of any photograph, motion picture film, videotape, or any other recording or transmission of the image of a person.

d. "Sex act" means the same as defined in section 702.17.

[C71, 73, 75, 77, §714.37, 714.42; C79, 81, §708.7; 82 Acts, ch 1209, §19]

83 Acts, ch 96, §157, 159; 86 Acts, ch 1238, §28; 87 Acts, ch 13, §4; 89 Acts, ch 226, §1; 94 Acts, ch 1093, §3; 2000 Acts, ch 1132, §3; 2009 Acts, ch 119, §53; 2017 Acts, ch 117, §2; 2021 Acts, ch 101, §1; 2021 Acts, ch 183, §41, 43; 2022 Acts, ch 1032, §106, 111; 2024 Acts, ch 1065, §3; 2026 Acts, ch 1077, §9

Referred to in §232.8, 664A.2, 692A.102, 692A.126, 720.4, 720.7, 901C.3
Harassment with intent to interfere with official judicial acts, see §720.7
Subsection 1, NEW paragraph c

708.8 Going armed with intent.

A person who goes armed with any dangerous weapon with the intent to use without justification such weapon against the person of another commits a class "D" felony. The intent required for a violation of this section shall not be inferred from the mere carrying or concealment of any dangerous weapon itself, including the carrying of a loaded firearm, whether in a vehicle or on or about a person's body.

[C35, §12935-g1; C39, §**12935.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §695.1; C79, 81, §708.8]

2017 Acts, ch 69, §4

Referred to in §80A.4, 708.2, 708.2A, 708.2D, 723A.1, 724.4

708.9 Spring guns and traps.

Any person who in any place sets a spring gun or a trap which is intended to be sprung by a person and which can cause such person serious injury commits an aggravated misdemeanor.

[C79, 81, §708.9]

Referred to in §80A.4

708.10 Hazing.

1. *a.* A person commits an act of hazing when the person intentionally or recklessly engages in any act or acts involving forced activity which endanger the physical health or safety of a student for the purpose of initiation or admission into, or affiliation with, any organization operating in connection with a school, college, or university. Prohibited acts include, but are not limited to, any brutality of a physical nature such as whipping, forced confinement, or any other forced activity which endangers the physical health or safety of the student.

b. For purposes of this section, *"forced activity"* means any activity which is a condition of initiation or admission into, or affiliation with, an organization, regardless of a student's willingness to participate in the activity.

2. A person who commits an act of hazing is guilty of a simple misdemeanor.

3. A person who commits an act of hazing which causes serious bodily injury to another is guilty of a serious misdemeanor.

89 Acts, ch 41, §1

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708.11 Stalking.

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

a. "Accompanying offense" means any public offense committed as part of the course of conduct engaged in while committing the offense of stalking.

b. "Course of conduct" means repeatedly maintaining a visual or physical proximity to a person without legitimate purpose, repeatedly utilizing a technological device to locate, listen to, or watch a person without authorization or legitimate purpose, or repeatedly conveying oral or written threats, threats implied by conduct, or a combination thereof, directed at or toward a person.

c. "Immediate family member" means a spouse, parent, child, sibling, or any other person who regularly resides in the household of a specific person, or who within the prior six months regularly resided in the household of a specific person.

d. "Repeatedly" means on two or more occasions.

e. "Technological device" means any computer, cellular phone, smartphone, digital camera, video camera, audio recording device, global positioning device, or other electronic device that can be used for creating, storing, or transmitting information in the form of electronic data.

2. A person commits stalking when all of the following occur:

a. The person purposefully engages in a course of conduct directed at a specific person that would cause a reasonable person to feel terrorized, frightened, intimidated, or threatened or to fear that the person intends to cause bodily injury to, or the death of, that specific person or a member of the specific person's immediate family.

b. The person has knowledge or should have knowledge that a reasonable person would feel terrorized, frightened, intimidated, or threatened or fear that the person intends to cause bodily injury to, or the death of, that specific person or a member of the specific person's immediate family by the course of conduct.

3. *a.* A person who commits stalking in violation of this section commits a class "C" felony if any of the following apply:

(1) The person commits stalking while subject to restrictions contained in a criminal or civil protective order or injunction, or any other court order which prohibits contact between the person and the victim, or while subject to restrictions contained in a criminal or civil protective order or injunction, or any other court order which prohibits contact between the person and another person against whom the person has committed a public offense.

(2) The person commits stalking while in possession of a dangerous weapon, as defined in section 702.7.

(3) The person commits stalking by directing a course of conduct at a specific person who is under eighteen years of age.

(4) The person utilizes a technological device while committing stalking.

(5) For a third or subsequent offense.

b. A person who commits stalking in violation of this section commits a class "D" felony if the offense is a second offense which is not included in paragraph "*a*".

c. A person who commits stalking in violation of this section commits an aggravated misdemeanor if the offense is a first offense which is not included in paragraph "*a*".

4. Violations of this section and accompanying offenses shall be considered prior offenses for the purpose of determining whether an offense is a second or subsequent offense. A conviction for, deferred judgment for, or plea of guilty to a violation of this section or an accompanying offense which occurred at any time prior to the date of the violation charged shall be considered in determining that the violation charged is a second or subsequent offense. Deferred judgments pursuant to section 907.3 for violations of this section or accompanying offenses and convictions or the equivalent of deferred judgments for violations in any other states under statutes substantially corresponding to this section or accompanying offenses shall be counted as previous offenses. The courts shall judicially notice the statutes of other states which define offenses substantially equivalent to the offenses defined in this section and its accompanying offenses and can therefore be considered corresponding statutes. Each previous violation of this section or an accompanying offense on which conviction or deferral of judgment was entered prior to the

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date of the violation charged shall be considered and counted as a separate previous offense. In addition, however, accompanying offenses committed as part of the course of conduct engaged in while committing the violation of stalking charged shall be considered prior offenses for the purpose of that violation, even though the accompanying offenses occurred at approximately the same time. An offense shall be considered a second or subsequent offense regardless of whether it was committed upon the same person who was the victim of any other previous offense.

5. Notwithstanding section 804.1, rule of criminal procedure 2.7, Iowa court rules, or any other provision of law to the contrary, upon the filing of a complaint and a finding of probable cause to believe an offense has been committed in violation of this section, or after the filing of an indictment or information alleging a violation of this section, the court shall issue an arrest warrant, rather than a citation or summons. A peace officer shall not issue a citation in lieu of arrest for a violation of this section. Notwithstanding section 804.21 or any other provision of law to the contrary, a person arrested for stalking shall be immediately taken into custody and shall not be released pursuant to pretrial release guidelines, a bond schedule, or any similar device, until after the initial appearance before a magistrate. In establishing the conditions of release, the magistrate may consider the defendant's prior criminal history, in addition to the other factors provided in section 811.2.

6. For purposes of determining whether or not the person should register as a sex offender pursuant to the provisions of chapter 692A, the fact finder shall make a determination as provided in section 692A.126.

92 Acts, ch 1179, §1; 94 Acts, ch 1093, §4; 98 Acts, ch 1021, §4; 2002 Acts, ch 1119, §106; 2009 Acts, ch 119, §54; 2017 Acts, ch 83, §2, 3; 2023 Acts, ch 74, §11 – 13

Referred to in §9E.2, 664A.2, 692.22, 692A.102, 692A.126, 805.1, 811.1, 901C.3, 911.2B

708.11A Unauthorized placement of global positioning device.

1. A person commits unauthorized placement of a global positioning device when the person, without the consent of the other person, places a global positioning device on the other person or an object in order to track the movements of the other person without a legitimate purpose.

2. A person who commits a violation of this section commits a serious misdemeanor.

2017 Acts, ch 83, §4

708.12 Removal of an officer's communication or control device.

1. As used in this section, "*officer*" means peace officer as defined in section 724.2A or a correctional officer.

2. A person who knowingly or intentionally removes or attempts to remove a communication device or any device used for control from the possession of an officer, when the officer is in the performance of any act which is within the scope of the lawful duty or authority of that officer and the person knew or should have known the individual to be an officer, commits the offense of removal of an officer's communication or control device.

3. *a.* A person who removes or attempts to remove an officer's communication or control device is guilty of a simple misdemeanor.

b. A person who knowingly or intentionally removes or attempts to remove a communication or control device from the possession of an officer with the intent to interfere with the communications or duties of the officer, is guilty of a serious misdemeanor.

c. If a violation of paragraph "*a*" results in bodily injury to the officer the person is guilty of a serious misdemeanor.

d. If a violation of paragraph "*a*" results in serious injury to the officer the person is guilty of an aggravated misdemeanor.

e. If a violation of paragraph "*a*" occurs and the person knowingly or intentionally causes bodily injury to the officer the person is guilty of an aggravated misdemeanor.

f. If a violation of paragraph "*a*" occurs and the person knowingly or intentionally causes serious injury to the officer the person is guilty of a class "D" felony.

2013 Acts, ch 52, §2

Referred to in §702.11, 901C.3

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708.13 Disarming a peace officer of a dangerous weapon.

1. A person who knowingly or intentionally removes or attempts to remove a dangerous weapon, as defined in section 702.7, from the possession of a peace officer, as defined in section 724.2A, when the officer is in the performance of any act which is within the scope of the lawful duty or authority of that officer and the person knew or should have known the individual to be a peace officer, commits the offense of disarming a peace officer.

2. A person who disarms or attempts to disarm a peace officer is guilty of a class "D" felony.

3. A person who discharges the dangerous weapon while disarming or attempting to disarm the peace officer commits a class "C" felony.

99 Acts, ch 44, §1

708.14 Abuse of a corpse.

1. A person commits abuse of a human corpse if the person does any of the following:

a. Mutilates, disfigures, or dismembers a human corpse with the intent to conceal a crime.

b. Hides or buries a human corpse with the intent to conceal a crime.

c. Fails to disclose the known location of a corpse with the intent to conceal a crime.

2. A person who violates this section commits a class "C" felony.

2010 Acts, ch 1074, §3; 2021 Acts, ch 91, §1; 2021 Acts, ch 173, §1

708.15 Sexual motivation.

A person convicted of any indictable offense under this chapter shall be required to register as a sex offender pursuant to the provisions of chapter 692A, if the offense was committed against a minor and the fact finder makes a determination that the offense was sexually motivated pursuant to section 692A.126.

2010 Acts, ch 1104, §15, 23

708.16 Female genital mutilation.

1. Except as otherwise provided in subsection 2, a person who knowingly circumcises, excises, or infibulates, in whole or in part, the labia majora, labia minora, or clitoris of a minor commits a class "D" felony.

2. A surgical procedure is not a violation of subsection 1 if the procedure is performed by a medical professional who holds a current license in this state necessary to perform the surgical procedure under any of the following circumstances:

a. When necessary to protect the health of the minor on whom the procedure is performed.

b. When performed on a minor who is in labor or who has just given birth and is performed for medical purposes connected with that labor or birth.

3. In determining whether a surgical procedure performed pursuant to subsection 2, paragraph *"a"*, is a violation of subsection 1, consideration shall not be given to any belief the minor or any other person holds that the surgical procedure is required based on custom or ritual.

4. A person who knowingly transports a minor within or outside of this state for the purpose of performing a procedure that would be a violation of subsection 1 if the procedure occurred in this state, commits a class "D" felony.

2019 Acts, ch 47, §1

708.17 Threatening a member of the general assembly, a judicial officer, or an immediate family member of a member of the general assembly or a judicial officer.

1. No person shall threaten a member of the general assembly, a judicial officer, or an immediate family member of a member of the general assembly or judicial officer with the intent to do any of the following:

a. Place the general assembly member or a judicial officer or the immediate family member of a general assembly member or judicial officer in fear of serious injury to the general assembly member or judicial officer or the immediate family member of the general assembly member or judicial officer.

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b. Prevent or interrupt the ability of the general assembly member or judicial officer to carry out the general assembly member's or judicial officer's job duties.

c. Retaliate against a general assembly member or a judicial officer in relation to the performance of the general assembly member's or judicial officer's official duties during the general assembly member's or judicial officer's term of service.

2. A person who violates the provisions of this section is guilty of a class "C" felony.

3. As used in this section:

a. "Immediate family member" means a spouse, child, sibling, parent, grandparent, or grandchild, and includes a stepparent, a stepchild, a stepsibling, or an adoptive relationship.

b. "Judicial officer" means the same as defined in section 602.1101.

c. "Retaliate" means intentionally threatening bodily injury to or damage to the property of a general assembly member or a judicial officer with intent to retaliate against the general assembly member for the general assembly member's exercise of legislative duties or judicial officer for the judicial officer's exercise of judicial duties and causing the general assembly member, judicial officer, or the family member to reasonably believe that the general assembly member's, the judicial officer's, or the family member's person or property is in danger.

2026 Acts, ch 1077, §7
NEW section

708.18 Malicious sharing of personal information of a general assembly member or a judicial officer or an immediate family member of a general assembly member or a judicial officer.

1. No person shall share the personal information of a general assembly member or judicial officer or the immediate family member of a general assembly member or a judicial officer with the intent to do any of the following:

a. Cause harm to the general assembly member or judicial officer or the immediate family member of a general assembly member or a judicial officer.

b. Place the general assembly member or judicial officer or the immediate family member of a general assembly member or a judicial officer in fear of serious harm to the general assembly member or judicial officer or to an immediate family member of the general assembly member or judicial officer.

c. Prevent or interrupt the ability to carry out the general assembly member's or judicial officer's job duties.

2. A person who violates the provisions of this section is guilty of a serious misdemeanor.

3. As used in this section:

a. "Immediate family member" means a spouse, child, sibling, parent, grandparent, or grandchild, and includes a stepparent, a stepchild, a stepsibling, or an adoptive relationship.

b. "Judicial officer" means the same as defined in section 602.1101.

c. "Personal information" means a person's personal physical address, personal phone number, or physical location.

2026 Acts, ch 1077, §8
NEW section

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CHAPTER 708A

TERRORISM

Referred to in §135B.34, 135C.33, 152.5A, 331.307, 364.22, 701.1, 718.6

708A.1 Definitions.
708A.2 Terrorism.
708A.3 Value for purposes of material support and resources.
708A.4 Soliciting or providing material support or resources for terrorism.
708A.5 Threat of terrorism.
708A.6 Obstruction of terrorism prosecution.

708A.1 Definitions.

For purposes of this chapter:

1. *"Material support or resources"* means knowingly assisting or providing money, financial securities, financial services, lodging, training, safe houses, false documentation or identification, communication equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials, for the purpose of assisting a person in the commission of an act of terrorism.

2. *"Renders criminal assistance"* means a person who, with intent to prevent the apprehension or obstruct the prosecution or defense of any person, knowingly does any of the following acts:

a. Destroys, alters, conceals, or disguises physical evidence which would be admissible in the trial of another for a public offense, or makes available false evidence or furnishes false information with the intent that it be used in the trial of that case.

b. Induces a witness having knowledge material to the subject at issue to leave the state or hide, or to fail to appear when subpoenaed.

c. Provides concealment or warns of impending apprehension to any person being sought for the subject at issue.

d. Provides a weapon, disguise, transportation, or money to any person being sought for the subject at issue.

e. Prevents or obstructs, by means of force, intimidation, or deception, another person from performing an act which might aid in the apprehension or prosecution or defense of any person.

3. *"Terrorism"* means an act intended to intimidate or coerce a civilian population, or to influence the policy of a unit of government by intimidation or coercion, or to affect the conduct of a unit of government, by shooting, throwing, launching, discharging, or otherwise using a dangerous weapon at, into, or in a building, vehicle, airplane, railroad engine, railroad car, or boat, occupied by another person, or within an assembly of people. The terms *"intimidate"*, *"coerce"*, *"intimidation"*, and *"coercion"*, as used in this definition, are not to be construed to prohibit picketing, public demonstrations, and similar forms of expressing ideas or views regarding legitimate matters of public interest protected by the United States and Iowa Constitutions.

2002 Acts, ch 1075, §2
Referred to in §707.2

708A.2 Terrorism.

A person who commits or attempts to commit an act of terrorism commits a class "B" felony. However, notwithstanding section 902.9, subsection 1, paragraph *"b"*, the maximum sentence for a person convicted under this section shall be a period of confinement of not more than fifty years.

2002 Acts, ch 1075, §3; 2013 Acts, ch 30, §250
See also §707.2(1)(f)

708A.3 Value for purposes of material support and resources.

1. The value of property or services is its highest value by any reasonable standard at the time the material support or resources is given. Any reasonable standard includes but is not limited to market value within the community, actual value, or replacement value.

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2. If credit, property, or services are obtained by two or more acts from the same person or location, or from different persons by two or more acts which occur in approximately the same location or time period so that the material support or resources are attributable to a single scheme, plan, or conspiracy, the acts may be considered as a single act of support or resources and the value may be the total value of all credit, property, and services involved.

2002 Acts, ch 1075, §4; 2018 Acts, ch 1041, §127

708A.4 Soliciting or providing material support or resources for terrorism.

1. A person who provides material support or resources to a person who commits or attempts to commit terrorism and the value of the material support or resources is in excess of one thousand dollars commits a class "B" felony.

2. A person who provides material support or resources to a person who commits or attempts to commit terrorism and the value of the material support or resources does not exceed one thousand dollars commits a class "C" felony.

2002 Acts, ch 1075, §5

708A.5 Threat of terrorism.

A person who threatens to commit terrorism or threatens to cause terrorism to be committed and who causes a reasonable expectation or fear of the imminent commission of such an act of terrorism commits a class "D" felony.

2002 Acts, ch 1075, §6

708A.6 Obstruction of terrorism prosecution.

1. A person who renders criminal assistance to another person who commits terrorism that results in the murder of a third person while knowing that the other person was engaged in terrorism commits a class "B" felony.

2. A person who renders criminal assistance to another person who commits terrorism while knowing that the other person was engaged in an act of terrorism commits a class "C" felony.

2002 Acts, ch 1075, §7

CHAPTER 708B

BIOLOGICAL AGENTS OR DISEASES

Referred to in §331.307, 364.22, 701.1, 718.6

708B.1 Anthrax.

708B.1 Anthrax.

1. *Unlawful possession.* Any person who knowingly possesses bacillus anthracis or any substance containing bacillus anthracis is guilty of a class "C" felony.

2. *Unlawful distribution.* Any person who knowingly distributes bacillus anthracis or any substance containing bacillus anthracis to any other person, which may or may not cause exposure to bacillus anthracis, is guilty of a class "B" felony.

3. *Exceptions.* This section shall not apply to a person who possesses or distributes bacillus anthracis or any substance containing bacillus anthracis which is being used solely for a purpose which is lawfully authorized under federal law.

2002 Acts, ch 1092, §1
C2003, §126.24
2003 Acts, ch 44, §115
CS2003, §708B.1

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CHAPTER 709

SEXUAL ABUSE

Referred to in §9E.2, 135B.34, 135C.33, 135L.3, 152.5A, 229A.2, 232.68, 232.82, 232.83, 232E.1, 235B.2, 235E.1, 235F.1, 236A.2, 236A.18, 256.146, 331.307, 364.22, 633.535, 701.1, 701.11, 901A.1, 901A.2, 903B.1, 903B.2, 907.3, 911.2B, 915.35, 915.36, 915.37, 915.84

Sentencing restrictions for forcible felonies and mandatory reporters of child abuse, see §907.3

709.1 Sexual abuse defined.
709.1A Incapacitation.
709.2 Sexual abuse in the first degree.
709.3 Sexual abuse in the second degree.
709.4 Sexual abuse in the third degree.
709.4A Sexual abuse in the fourth degree — health care professionals.
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709.6 Jury instructions for offenses of sexual abuse.
709.7 Detention in brothel. Repealed by 2010 Acts, ch 1043, §3.
709.8 Lascivious acts with a child.
709.8A Grooming.
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709.11 Assault with intent to commit sexual abuse.
709.12 Indecent contact with a child.
709.13 Child in need of assistance complaints.
709.14 Lascivious conduct with a minor.
709.15 Sexual exploitation by counselor, therapist, school employee, or adult providing training or instruction.
709.16 Sexual misconduct with offenders and juveniles.
709.17 Polygraph examinations of victims or witnesses — limitations. Repealed by 98 Acts, ch 1090, §80, 84.
709.18 Sexual abuse of a corpse.
709.19 No-contact order upon defendant's release from jail or prison.
709.20 Sexual abuse — no-contact order. Repealed by 2006 Acts, ch 1101, §21.
709.21 Invasion of privacy — nudity.
709.22 Prevention of further sexual assault — notification of rights.
709.23 Continuous sexual abuse of a child.

709.1 Sexual abuse defined.

Any sex act between persons is sexual abuse by either of the persons when the act is performed with the other person in any of the following circumstances:

1. The act is done by force or against the will of the other. If the consent or acquiescence of the other is procured by threats of violence toward any person or if the act is done while the other is under the influence of a drug inducing sleep or is otherwise in a state of unconsciousness, the act is done against the will of the other.

2. Such other person is suffering from a mental defect or incapacity which precludes giving consent, or lacks the mental capacity to know the right and wrong of conduct in sexual matters.

3. Such other person is a child.

[C51, §2581, 2583; R60, §4204, 4206; C73, §3861, 3863; C97, §4756, 4758; C24, 27, 31, 35, 39, §**12966, 12967;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §698.1, 698.3; C79, 81, §709.1]

84 Acts, ch 1188, §1; 99 Acts, ch 159, §1

Referred to in §152C.10, 232.116, 600A.8, 611.23, 614.1, 668.15, 692A.101, 692A.102, 713.3, 915.40

Definition of sex act, §702.17

709.1A Incapacitation.

As used in this chapter, *"incapacitated"* means a person is disabled or deprived of ability, as follows:

1. *"Mentally incapacitated"* means that a person is temporarily incapable of apprising or controlling the person's own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance.

2. *"Physically helpless"* means that a person is unable to communicate an unwillingness to act because the person is unconscious, asleep, or is otherwise physically limited.

3. *"Physically incapacitated"* means that a person has a bodily impairment or handicap that substantially limits the person's ability to resist or flee.

99 Acts, ch 159, §2

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709.2 Sexual abuse in the first degree.

1. A person commits sexual abuse in the first degree when in the course of committing sexual abuse the person causes another serious injury.

2. Sexual abuse in the first degree is a class "A" felony.

[C51, §2581; R60, §4204; C73, §3861; C97, §4756; C24, 27, 31, 35, 39, §**12966;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §698.1; C79, 81, §709.2]

2018 Acts, ch 1041, §127

Referred to in §321.375, 622.31B, 664A.2, 664A.3, 692A.101, 692A.102, 709.19, 903B.10
Definition of forcible felony, §702.11

709.3 Sexual abuse in the second degree.

1. A person commits sexual abuse in the second degree when the person commits sexual abuse under any of the following circumstances:

a. During the commission of sexual abuse the person displays in a threatening manner a dangerous weapon, or uses or threatens to use force creating a substantial risk of death or serious injury to any person.

b. The other person is a child.

c. The person is aided or abetted by one or more persons and the sex act is committed by force or against the will of the other person against whom the sex act is committed.

2. Sexual abuse in the second degree is a class "B" felony.

[C51, §2581; R60, §4204; C73, §3861; C97, §4756; C24, 27, 31, 35, 39, §**12966;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §698.1; C79, 81, §709.3]

84 Acts, ch 1188, §2; 99 Acts, ch 159, §3; 2013 Acts, ch 90, §228; 2021 Acts, ch 37, §3

Referred to in §321.375, 622.31B, 664A.2, 664A.3, 692A.101, 692A.102, 709.19, 709.23, 901A.2, 902.12, 902.14, 903B.10, 906.15
Definition of child, §702.5
Definition of forcible felony, §702.11
Definition of sex act, §702.17

709.4 Sexual abuse in the third degree.

1. A person commits sexual abuse in the third degree when the person performs a sex act under any of the following circumstances:

a. The act is done by force or against the will of the other person, whether or not the other person is the person's spouse or is cohabiting with the person.

b. The act is between persons who are not at the time cohabiting as husband and wife and if any of the following are true:

(1) The other person is suffering from a mental defect or incapacity which precludes giving consent.

(2) The other person is fourteen or fifteen years of age and any of the following are true:

(a) The person is a member of the same household as the other person.

(b) The person is related to the other person by blood or affinity to the fourth degree.

(c) The person is in a position of authority over the other person and uses that authority to coerce the other person to submit.

(d) The person is four or more years older than the other person.

c. The act is performed while the other person is under the influence of a controlled substance, which may include but is not limited to flunitrazepam, and all of the following are true:

(1) The controlled substance, which may include but is not limited to flunitrazepam, prevents the other person from consenting to the act.

(2) The person performing the act knows or reasonably should have known that the other person was under the influence of the controlled substance, which may include but is not limited to flunitrazepam.

d. The act is performed while the other person is mentally incapacitated, physically incapacitated, or physically helpless.

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2. Sexual abuse in the third degree is a class "C" felony.

[C51, §2581, 2583; R60, §4204, 4206; C73, §3861, 3863; C97, §4756, 4758; C24, 27, 31, 35, 39, §**12966, 12967;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §698.1, 698.3; C79, 81, §709.4]

89 Acts, ch 138, §3; 94 Acts, ch 1128, §1; 97 Acts, ch 78, §1; 99 Acts, ch 159, §4; 2013 Acts, ch 30, §201; 2021 Acts, ch 37, §4

Referred to in §272C.15, 321.375, 622.31B, 664A.2, 664A.3, 692A.101, 692A.102, 692A.121, 692A.128, 702.11, 709.19, 902.14, 903B.10, 906.15

Definition of forcible felony, see §702.11

Definition of sex act, see §702.17

709.4A Sexual abuse in the fourth degree — health care professionals.

1. A health care professional commits sexual abuse in the fourth degree when the health care professional uses or provides a patient with human reproductive material for assisted reproduction other than that to which the patient expressly consented in writing in violation of section 714I.3, subsection 2.

2. Sexual abuse in the fourth degree is an aggravated misdemeanor.

3. *a.* Notwithstanding subsection 2, sexual abuse in the fourth degree is a class "D" felony if the health care professional uses or provides the health care professional's own human reproductive material for assisted reproduction in violation of section 714I.3, subsection 2.

b. A parent-child relationship between a child and a health care professional is not created for any legal purpose when the child is born as the result of being conceived through commission of sexual abuse in the fourth degree as described in this subsection.

4. For the purposes of this section, *"assisted reproduction"*, *"gamete"*, *"health care professional"*, *"human reproductive material"*, and *"patient"* mean the same as defined in section 714I.2.

2022 Acts, ch 1123, §7

Referred to in §147.55, 692A.102

709.5 Resistance to sexual abuse.

Under the provisions of this chapter it shall not be necessary to establish physical resistance by a person in order to establish that an act of sexual abuse was committed by force or against the will of the person. However, the circumstances surrounding the commission of the act may be considered in determining whether or not the act was done by force or against the will of the other.

[C79, 81, §709.5]

99 Acts, ch 159, §5

709.6 Jury instructions for offenses of sexual abuse.

No instruction shall be given in a trial for sexual abuse cautioning the jury to use a different standard relating to a victim's testimony than that of any other witness to that offense or any other offense.

[C79, 81, §709.6]

709.7 Detention in brothel. Repealed by 2010 Acts, ch 1043, §3.

709.8 Lascivious acts with a child.

1. It is unlawful for any person sixteen years of age or older to perform any of the following acts with a child with or without the child's consent unless married to each other, for the purpose of arousing or satisfying the sexual desires of either of them:

a. Fondle or touch the pubes or genitals of a child.

b. Permit or cause a child to fondle or touch the person's genitals or pubes.

c. Cause the touching of the person's genitals to any part of the body of a child.

d. Solicit a child to engage in a sex act or solicit a person to arrange a sex act with a child.

e. Inflict pain or discomfort upon a child or permit a child to inflict pain or discomfort on the person.

2. *a.* Any person who violates a provision of this section involving an act included in subsection 1, paragraph "*a*" through "*c*", shall, upon conviction, be guilty of a class "C" felony.

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b. Any person who violates a provision of this section involving an act included in subsection 1, paragraph *"d"* or *"e"*, shall, upon conviction, be guilty of a class "D" felony.

[S13, §4938-a; C24, 27, 31, 35, 39, §**13184;** C46, 50, 54, 58, 62, 66, 71, 73, §725.2; C75, 77, §725.10; C79, 81, §709.8]

85 Acts, ch 181, §1; 96 Acts, ch 1062, §1; 2000 Acts, ch 1165, §1; 2005 Acts, ch 158, §35; 2013 Acts, ch 30, §202; 2013 Acts, ch 43, §2, 3

Referred to in §236A.7, 321.375, 692A.101, 692A.102, 692A.121, 709.12, 709.19, 802.2B, 902.14, 903B.10, 906.15, 907.3
Definition of sex act, §702.17

709.8A Grooming.

1. A person commits grooming when the person knowingly performs an act in person or by conduct through a third party, uses a computer, internet service, or any other electronic storage or transmission device, or uses written communication to seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice, a child or a person believed to be a child to commit any unlawful sex act or to otherwise engage in unlawful sexual conduct. As used in this section, *"child"* means a person under eighteen years of age.

2. Grooming is a class "D" felony.

2024 Acts, ch 1123, §1
Referred to in §236A.7, 692A.102

709.9 Indecent exposure — masturbation.

1. A person who exposes the person's genitals or pubic area to another not the person's spouse, or who commits a sex act in the presence of or view of a third person, commits a serious misdemeanor if all of the following apply:

a. The person does so to arouse or satisfy the sexual desires of either party.

b. The person knows or reasonably should know that the act is offensive to the viewer.

2. *a.* A person who masturbates in public in the presence of another, not a child, commits a serious misdemeanor.

b. A person who masturbates in public in the presence of a child commits an aggravated misdemeanor.

c. For the purpose of this subsection,*"masturbate"* means physical stimulation of a person's own genitals or pubic area for the purpose of sexual gratification or arousal of the person, regardless of whether the genitals or pubic area is exposed or covered.

[C79, 81, §709.9]

2020 Acts, ch 1039, §1
Referred to in §659A.2, 692A.102, 709.19
Definition of sex act, §702.17

709.10 Sexual abuse — evidence.

1. As used in this section:

a. "Forensic medical examination" means a sexual abuse examination by a health care provider for the purpose of gathering and preserving evidence of sexual abuse.

b. "Kit" means a sexual abuse evidence collection kit that includes a human biological specimen collected by a health care provider during a forensic medical examination.

c. "Kit tracking system" means the automated sexual abuse evidence collection kit tracking system established pursuant to section 915.53.

d. "Laboratory" means the state criminalistics laboratory or similar qualified laboratory.

e. "Law enforcement agency" means any governmental agency that investigates persons suspected of or charged with a sex abuse crime. *"Law enforcement agency"* also includes any governmental agency that collects, stores, processes, transmits, or disseminates analysis of evidence collected in connection with a sexual abuse related crime.

2. The manufacturer or distributor of a kit shall enter information relating to new, unused kits into the kit tracking system within five business days upon receipt of a kit. The manufacturer or distributor of a kit shall provide a health care provider with a new, unused kit upon request and shall document dissemination of each kit to a health care provider in the kit tracking system within forty-eight hours of dissemination to the health care provider.

3. A health care provider shall enter information relating to each new kit into the kit tracking system within forty-eight hours of receipt of the kit.

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4. When a reported victim of sexual abuse consents to undergo a forensic medical examination and to having the evidence from the examination preserved, the health care provider conducting the forensic medical examination shall utilize a kit. The health care provider conducting the forensic medical examination shall contact the law enforcement agency under whose jurisdiction the sexual abuse offense occurred within forty-eight hours after the evidence was collected from a victim to notify the law enforcement agency to collect and store the kit. The health care provider shall document which law enforcement agency the kit is transferred to in the kit tracking system within forty-eight hours of collection of the evidence.

5. The law enforcement agency collecting the evidence shall obtain the kit from a health care provider and properly store the kit to ensure the chain of custody is complete and sufficient. The law enforcement agency shall document receipt of the kit from the health care provider in the kit tracking system within seventy-two hours of obtaining the kit.

6. The law enforcement agency shall store the kit in a clean, dry location for a minimum of twenty years, or in the case of a minor victim for the lifetime of the minor victim, even if the reported victim of sexual abuse has not filed a criminal complaint.

7. Prior to the disposal of a kit by a law enforcement agency, the law enforcement agency shall notify the reported victim in writing not fewer than sixty days before the intended date of disposal of the kit, the reason for disposal of the kit, and the options that remain available for retention and analysis of the kit, if any. The law enforcement agency shall obtain written approval from the appropriate county attorney and retain that approval in the victim's case file prior to disposal. Any kit disposed of shall be documented by a law enforcement agency in the kit tracking system within forty-eight hours of disposal. Upon written request of the reported victim, the law enforcement agency shall grant further preservation of the kit or its probative contents.

8. The law enforcement agency transferring a kit to a laboratory for analysis shall document the transfer of the kit in the kit tracking system within seventy-two hours of transferring the kit.

9. The laboratory shall document receipt of the kit in the kit tracking system within seventy-two hours of logging the kit into its evidence management system.

10. When an analysis of the evidence collected from a victim's forensic medical examination is complete, the laboratory shall enter the results of the analysis into the kit tracking system and return the kit to the appropriate law enforcement agency. The law enforcement agency shall document receipt of the kit within seventy-two hours of receipt and shall store the kit in accordance with this section.

11. *a.* A health care provider shall provide a victim of sexual abuse with a consent form created by the department of justice prior to a forensic medical examination. The consent form shall include information allowing the victim to document the victim's consent or refusal to the collection and storage of the evidence collected from the victim's forensic medical examination, to release such evidence to a laboratory for analysis, and to make a report to law enforcement. The consent form shall also include information that the victim is not required to participate in the criminal justice system; to participate in an interview with law enforcement; to undergo a forensic medical examination; or to allow an analysis of the evidence collected; that the victim may withdraw consent for the collection of the victim's evidence or an analysis of the evidence at any time; and that if the victim does not initially consent to make a report to a law enforcement agency or to allow an analysis of the evidence collected, the victim may choose to provide a report to a law enforcement agency or may consent to an analysis of the evidence at any time within the required kit retention period specified in subsection 6.

b. The consent form shall provide notice to the victim of the victim's statutory rights pursuant to section 709.22.

c. A copy of the victim's consent form shall be maintained by the health care provider in the victim's records and in the kit with the evidence collected.

d. A copy of the consent form shall be provided to the victim.

e. A copy of the consent form shall accompany the health care provider's billing statement for the health care provider's exam fee submitted to the crime victim assistance division of

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the department of justice. The health care provider shall submit a copy of the consent form to the crime victim assistance division of the department of justice even if there are no charges associated with the health care provider's examination.

12. The rights of a victim pursuant to chapter 915 attach when the victim consents to participate in an interview with law enforcement, to a forensic medical examination, and to allow an analysis of the evidence collected.

13. If a reported victim does not want the victim's name recorded on the kit, the kit shall be deemed an anonymous kit and a case number or the number assigned to the kit by the kit tracking system shall be used in place of the name of the reported victim and entered into the kit tracking system by the health care provider within forty-eight hours of receipt of the kit. An anonymous kit shall not be submitted for analysis until a victim has provided law enforcement with a criminal report and has consented to an analysis of the evidence collected from the victim's forensic medical examination. A law enforcement agency in possession of an anonymous kit may dispose of the kit thirty days after the fifteen-year retention period required under subsection 6.

14. A victim who initially chooses not to participate in an interview with a law enforcement agency may, at any point during the time period provided in subsection 6, contact the law enforcement agency to agree to an interview with the law enforcement agency and to consent to an analysis of the evidence collected from the victim's forensic medical examination.

15. A victim who decides to participate in the investigation of a reported sexual abuse or in a forensic medical examination may choose to cease participation at any time and shall not be compelled to continue participating in the investigation or a forensic medical examination. If the analysis of the evidence collected from a victim's forensic medical examination indicates a connection with another reported sexual abuse offense, the victim shall not be compelled to participate in the criminal or civil proceedings of the related case.

2004 Acts, ch 1055, §1; 2021 Acts, ch 107, §2; 2026 Acts, ch 1079, §7
Referred to in §709.22, 915.11, 915.41, 915.53
Subsections 6 and 7 amended

709.11 Assault with intent to commit sexual abuse.

Any person who commits an assault, as defined in section 708.1, with the intent to commit sexual abuse:

1. Is guilty of a class "C" felony if the person thereby causes serious injury to any person.
2. Is guilty of a class "D" felony if the person thereby causes any person a bodily injury other than a serious injury.
3. Is guilty of an aggravated misdemeanor if no injury results.

[81 Acts, ch 204, §6]
2013 Acts, ch 90, §229
Referred to in §232.22, 236A.7, 622.31B, 692A.101, 692A.102, 709.19, 802.2B, 903B.10
Serious injury, §702.18

709.12 Indecent contact with a child.

1. A person eighteen years of age or older is upon conviction guilty of an aggravated misdemeanor if the person commits any of the following acts with a child, not the person's spouse, with or without the child's consent, for the purpose of arousing or satisfying the sexual desires of either of them:

a. Fondle or touch the inner thigh, groin, buttock, anus, or breast of the child.

b. Touch the clothing covering the immediate area of the inner thigh, groin, buttock, anus, or breast of the child.

c. Solicit or permit a child to fondle or touch the inner thigh, groin, buttock, anus, or breast of the person.

d. Solicit a child to engage in any act prohibited under section 709.8, subsection 1, paragraph *"a"*, *"b"*, or *"e"*.

2. The provisions of this section shall also apply to a person sixteen or seventeen years

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of age who commits any of the enumerated acts with a child who is at least five years the person's junior, in which case the juvenile court shall have jurisdiction under chapter 232.

[81 Acts, ch 204, §7]

85 Acts, ch 181, §2; 88 Acts, ch 1252, §4; 2013 Acts, ch 30, §203

Referred to in §236A.7, 622.31B, 692A.102, 709.19, 802.2B, 903B.10

709.13 Child in need of assistance complaints.

During or following an investigation into allegations of violations of this chapter or of chapter 726 or 728 involving an alleged victim under the age of eighteen and an alleged offender who is not a person responsible for the care of the alleged victim, anyone with knowledge of the alleged offense may file a complaint pursuant to section 232.83 alleging the alleged victim to be a child in need of assistance as defined under section 232.2. In all cases, the complaint shall be filed by any peace officer with knowledge of the investigation when the peace officer has reason to believe that the alleged victim may require treatment as a result of the alleged offense and that the alleged victim's parent, guardian, or custodian will be unwilling or unable to provide the treatment.

88 Acts, ch 1252, §5; 2021 Acts, ch 80, §374

709.14 Lascivious conduct with a minor.

1. *a.* It is unlawful for a person eighteen years of age or older who is in a position of authority over a minor to force, persuade, or coerce that minor, with or without consent, to disrobe or partially disrobe for the purpose of arousing or satisfying the sexual desires of either of them.

b. A violation of this subsection is a serious misdemeanor.

2. For purposes of subsections 3 and 4, *"minor"* means a person fourteen or fifteen years of age.

3. *a.* It is unlawful for a person eighteen years of age or older who is in a position of authority over a minor to perform any of the following acts with that minor, with or without consent, for the purpose of arousing or satisfying the sexual desires of either of them:

(1) Fondle or touch the inner thigh, groin, buttock, anus, or breast of the minor.

(2) Touch the clothing covering the immediate area of the inner thigh, groin, buttock, anus, or breast of the minor.

(3) Solicit or permit the minor to fondle or touch the inner thigh, groin, buttock, anus, or breast of the person.

(4) Solicit the minor to engage in any act prohibited under subsection 4, paragraph *"a"*, subparagraph (1), (2), or (3).

b. A violation of this subsection is a serious misdemeanor.

4. *a.* It is unlawful for a person eighteen years of age or older who is in a position of authority over a minor to perform any of the following acts with that minor, with or without consent, for the purpose of arousing or satisfying the sexual desires of either of them:

(1) Fondle or touch the pubes or genitals of the minor.

(2) Permit or cause the minor to fondle or touch the person's genitals or pubes.

(3) Cause the touching of the person's genitals to any part of the body of the minor.

(4) Solicit the minor to engage in a sex act or solicit a person to arrange a sex act with the minor.

(5) Inflict pain or discomfort upon the minor or permit the minor to inflict pain or discomfort on the person.

b. A violation of this subsection is an aggravated misdemeanor.

89 Acts, ch 105, §2; 2018 Acts, ch 1041, §127; 2019 Acts, ch 114, §1

Referred to in §236A.7, 622.31B, 692A.102, 709.19, 802.2B, 903B.10

709.15 Sexual exploitation by counselor, therapist, school employee, or adult providing training or instruction.

1. As used in this section:

a. "Adult providing training or instruction" means an adult who is not a school employee who provides paid training or instruction to a minor outside of a school setting. For purposes

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of this paragraph, *"adult"* is a person age eighteen years or older who is four or more years older than the minor receiving training or instruction.

b. "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.

c. "Emotionally dependent" means that the nature of the patient's or client's or former patient's or client's emotional condition or the nature of the treatment provided by the counselor or therapist is such that the counselor or therapist knows or has reason to know that the patient or client or former patient or client is significantly impaired in the ability to withhold consent to sexual conduct, as described in subsection 2, by the counselor or therapist. For the purposes of subsection 2, a former patient or client is presumed to be emotionally dependent for one year following the termination of the provision of mental health services.

d. "Former patient or client" means a person who received mental health services from the counselor or therapist.

e. "Mental health service" means the treatment, assessment, or counseling of another person for a cognitive, behavioral, emotional, mental, or social dysfunction, including an intrapersonal or interpersonal dysfunction.

f. "Patient or client" means a person who receives mental health services from the counselor or therapist.

g. (1) *"School employee"* means any of the following, except as provided in subparagraph (2):

(a) A person who holds a license, certificate, or statement of professional recognition issued under chapter 256, subchapter VII, part 3.

(b) A person who holds an authorization issued under chapter 256, subchapter VII, part 3.

(c) A person employed by a school district full-time, part-time, or as a substitute.

(d) A person who performs services as a volunteer for a school district and who has direct supervisory authority over the student with whom the person engages in conduct prohibited under subsection 3, paragraph *"a"*.

(e) A person who provides services under a contract for such services to a school district and who has direct supervisory authority over the student with whom the person engages in conduct prohibited under subsection 3, paragraph *"a"*.

(f) A person employed by a community college full-time, part-time, or as a substitute who provides instruction to high school students under a sharing or concurrent enrollment program offered in accordance with section 257.11 or 261E.8.

(2) *"School employee"* does not include a student enrolled in the school district.

h. "Student" means a person who is currently enrolled in or attending a public or nonpublic elementary or secondary school, or who was a student enrolled in or who attended a public or nonpublic elementary or secondary school within thirty days of any violation of subsection 3.

2. *a.* Sexual exploitation by a counselor or therapist occurs when any of the following are found:

(1) A pattern or practice or scheme of conduct to engage in any of the conduct described in subparagraph (2) or (3).

(2) Any sexual conduct with an emotionally dependent patient or client or emotionally dependent former patient or client for the purpose of arousing or satisfying the sexual desires of the counselor or therapist or the emotionally dependent patient or client or emotionally dependent former patient or client. Sexual conduct includes but is not limited to the following:

(a) Kissing.

(b) Touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals.

(c) A sex act as defined in section 702.17.

(3) Any sexual conduct with a patient or client or former patient or client within one year

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of the termination of the provision of mental health services by the counselor or therapist for the purpose of arousing or satisfying the sexual desires of the counselor or therapist or the patient or client or former patient or client. Sexual conduct includes but is not limited to the following:

(a) Kissing.

(b) Touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals.

(c) A sex act as defined in section 702.17.

b. Sexual exploitation by a counselor or therapist does not include touching which is part of a necessary examination or treatment provided a patient or client by a counselor or therapist acting within the scope of the practice or employment in which the counselor or therapist is engaged.

3. *a.* Sexual exploitation by a school employee occurs when any of the following are found:

(1) A pattern or practice or scheme of conduct to engage in any of the conduct described in subparagraph (2).

(2) Any sexual conduct with a student for the purpose of arousing or satisfying the sexual desires of the school employee or the student. Sexual conduct includes but is not limited to the following:

(a) Kissing.

(b) Touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals.

(c) A sex act as defined in section 702.17.

b. Sexual exploitation by a school employee does not include touching that is necessary in the performance of the school employee's duties while acting within the scope of employment.

c. The provisions of this subsection do not apply to a person who is employed by a school district attendance center if the student with whom the person engages in conduct prohibited under subsection 3, paragraph "*a*", is not enrolled in the same school district attendance center that employs the person, the person does not have direct supervisory authority over the student, and the person does not meet the requirements of subsection 1, paragraph "*g*", subparagraph (1), subparagraph division (a).

4. *a.* Sexual exploitation by an adult providing training or instruction occurs when any of the following are found:

(1) A pattern or practice or scheme of conduct to engage in any of the conduct described in subparagraph (2).

(2) Any sexual conduct with a minor for the purpose of arousing or satisfying the sexual desires of the adult providing training or instruction or of the minor. Sexual conduct includes but is not limited to the following:

(a) Kissing.

(b) Touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals.

(c) A sex act as defined in section 702.17.

b. Sexual exploitation by an adult providing training or instruction does not include touching that is necessary in the performance of the adult's duties while providing training or instruction.

c. This subsection only applies to an offense under paragraph "*a*", subparagraph (1), which occurs within the period of time the adult providing training or instruction is receiving payment for the training or instruction and to an offense under paragraph "*a*", subparagraph (2), which occurs within the period of time the adult providing training or instruction is receiving payment for the training or instruction or within thirty days after any such period of training or instruction.

5. *a.* A counselor or therapist who commits sexual exploitation in violation of subsection 2, paragraph "*a*", subparagraph (1), commits a class "D" felony.

b. A counselor or therapist who commits sexual exploitation in violation of subsection 2, paragraph "*a*", subparagraph (2), commits an aggravated misdemeanor.

c. A counselor or therapist who commits sexual exploitation in violation of subsection 2,

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paragraph *"a"*, subparagraph (3), commits a serious misdemeanor. In lieu of the sentence provided for under section 903.1, subsection 1, paragraph *"b"*, the offender may be required to attend a sexual abuser treatment program.

6. *a.* A school employee who commits sexual exploitation in violation of subsection 3, paragraph *"a"*, subparagraph (1), commits a class "D" felony.

b. A school employee who commits sexual exploitation in violation of subsection 3, paragraph *"a"*, subparagraph (2), commits an aggravated misdemeanor.

7. *a.* An adult providing training or instruction who commits sexual exploitation in violation of subsection 4, paragraph *"a"*, subparagraph (1), commits a class "D" felony.

b. An adult providing training or instruction who commits sexual exploitation in violation of subsection 4, paragraph *"a"*, subparagraph (2), commits an aggravated misdemeanor.

91 Acts, ch 130, §2; 92 Acts, ch 1163, §119; 92 Acts, ch 1199, §2 – 6; 2003 Acts, ch 180, §65; 2004 Acts, ch 1086, §102; 2013 Acts, ch 90, §230; 2014 Acts, ch 1114, §1, 2; 2016 Acts, ch 1066, §6; 2017 Acts, ch 127, §1, 2; 2019 Acts, ch 59, §225, 226; 2019 Acts, ch 164, §9; 2020 Acts, ch 1063, §374; 2021 Acts, ch 102, §5 – 7; 2022 Acts, ch 1032, §102; 2023 Acts, ch 19, §2601

Referred to in §236A.7, 256.146, 614.1, 622.31B, 692A.102, 702.11, 709.19, 802.2A, 903B.10

709.16 Sexual misconduct with offenders and juveniles.

1. Any peace officer, or an officer, employee, contractor, vendor, volunteer, or agent of the department of corrections, or an officer, employee, or agent of a judicial district department of correctional services, who engages in a sex act with an individual committed to the custody of the department of corrections or a judicial district department of correctional services commits an aggravated misdemeanor.

2. *a.* Any peace officer, or an officer, employee, contractor, vendor, volunteer, or agent of a juvenile placement facility who engages in a sex act with a juvenile placed at such facility commits an aggravated misdemeanor.

b. For purposes of this subsection, a *"juvenile placement facility"* means any of the following:

(1) A child foster care facility under chapter 237.

(2) Institutions controlled by the department of health and human services listed in section 218.1.

(3) Juvenile detention and juvenile shelter care homes approved under section 232.142.

(4) Psychiatric medical institutions for children licensed under chapter 135H.

(5) Facilities for the treatment of persons with a substance use disorder as defined in section 125.2.

3. Any peace officer, or an officer, employee, contractor, vendor, volunteer, or agent of a county who engages in a sex act with a prisoner incarcerated in a county jail commits an aggravated misdemeanor.

91 Acts, ch 219, §21; 98 Acts, ch 1094, §1; 2013 Acts, ch 30, §204; 2013 Acts, ch 90, §185; 2015 Acts, ch 46, §1; 2023 Acts, ch 19, §1302; 2025 Acts, ch 135, §36

Referred to in §622.31B, 692A.101, 692A.102, 709.19, 802.2B

709.17 Polygraph examinations of victims or witnesses — limitations. Repealed by 98 Acts, ch 1090, §80, 84. See §915.44.

709.18 Sexual abuse of a corpse.

1. A person commits sexual abuse of a human corpse if the person knowingly and intentionally engages in a sex act, as defined in section 702.17, with a human corpse.

2. A person who violates this section commits a class "D" felony.

96 Acts, ch 1006, §1; 2007 Acts, ch 91, §2; 2010 Acts, ch 1074, §4

Referred to in §692A.102

709.19 No-contact order upon defendant's release from jail or prison.

1. Upon the filing of an affidavit by a victim, or a parent or guardian on behalf of a minor who is a victim, of a crime that is a sexual offense in violation of section 709.2, 709.3, 709.4, 709.8, 709.9, 709.11, 709.12, 709.14, 709.15, or 709.16, that states that the presence of or contact with the defendant whose release from jail or prison is imminent or who has been

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released from jail or prison continues to pose a threat to the safety of the victim, persons residing with the victim, or members of the victim's immediate family, the court shall enter a temporary no-contact order which shall require the defendant to have no contact with the victim, persons residing with the victim, or members of the victim's immediate family.

2. A temporary restraining order issued under this section shall expire at such time as the court directs, not to exceed ten days from the date of issuance. The court, for good cause shown before expiration of the order, may extend the expiration date of the order for up to ten days, or for a longer period agreed to by the adverse party.

3. Upon motion of the party, the court shall issue a no-contact order which shall require the defendant to have no contact with the victim, persons residing with the victim, or members of the victim's immediate family if the court, after a hearing, finds by a preponderance of the evidence, that the defendant poses a threat to the safety of the victim, persons residing with the victim, or members of the victim's immediate family.

4. A no-contact order shall set forth the reasons for the issuance of the order, be specific in terms, and describe in reasonable detail the purpose of the order.

5. The court shall set the duration of the no-contact order for the period it determines is necessary to protect the safety of the victim, persons residing with the victim, or members of the victim's immediate family, but the duration shall not be set for a period in excess of one year from the date of the issuance of the order. The victim, at any time within ninety days before the expiration of the order, may apply for a new no-contact order under this section.

6. Violation of a no-contact order issued under this section constitutes contempt of court and may be punished by contempt proceedings.

2002 Acts, ch 1085, §1; 2003 Acts, ch 108, §113

No-contact orders, see chapter 664A

709.20 Sexual abuse — no-contact order. Repealed by 2006 Acts, ch 1101, §21. See §664A.3.

709.21 Invasion of privacy — nudity.

1. A person who knowingly views, photographs, or films another person, for the purpose of arousing or gratifying the sexual desire of any person, commits invasion of privacy if all of the following apply:

a. The other person does not consent or is unable to consent to being viewed, photographed, or filmed.

b. The other person is in a state of full or partial nudity.

c. The other person has a reasonable expectation of privacy while in a state of full or partial nudity.

2. As used in this section:

a. "Full or partial nudity" means the showing of any part of the human genitals or pubic area or buttocks, or any part of the nipple of the breast of a female, with less than fully opaque covering.

b. "Photographs or films" means the making of any photograph, motion picture film, videotape, or any other recording or transmission of the image of a person.

3. A person who violates this section commits an aggravated misdemeanor.

2004 Acts, ch 1099, §1; 2016 Acts, ch 1082, §2; 2016 Acts, ch 1138, §30; 2017 Acts, ch 117, §3

Referred to in §236A.7, 692A.102

709.22 Prevention of further sexual assault — notification of rights.

1. If a peace officer has reason to believe that a sexual assault as defined in section 915.40 has occurred, the officer shall use all reasonable means to prevent further violence including but not limited to the following:

a. If requested, remaining on the scene of the alleged sexual assault as long as there is a danger to the victim's physical safety without the presence of a peace officer, including but not limited to staying in the dwelling unit or residence when it is the scene of the alleged sexual assault, or if unable to remain on the scene, assisting the victim in leaving the scene.

b. Assisting a victim in obtaining medical treatment necessitated by the sexual assault,

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including providing assistance to the victim in obtaining transportation to the emergency room of the nearest hospital.

c. Providing a victim with immediate and adequate notice of the victim's rights. The notice shall consist of handing the victim a document that includes the telephone numbers of shelters, support groups, and crisis lines operating in the area and contains the following statement of rights written in English and Spanish; asking the victim to read the document; and asking whether the victim understands the rights:

[1] You have the right to ask the court for help with any of the following on a temporary basis:

[a] Keeping your attacker away from you, your home, and your place of work.

[b] The right to stay at your home without interference from your attacker.

[c] The right to seek a no-contact order under section 664A.3 or 915.22, if your attacker is arrested for sexual assault.

[2] You have the right to register as a victim with the county attorney under section 915.12.

[3] You have the right to file a complaint for threats, assaults, or other related crimes.

[4] You have the right to seek restitution against your attacker for harm to you or your property.

[5] You have the right to apply for victim compensation.

[6] You have the right to contact the county attorney or local law enforcement to determine the status of your case.

[7] If you are in need of medical treatment, you have the right to request that the officer present assist you in obtaining transportation to the nearest hospital or otherwise assist you.

[8] You have the right to a sexual assault examination performed at state expense. You have the right not to be prevented from receiving a sexual assault examination. If you choose to have a sexual assault examination:

[a] You have the right to have a sexual assault examination kit or its probative contents preserved, without charge, for twenty years, or in the case of a minor victim for the lifetime of the minor victim, even if you do not file a criminal complaint, pursuant to section 709.10, subsection 6.

[b] You have the right to be informed of any results of a sexual assault examination kit if such disclosure would not impede or compromise an ongoing investigation.

[c] You have the right to be informed of the status and location of a sexual assault examination kit.

[d] At least sixty days prior to the intended disposal of a sexual assault examination kit, you have the right to be notified in writing by a law enforcement agency of the intended disposal. This is so that you can make a written request for further preservation of the kit or its probative contents.

[e] In order to notify a victim, the law enforcement office that has custody of the sexual assault examination kit must verify the victim's physical address. A victim must notify the law enforcement office with custody of the sexual assault examination kit of any change to the victim's contact information.

[9] You have the right to request the presence of a victim counselor, as defined in section 915.20A, at any proceeding related to an assault including a medical examination.

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[10] If you believe that police protection is needed for your physical safety, you have the right to request that the officer present remain at the scene until you and other affected parties can leave or until safety is otherwise ensured.

2. A peace officer is not civilly or criminally liable for actions taken in good faith pursuant to this section.

2005 Acts, ch 158, §45; 2006 Acts, ch 1101, §15; 2008 Acts, ch 1068, §1; 2009 Acts, ch 133, §176, 177; 2018 Acts, ch 1026, §172; 2026 Acts, ch 1079, §8

Referred to in §709.10
Similar provisions, §235B.3A, 235E.3, 236.12, 236A.13
Subsection 1, paragraph c amended

709.23 Continuous sexual abuse of a child.

1. A person eighteen years of age or older commits continuous sexual abuse of a child when the person engages in any combination of three or more acts of sexual abuse with the same child, and at least thirty days have elapsed between the first and last acts of sexual abuse.

2. A person who commits continuous sexual abuse of a child is, upon conviction, guilty of a class "B" felony. Notwithstanding section 902.9, subsection 1, paragraph *"b"*, a person convicted of a violation of this section shall be confined for no more than fifty years.

3. If a jury is the trier of fact, members of the jury must unanimously agree that three or more acts of sexual abuse were committed with the same child and at least thirty days have elapsed between the first and last acts of sexual abuse. The jury does not need to unanimously agree which specific acts were committed or the exact date when those acts were committed.

4. Any other sexual abuse offense involving the same child shall not be charged in the same proceeding as a charge under this section unless the other sexual abuse offense occurred outside of the time period charged under this section or the other sexual abuse offense is charged in the alternative.

5. A person shall be charged with only one count under this section unless more than one child is involved in the offense. If more than one child is involved, a separate count may be charged for each child.

6. Each act of sexual abuse committed under section 709.3 shall be considered a lesser included offense to the crime of continuous sexual abuse of a child under this section.

2020 Acts, ch 1115, §4; 2020 Acts, ch 1121, §67, 70; 2023 Acts, ch 32, §1

Referred to in §236A.7, 622.31B, 692A.101, 692A.102, 902.12, 902.14, 903B.10

CHAPTER 709A

CONTRIBUTING TO JUVENILE DELINQUENCY

Referred to in §135B.34, 135C.33, 152.5A, 331.307, 364.22, 701.1

This chapter not enacted as a part of this title; transferred from chapter 233 in Code 1993

709A.1 Contributing to delinquency.
709A.2 Penalty — not a bar.
709A.3 Suspension of sentence.
709A.4 Preliminary examination.
709A.5 Interpretative clause.
709A.6 Using a juvenile to commit certain offenses.

709A.1 Contributing to delinquency.

It shall be unlawful:

1. To encourage any child under eighteen years of age to commit any act of delinquency defined in chapter 232.

2. To knowingly send, cause to be sent, or induce to go, any child under the age of eighteen to any of the following:

a. A brothel or other premises used for the purposes of prostitution, with the intent that the child engage the services of a prostitute.

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b. An unlicensed premises where alcoholic liquor, wine, or beer is unlawfully sold or kept for sale.

c. Any premises the use of which constitutes a violation of chapter 717A, or section 725.5 or 725.10.

3. To knowingly encourage, contribute, or in any manner cause such child to violate any law of this state, or any ordinance of any city.

4. To knowingly permit, encourage, or cause such child to be guilty of any vicious or immoral conduct.

5. For a parent willfully to fail to support the parent's child under eighteen years of age whom the parent has a legal obligation to support.

[C24, 27, 31, 35, 39, §**3658;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §233.1]
86 Acts, ch 1046, §1
C93, §709A.1
2004 Acts, ch 1056, §2, 10; 2004 Acts, ch 1175, §389
Referred to in §709A.2

709A.2 Penalty — not a bar.

A violation of section 709A.1 is a simple misdemeanor. A conviction does not bar a prosecution of the convicted person for an indictable offense when the acts which caused or contributed to the delinquency or dependency of the child are indictable.

[C24, 27, 31, 35, 39, §**3659;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §233.2]
84 Acts, ch 1219, §11
C93, §709A.2
See §709A.5, 725.3, 903.1, chapters 726, 728

709A.3 Suspension of sentence.

Upon said conviction being had, the court may, for a period not exceeding two years, suspend sentence under such conditions as to good behavior as it may prescribe. Should said conditions be fulfilled, the court may at any time enter an order setting said conviction aside and wholly releasing the defendant therefrom. Should said condition be not fulfilled to the satisfaction of the court, an order of sentence may at any time be entered which shall be effective from the date thereof.

[C24, 27, 31, 35, 39, §**3660;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §233.3]
C93, §709A.3

709A.4 Preliminary examination.

If, in proceedings in juvenile court, it appears probable that an indictable offense has been committed and that the commission thereof caused, or contributed to, the delinquency or dependency of such a child, said court may order the issuance of a warrant for the arrest of such suspected person, and on the appearance of such person said court may proceed to hold a preliminary examination, and in so doing shall exercise all the powers of a committing magistrate.

[C24, 27, 31, 35, 39, §**3661;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §233.4]
C93, §709A.4

709A.5 Interpretative clause.

For the purposes of this chapter the word *"dependency"* shall mean all the conditions as enumerated in section 232.96A.

[C31, 35, §3661-c1; C39, §**3661.001;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §233.5]
C93, §709A.5
2022 Acts, ch 1098, §89

709A.6 Using a juvenile to commit certain offenses.

1. As used in this section, unless the context otherwise requires, *"profit"* means a monetary gain, monetary advantage, or monetary benefit.

2. It is unlawful for a person to act with, enter into a common scheme or design with, conspire with, recruit or use a person under the age of eighteen, through threats, monetary

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payment, or other means, to commit an indictable offense for the profit of the person acting with, entering into the common scheme or design with, conspiring with, recruiting or using the juvenile. A person who violates this section commits a class "C" felony.

92 Acts, ch 1231, §34; 95 Acts, ch 191, §50

CHAPTER 709B

TESTS FOR CERTAIN SEXUAL OFFENDERS

Repealed effective January 1, 1999, by 98 Acts, ch 1090, §82, 84; see chapter 915

CHAPTER 709C

CRIMINAL TRANSMISSION OF HUMAN IMMUNODEFICIENCY VIRUS

Repealed by 2014 Acts, ch 1119, §9, 11; see chapter 709D

CHAPTER 709D

CONTAGIOUS OR INFECTIOUS DISEASE TRANSMISSION ACT

Referred to in §331.307, 364.22, 701.1

For provisions relating to testing of offenders and alleged criminal offenders, see §915.40 – 915.43

709D.1	Title.	709D.3	Criminal transmission of a contagious or infectious disease.
709D.2	Definitions.	709D.4	Additional remedies.

709D.1 Title.

This chapter shall be known and may be cited as the "*Contagious or Infectious Disease Transmission Act*".

2014 Acts, ch 1119, §1, 11

709D.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Contagious or infectious disease"* means hepatitis in any form, meningococcal disease, AIDS or HIV as defined in section 141A.1, or tuberculosis.

2. *"Exposes"* means engaging in conduct that poses a substantial risk of transmission.

3. *"Practical means to prevent transmission"* means substantial good-faith compliance with a treatment regimen prescribed by the person's health care provider, if applicable, and with behavioral recommendations of the person's health care provider or public health officials, which may include but are not limited to the use of a medically indicated respiratory mask or a prophylactic device, to measurably limit the risk of transmission of the contagious or infectious disease.

2014 Acts, ch 1119, §2, 11

709D.3 Criminal transmission of a contagious or infectious disease.

1. A person commits a class "B" felony when the person knows the person is infected with a contagious or infectious disease and exposes an uninfected person to the contagious or infectious disease with the intent that the uninfected person contract the contagious or

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infectious disease, and the conduct results in the uninfected person becoming infected with the contagious or infectious disease.

2. A person commits a class "D" felony when the person knows the person is infected with a contagious or infectious disease and exposes an uninfected person to the contagious or infectious disease with the intent that the uninfected person contract the contagious or infectious disease, but the conduct does not result in the uninfected person becoming infected with the contagious or infectious disease.

3. A person commits a class "D" felony when the person knows the person is infected with a contagious or infectious disease and exposes an uninfected person to the contagious or infectious disease acting with a reckless disregard as to whether the uninfected person contracts the contagious or infectious disease, and the conduct results in the uninfected person becoming infected with the contagious or infectious disease.

4. A person commits a serious misdemeanor when the person knows the person is infected with a contagious or infectious disease and exposes an uninfected person to the contagious or infectious disease acting with a reckless disregard as to whether the uninfected person contracts the contagious or infectious disease, but the conduct does not result in the uninfected person becoming infected with the contagious or infectious disease.

5. The act of becoming pregnant while infected with a contagious or infectious disease, continuing a pregnancy while infected with a contagious or infectious disease, or declining treatment for a contagious or infectious disease during pregnancy shall not constitute a crime under this chapter.

6. Evidence that a person knows the person is infected with a contagious or infectious disease and has engaged in conduct that exposes others to the contagious or infectious disease, regardless of the frequency of the conduct, is insufficient on its own to prove the intent to transmit the contagious or infectious disease.

7. A person does not act with the intent required pursuant to subsection 1 or 2, or with the reckless disregard required pursuant to subsection 3 or 4, if the person takes practical means to prevent transmission, or if the person informs the uninfected person that the person has a contagious or infectious disease and offers to take practical means to prevent transmission but that offer is rejected by the uninfected person subsequently exposed to the infectious or contagious disease.

8. It is an affirmative defense to a charge under this section if the person exposed to the contagious or infectious disease knew that the infected person was infected with the contagious or infectious disease at the time of the exposure and consented to exposure with that knowledge.

2014 Acts, ch 1119, §3, 11

709D.4 Additional remedies.

This chapter shall not be construed to preclude the use of any other civil or criminal remedy available relating to the transmission of a contagious or infectious disease.

2014 Acts, ch 1119, §4, 11

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CHAPTER 710

KIDNAPPING AND RELATED OFFENSES

Referred to in §135B.34, 135C.33, 152.5A, 331.307, 364.22, 633.535, 701.1

710.1 Kidnapping defined.
710.2 Kidnapping in the first degree.
710.3 Kidnapping in the second degree.
710.4 Kidnapping in the third degree.
710.5 Child stealing.
710.6 Violating custodial order.
710.7 False imprisonment.
710.8 Harboring a runaway child prohibited — penalty.
710.9 Civil liability for harboring a runaway child.
710.10 Enticing a minor.
710.11 Purchase or sale of individual.

710.1 Kidnapping defined.

A person commits kidnapping when the person either confines a person or removes a person from one place to another, knowing that the person who confines or removes the other person has neither the authority nor the consent of the other to do so; provided, that to constitute kidnapping the act must be accompanied by one or more of the following:

1. The intent to hold such person for ransom.
2. The intent to use such person as a shield or hostage.
3. The intent to inflict serious injury upon such person, or to subject the person to a sexual abuse.
4. The intent to secretly confine such person.
5. The intent to interfere with the performance of any government function.

[C51, §2588; R60, §4211; C73, §3869; C97, §4765; S13, §4750-b; C24, 27, 31, 35, 39, §**12981, 12983;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §706.1, 706.3; C79, 81, §710.1]

Referred to in §229A.2

710.2 Kidnapping in the first degree.

1. Kidnapping is kidnapping in the first degree when the person kidnapped, as a consequence of the kidnapping, suffers serious injury, or is intentionally subjected to torture or sexual abuse.
2. Kidnapping in the first degree is a class "A" felony.
3. For purposes of determining whether the person should register as a sex offender pursuant to the provisions of chapter 692A, the fact finder shall make a determination as provided in section 692A.126.

[C51, §2588; R60, §4211; C73, §3869; C97, §4765; C24, 27, 31, 35, 39, §**12981;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §706.1; C79, 81, §710.2]

2009 Acts, ch 119, §55; 2018 Acts, ch 1041, §127

Referred to in §671A.2, 692A.102, 692A.126

Definition of forcible felony, §702.11

710.3 Kidnapping in the second degree.

1. Kidnapping where the purpose is to hold the victim for ransom, where the kidnapper is armed with a dangerous weapon, or where the victim is under eighteen years of age other than a kidnapping by a parent or legal guardian whose sole purpose of the kidnapping is to assume custody of a victim under eighteen years of age, is kidnapping in the second degree.
2. Kidnapping in the second degree is a class "B" felony.
3. For purposes of determining whether the person should register as a sex offender pursuant to the provisions of chapter 692A, the fact finder shall make a determination as provided in section 692A.126.

[C51, §2588; R60, §4211; C73, §3869; C97, §4765; S13, §4750-b; C24, 27, 31, 35, 39, §**12981, 12983;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §706.1, 706.3; C79, 81, §710.3]

2009 Acts, ch 119, §56; 2018 Acts, ch 1041, §127; 2018 Acts, ch 1116, §1

Referred to in §692A.102, 692A.126, 902.12

Definition of forcible felony, §702.11

710.4 Kidnapping in the third degree.

1. All other kidnappings are kidnappings in the third degree.

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2. Kidnapping in the third degree is a class "C" felony.

3. For purposes of determining whether the person should register as a sex offender pursuant to the provisions of chapter 692A, the fact finder shall make a determination as provided in section 692A.126.

[C51, §2588; R60, §4211; C73, §3869; C97, §4765; C24, 27, 31, 35, 39, §**12981;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §706.1; C79, 81, §710.4]

2009 Acts, ch 119, §57; 2018 Acts, ch 1041, §127

Referred to in §692A.102, 692A.126

Definition of forcible felony, §702.11

710.5 Child stealing.

1. A person commits child stealing when, knowing that the person has no authority to do so, the person forcibly or fraudulently takes, decoys, or entices away any child with intent to detain or conceal such child from its parents or guardian, or other persons or institution having the lawful custody of such child, unless the person is a relative of such child, and the person's sole purpose is to assume custody of such child.

2. Child stealing is a class "C" felony.

3. For purposes of determining whether the person should register as a sex offender pursuant to the provisions of chapter 692A, the fact finder shall make a determination as provided in section 692A.126.

[S13, §254-a46; C24, 27, 31, 35, 39, §**12982;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §706.2; C79, 81, §710.5]

2009 Acts, ch 119, §58; 2013 Acts, ch 90, §186

Referred to in §692A.102, 692A.126

710.6 Violating custodial order.

1. A relative of a child who, acting in violation of an order of any court which fixes, permanently or temporarily, the custody or physical care of the child in another, takes and conceals the child, within or outside the state, from the person having lawful custody or physical care, commits a class "D" felony.

2. A parent of a child living apart from the other parent who conceals that child or causes that child's whereabouts to be unknown to a parent with visitation rights or parental time in violation of a court order granting visitation rights or parental time and without the other parent's consent, commits a serious misdemeanor.

[C79, 81, §710.6]

85 Acts, ch 132, §1; 86 Acts, ch 1145, §1; 2018 Acts, ch 1041, §127

710.7 False imprisonment.

A person commits false imprisonment when, having no reasonable belief that the person has any right or authority to do so, the person intentionally confines another against the other's will. A person is confined when the person's freedom to move about is substantially restricted by force, threat, or deception. False imprisonment is a serious misdemeanor.

[C79, 81, §710.7]

Referred to in §692A.102

710.8 Harboring a runaway child prohibited — penalty.

1. As used in this section and section 710.9 unless the context otherwise requires:

a. "Criminal act" means the violation of any federal or state law.

b. "Harbor" means to provide aid, support, or shelter.

c. "Runaway child" means a person under eighteen years of age who is voluntarily absent from the person's home without the consent of the person's parent, guardian, or custodian.

2. A person shall not harbor a runaway child with the intent of committing a criminal act involving the child or with the intent of enticing or forcing the runaway child to commit a criminal act.

3. A person shall not harbor a runaway child with the intent of allowing the runaway child to remain away from home against the wishes of the child's parent, guardian, or

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custodian. However, the provisions of this subsection do not apply to a shelter care home which is licensed or approved by the department of health and human services.

4. A person convicted of a violation of this section is guilty of an aggravated misdemeanor.

85 Acts, ch 183, §1; 96 Acts, ch 1219, §75; 2023 Acts, ch 19, §1303
Referred to in §710.9

710.9 Civil liability for harboring a runaway child.

A parent, guardian, or custodian of a runaway child has a right of action against a person who harbored the runaway child in violation of section 710.8 for expenses sustained in the search for the child, for damages sustained due to physical or emotional distress due to the absence of the child, and for punitive damages.

85 Acts, ch 183, §2
Referred to in §710.8

710.10 Enticing a minor.

1. A person commits a class "C" felony when, without authority and with the intent to commit sexual abuse or sexual exploitation upon a minor under the age of thirteen, the person entices or attempts to entice a person reasonably believed to be under the age of thirteen including a law enforcement officer or agent posing as a minor under the age of thirteen.

2. A person commits a class "D" felony when, without authority and with the intent to commit an illegal sex act upon or sexual exploitation of a minor under the age of sixteen, the person entices or attempts to entice a person reasonably believed to be under the age of sixteen including a law enforcement officer or agent posing as a minor under the age of sixteen.

3. A person commits a class "D" felony when, without authority and with the intent to commit an illegal act upon a minor under the age of sixteen, the person entices a person reasonably believed to be under the age of sixteen including a law enforcement officer or agent posing as a minor under the age of sixteen.

4. A person commits an aggravated misdemeanor when, without authority and with the intent to commit an illegal act upon a minor under the age of sixteen, the person attempts to entice a person reasonably believed to be under the age of sixteen including a law enforcement officer or agent posing as a minor under the age of sixteen. A person convicted under this subsection shall not be subject to the registration requirements under chapter 692A unless the finder of fact determines that the illegal act was sexually motivated.

5. A person shall not be convicted of a violation of this section unless the person commits an overt act evidencing a purpose to entice.

6. For purposes of determining jurisdiction under section 803.1, an offense is considered committed in this state if the communication to entice or attempt to entice a person believed to be a minor who is present in this state originates from another state, or the communication to entice or attempt to entice a person believed to be a minor is sent from this state.

7. For purposes of this section, methods of enticement include but are not limited to personal contact and communication by any means including through the mail, telephone, internet, or any social media, and include text messages, instant messages, and electronic mail.

85 Acts, ch 183, §3; 86 Acts, ch 1238, §29; 96 Acts, ch 1082, §2; 2001 Acts, ch 17, §3; 2010 Acts, ch 1129, §1; 2014 Acts, ch 1097, §5; 2023 Acts, ch 74, §1
Referred to in §256.146, 692A.102, 901A.1

710.11 Purchase or sale of individual.

A person commits a class "C" felony when the person purchases or sells or attempts to purchase or sell an individual to another person. This section does not apply to a surrogate mother arrangement. For purposes of this section, a *"surrogate mother arrangement"* means an arrangement whereby a female agrees to be artificially inseminated with the semen of a donor, to bear a child, and to relinquish all rights regarding that child to the donor or donor couple.

89 Acts, ch 116, §1
Referred to in §692A.102, 692A.126

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CHAPTER 710A

HUMAN TRAFFICKING

Referred to in §135B.34, 135C.33, 152.5A, 236A.7, 331.307, 364.22, 633.535, 701.1, 808B.3, 915.35, 915.37

710A.1	Definitions.	710A.4	Restitution — restorative expenses.
710A.2	Human trafficking.	710A.5	Certification.
710A.2A	Solicitation of commercial sexual activity.	710A.6	Outreach, public awareness, and training programs.
710A.2B	Premises used for human trafficking.	710A.7	Peace officer referral.
710A.3	Affirmative defense.		

710A.1 Definitions.

As used in this chapter:

1. *"Commercial sexual activity"* means any sex act or sexually explicit performance for which anything of value is given, promised to, or received by any person and includes, but is not limited to, prostitution, participation in the production of pornography, and performance in strip clubs.

2. *"Debt bondage"* means the status or condition of a debtor arising from a pledge of the debtor's personal services or a person under the control of a debtor's personal services as a security for debt if the reasonable value of such services is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

3. *"Forced labor or services"* means labor or services that are performed or provided by another person and that are obtained or maintained through any of the following:

a. Causing or threatening to cause serious physical injury to any person.

b. Physically restraining or threatening to physically restrain another person.

c. Abusing or threatening to abuse the law or legal process.

d. Knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported government identification of another person.

e. Knowingly providing or facilitating the provision of a forged, altered, or fraudulent license purportedly issued pursuant to chapter 152C or 157, or a forged, altered, or fraudulent government identification, to another person in order to force, coerce, entice, assist, facilitate, or permit the other person to perform labor or services.

f. Knowingly forcing, coercing, enticing, assisting, facilitating, or permitting another person in possession of a forged, altered, or fraudulent license purportedly issued pursuant to chapter 152C or 157, or a forged, altered, or fraudulent government identification, to produce such license or government identification to a peace officer upon request of the peace officer pursuant to section 152C.5B or 157.4A.

g. Knowingly forcing, coercing, intimidating, or compelling another person to perform an act in violation of state or federal law through the use of debt bondage or servitude or as a condition of being allowed to remain in the United States.

4. *a. "Human trafficking"* means recruiting, harboring, transporting, supplying provisions to, obtaining, patronizing, or soliciting a person for any of the following purposes:

(1) Forced labor or service that results in involuntary servitude, peonage, debt bondage, or slavery.

(2) Commercial sexual activity through the use of force, fraud, or coercion, except that if the trafficked person is under the age of eighteen, the commercial sexual activity need not involve force, fraud, or coercion.

b. "Human trafficking" also means knowingly purchasing or attempting to purchase services involving commercial sexual activity from a victim or another person engaged in human trafficking, or from a law enforcement officer or agent posing as a person engaged in human trafficking.

5. *"Involuntary servitude"* means a condition of servitude induced by means of any scheme, plan, or pattern intended to cause a person to believe that if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint or the threatened abuse of legal process.

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6. *"Labor"* means work of economic or financial value.

7. *"Maintain"* means, in relation to labor and services, to secure continued performance thereof, regardless of any initial agreement on the part of the victim to perform such type of services.

8. *"Obtain"* means, in relation to labor or services, to secure performance thereof.

9. *"Peonage"* means a status or condition of involuntary servitude based upon real or alleged indebtedness.

10. *"Services"* means performing activities under the supervision of or for the benefit of an actor, including commercial sexual activity and sexually explicit performances.

11. *"Sexually explicit performance"* means a live or public act or show intended to arouse or satisfy the sexual desires or appeal to the prurient interest of patrons.

12. *"Venture"* means any group of two or more persons associated in fact, whether or not a legal entity.

13. *"Victim"* means any of the following:

a. A person subjected to human trafficking.

b. A person who is identified as being subjected to or targeted for human trafficking.

c. A law enforcement officer or agent posing as a person subjected to or a target for human trafficking.

2006 Acts, ch 1074, §2; 2009 Acts, ch 19, §1; 2012 Acts, ch 1057, §2; 2021 Acts, ch 123, §5; 2025 Acts, ch 97, §1, 2; 2026 Acts, ch 1104, §7

Referred to in §80.45, 80.45A, 217.30, 232.68, 321.208, 668.15A, 915.51, 915.87

Subsection 4, paragraph a, unnumbered paragraph 1 amended

710A.2 Human trafficking.

1. A person who knowingly engages in human trafficking is guilty of a class "B" felony, except that if the victim is under the age of eighteen, the person is guilty of a class "A" felony.

2. A person who knowingly engages in human trafficking by causing or threatening to cause serious physical injury to another person is guilty of a class "A" felony.

3. A person who knowingly engages in human trafficking by physically restraining or threatening to physically restrain another person is guilty of a class "B" felony, except that if the victim is under the age of eighteen, the person is guilty of a class "A" felony.

4. A person who knowingly engages in human trafficking by soliciting services or benefiting from the services of a victim is guilty of a class "B" felony, except that if the victim is under the age of eighteen, the person is guilty of a class "A" felony.

5. A person who knowingly engages in human trafficking by abusing or threatening to abuse the law or legal process is guilty of a class "B" felony, except that if the victim is under the age of eighteen, the person is guilty of a class "A" felony.

6. A person who knowingly engages in human trafficking by knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported government identification of another person is guilty of a class "B" felony, except if that other person is under the age of eighteen, the person is guilty of a class "A" felony.

7. A person who benefits financially or by receiving anything of value from knowing participation in human trafficking is guilty of a class "B" felony, except that if the victim is under the age of eighteen, the person is guilty of a class "A" felony.

8. A person who knowingly engages in human trafficking by knowingly providing or facilitating the provision of a forged, altered, or fraudulent license purportedly issued pursuant to chapter 152C or 157, or a forged, altered, or fraudulent government identification to another person, to force, coerce, entice, assist, facilitate, or permit the other person to perform labor or services is guilty of a class "D" felony, except if that other person is under the age of eighteen, the person is guilty of a class "B" felony.

9. A person who knowingly engages in human trafficking by knowingly forcing, coercing, enticing, assisting, facilitating, or permitting another person in possession of a forged, altered, or fraudulent license purportedly issued pursuant to chapter 152C or 157, or a forged, altered, or fraudulent government identification, to produce such license or government identification upon request of a peace officer pursuant to section 152C.5B or

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157.4A, is guilty of a class "D" felony, except if that other person is under the age of eighteen, the person is guilty of a class "B" felony.

10. A person's ignorance of the age of the victim or a belief that the victim was older is not a defense to a violation of this section.

11. A person who is found guilty or who enters a plea of guilty to a violation of this chapter shall be ineligible for a license pursuant to chapter 152C or 157 for a period of not less than five years from the date of conviction, plea, judgment, or sentence.

12. A person who is sentenced under the provisions of this section shall not be eligible for a deferred judgment or a deferred or suspended sentence.

2006 Acts, ch 1074, §3; 2012 Acts, ch 1057, §3; 2013 Acts, ch 90, §187; 2021 Acts, ch 123, §6, 7; 2023 Acts, ch 87, §1

Referred to in §9E.2, 152C.5, 152C.10, 256.146, 692A.102, 710A.3, 710A.5, 802.2D, 902.12, 907.3, 911.2A, 911.2B, 915.94, 915.95

710A.2A Solicitation of commercial sexual activity.

A person shall not entice, coerce, or recruit, or attempt to entice, coerce, or recruit, either a person who is under the age of eighteen or a law enforcement officer or agent who is representing that the officer or agent is under the age of eighteen, to engage in a commercial sexual activity. A person who violates this section commits a class "D" felony.

2012 Acts, ch 1057, §4; 2013 Acts, ch 90, §188

Referred to in §692A.102, 710A.3

710A.2B Premises used for human trafficking.

1. A person who owns, rents, leases, or uses any part of a building, structure, boat, trailer, or other place offering shelter or seclusion, and who knows, or has reason to know, that the building, structure, boat, trailer, or other place offering shelter or seclusion is being used for the purposes of human trafficking, commits a class "D" felony.

2. It shall be an affirmative defense to a prosecution of a person pursuant to subsection 1, if immediately upon acquiring knowledge that the building, structure, boat, trailer, or other place offering shelter or seclusion is used for the purposes of human trafficking, the person notifies a law enforcement agency with jurisdiction and fully cooperates with any subsequent investigation.

3. *a.* If a law enforcement agency notifies a person who owns, rents, leases, or uses any part of a building, structure, boat, trailer, or other place offering shelter or seclusion of an investigation pursuant to chapter 152C or 157 that may involve the building, structure, boat, trailer, or other place offering shelter or seclusion, the person shall have an affirmative duty to fully cooperate with the investigation.

b. A person who fails to fully cooperate with an investigation pursuant to paragraph *"a"* commits a serious misdemeanor.

2021 Acts, ch 123, §8

Referred to in §710A.3

710A.3 Affirmative defense.

It shall be an affirmative defense, in addition to any other affirmative defenses for which a defendant may be eligible, to a prosecution for a criminal violation of section 152C.5B, 152C.5C, 157.4A, 157.4B, 710A.2, 710A.2A, or 710A.2B, that the violation directly resulted from the defendant's status as a victim of any human trafficking crime under chapter 710A.

2006 Acts, ch 1074, §4; 2021 Acts, ch 123, §9

710A.4 Restitution — restorative expenses.

1. For purposes of this section, *"restorative expenses"* means the projected costs of education, vocational training, medical health, mental health, transportation, housing, child care, or other projected costs that will aid in a victim's recovery.

2. The gross income of a defendant or the value of labor or services performed by a victim of the defendant shall be considered when determining restitution pursuant to chapter 910. For purposes of this section, restitution may include restorative expenses for a period not to exceed three years as approved and ordered by the court.

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3. A defendant's ability to pay shall not be a factor in the court's decision to order restorative expenses.

4. A defendant's obligation to pay court-ordered restorative expenses shall not be dischargeable in any proceeding under the federal Bankruptcy Act of 1898, as amended.

2006 Acts, ch 1074, §5; 2021 Acts, ch 123, §10

710A.5 Certification.

A law enforcement agency investigating a crime described in section 710A.2 shall notify the attorney general in writing about the investigation. Upon request of the attorney general, such law enforcement agency shall provide copies of any investigative reports describing the immigration status and cooperation of the victim. The attorney general shall certify in writing to the United States department of justice or other federal agency that an investigation or prosecution under this chapter has begun and that the person who is a likely victim of a crime described in section 710A.2 is willing to cooperate or is cooperating with the investigation to enable the person, if eligible under federal law, to qualify for an appropriate special immigrant visa and to access available federal benefits. Cooperation with law enforcement shall not be required of a minor victim of a crime described in section 710A.2. This certification shall be made available to the victim and the victim's designated legal representative.

2006 Acts, ch 1074, §6

710A.6 Outreach, public awareness, and training programs.

The crime victim assistance division of the department of justice, in cooperation with other governmental agencies and nongovernmental or community organizations, shall develop and conduct outreach, public awareness, and training programs for the general public, law enforcement agencies, first responders, potential victims, and persons conducting or regularly dealing with businesses or other ventures that have a high statistical incidence of debt bondage or forced labor or services. The programs shall train participants to recognize and report incidents of human trafficking and to suppress the demand that fosters exploitation of persons and leads to human trafficking.

2015 Acts, ch 138, §138, 161, 162

Referred to in §915.94

710A.7 Peace officer referral.

If during the course of an investigation or prosecution under this chapter a peace officer has reason to believe that a person who purports to be licensed pursuant to chapter 152C or 157 does not possess a valid license or is in violation of any other state or federal laws, the peace officer may report such noncompliance to the appropriate licensing board under the department of inspections, appeals, and licensing, and to the appropriate state or federal authorities.

2021 Acts, ch 123, §11; 2023 Acts, ch 19, §1705

CHAPTER 711

ROBBERY, AGGRAVATED THEFT, AND EXTORTION

Referred to in §135B.34, 135C.33, 152.5A, 331.307, 364.22, 701.1, 723A.1

711.1 Robbery defined.
711.2 Robbery in the first degree.
711.3 Robbery in the second degree.
711.3A Robbery in the third degree. Repealed by 2019 Acts, ch 140, §9.
711.3B Aggravated theft.
711.4 Extortion.
711.5 Chapter — application. Repealed by 2019 Acts, ch 140, §9.

711.1 Robbery defined.

1. A person commits a robbery when, having the intent to commit a theft, the person

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does any of the following acts to assist or further the commission of the intended theft or the person's escape from the scene thereof with or without the stolen property:

a. Commits an assault upon another.

b. Threatens another with or purposely puts another in fear of immediate serious injury.

c. Threatens to commit immediately any forcible felony.

2. It is immaterial to the question of guilt or innocence of robbery that property was or was not actually stolen.

[C51, §2578; R60, §4201; C73, §3858; C97, §4753; C24, 27, 31, 35, 39, §**13038;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §711.1]

2013 Acts, ch 30, §205

Definition of forcible felony, §702.11

711.2 Robbery in the first degree.

A person commits robbery in the first degree when, while perpetrating a robbery, the person purposely inflicts or attempts to inflict serious injury, or is armed with a dangerous weapon. Robbery in the first degree is a class "B" felony.

[C51, §2579; R60, §4202; C73, §3859; C97, §4754; C24, 27, 31, 35, 39, §**13039;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §711.2]

Referred to in §671A.2, 711.3B, 802.2F, 902.12

Definition of forcible felony, §702.11

711.3 Robbery in the second degree.

All robbery which is not robbery in the first degree is robbery in the second degree. Robbery in the second degree is a class "C" felony.

[C51, §2580; R60, §4203; C73, §3860; C97, §4755; C24, 27, 31, 35, 39, §**13040;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §711.3]

2016 Acts, ch 1104, §3; 2019 Acts, ch 140, §3

Referred to in §711.3B, 802.2G, 902.12

Definition of forcible felony, §702.11

711.3A Robbery in the third degree. Repealed by 2019 Acts, ch 140, §9.

711.3B Aggravated theft.

1. A person commits aggravated theft when the person commits an assault as defined in section 708.1, subsection 2, paragraph "*a*", that is punishable as a simple misdemeanor under section 708.2, subsection 7, after the person has removed or attempted to remove property not exceeding three hundred dollars in value which has not been purchased from a store or mercantile establishment, or has concealed such property of the store or mercantile establishment, either on the premises or outside the premises of the store or mercantile establishment.

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

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

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

a. A deferred judgment entered pursuant to section 907.3 for a violation of any offense specified in subsection 2 shall be counted as a previous offense.

b. A conviction or the equivalent of a deferred judgment for a violation in any other states under statutes substantially corresponding to an offense specified in subsection 2 shall be counted as a previous offense. The courts shall judicially notice the statutes of other states which define offenses substantially equivalent to the offenses specified in this section and can therefore be considered corresponding statutes.

4. Aggravated theft is not an included offense of robbery in the first or second degree.

2019 Acts, ch 140, §4

Referred to in §808.12

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711.4 Extortion.

1. A person commits extortion if the person does any of the following with the purpose of obtaining for oneself or another anything of value, tangible or intangible, including labor or services:

a. Threatens to inflict physical injury on some person, or to commit any public offense.

b. Threatens to accuse another of a public offense.

c. Threatens to expose any person to hatred, contempt, or ridicule.

d. Threatens to harm the credit or business or professional reputation of any person.

e. Threatens to take or withhold action as a public officer or employee, or to cause some public official or employee to take or withhold action.

f. Threatens to testify or provide information or to withhold testimony or information with respect to another's legal claim or defense.

g. Threatens to wrongfully injure the property of another.

2. Extortion is a class "D" felony.

3. It is a defense to a charge of extortion that the person making a threat other than a threat to commit a public offense, reasonably believed that the person had a right to make such threats in order to recover property, or to receive compensation for property or services, or to recover a debt to which the person has a good faith claim.

4. A person convicted of extortion under this section shall be required to register as a sex offender pursuant to the provisions of chapter 692A, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

[C51, §2590; R60, §4213; C73, §3871; C97, §4767; S13, §4767; C24, 27, 31, 35, 39, §**13164;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §720.1; C79, 81, §711.4]

2013 Acts, ch 90, §231; 2021 Acts, ch 89, §4

Referred to in §692A.102, 692A.126, 711.3B

711.5 Chapter — application. Repealed by 2019 Acts, ch 140, §9.

CHAPTER 712

ARSON

Referred to in §135B.34, 135C.33, 152.5A, 331.307, 364.22, 701.1, 718.6

712.1 Arson defined.
712.2 Arson in the first degree.
712.3 Arson in the second degree.
712.4 Arson in the third degree.
712.5 Reckless use of fire, explosives, or destructive devices.
712.6 Explosive materials or destructive devices.
712.7 False reports.
712.8 Threats.
712.9 Violations of individual rights — penalties.
712.10 Destructive device.

712.1 Arson defined.

1. Causing a fire or explosion, or placing any burning or combustible material, or any incendiary or explosive device or material, in or near any property with the intent to destroy or damage such property, or with the knowledge that such property will probably be destroyed or damaged, is arson, whether or not any such property is actually destroyed or damaged. Provided, that where a person who owns said property which the defendant intends to destroy or damage, or which the defendant knowingly endangers, consented to the defendant's acts, and where no insurer has been exposed fraudulently to any risk, and where the act was done in such a way as not to unreasonably endanger the life or property of any other person the act shall not be arson.

2. Causing a fire or explosion that damages or destroys property while manufacturing or attempting to manufacture a controlled substance in violation of section 124.401 is arson. Even if a person who owns property which the defendant intends to destroy or damage, or which the defendant knowingly endangers, consents to the defendant's act, and even if an

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insurer has not been exposed fraudulently to any risk, and even if the act was done in such a way as not to unreasonably endanger the life or property of any person, the act constitutes arson.

[C51, §2598 – 2603; R60, §4222 – 4227; C73, §3880 – 3885; C97, §4776 – 4781, 4795, 4798; C24, §12963, 12964, 12984 – 12989; C27, 31, 35, §12963, 12964, 12991-b1 – b3, -b5; C39, §**12963, 12964, 12991.1 – 12991.3, 12991.5;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §697.3, 697.4, 707.1 – 707.3, 707.5; C79, 81, §712.1]

2004 Acts, ch 1125, §13

712.2 Arson in the first degree.

1. Arson is arson in the first degree when the presence of one or more persons can be reasonably anticipated in or near the property which is the subject of the arson, or the arson results in the death of a fire fighter, whether paid or volunteer.

2. Arson in the first degree is a class "B" felony.

[C51, §2598, 2599; R60, §4222, 4223; C73, §3880, 3881; C97, §4776, 4777, 4795; C24, §12964, 12984, 12985; C27, 31, 35, §12964, 12991-b1; C39, §**12964, 12991.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §697.4, 707.1; C79, 81, §712.2]

84 Acts, ch 1064, §1; 2004 Acts, ch 1125, §14; 2020 Acts, ch 1062, §70

Referred to in §902.12

Definition of forcible felony, §702.11

712.3 Arson in the second degree.

1. Arson which is not arson in the first degree is arson in the second degree when the property which is the subject of the arson is a building or a structure, or real property of any kind, or standing crops, or is personal property the value of which exceeds seven hundred fifty dollars.

2. Arson in the second degree is a class "C" felony.

[C51, §2600 – 2602; R60, §4224 – 4226; C73, §3882 – 3884; C97, §4778 – 4780; C24, §12986 – 12988; C27, 31, 35, §12991-b1, 12991-b3; C39, §**12991.2, 12991.3;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §707.2, 707.3; C79, 81, §712.3]

2004 Acts, ch 1125, §15; 2019 Acts, ch 140, §10; 2020 Acts, ch 1062, §71

Referred to in §712.9

712.4 Arson in the third degree.

1. Arson which is not arson in the first degree or arson in the second degree is arson in the third degree.

2. Arson in the third degree is an aggravated misdemeanor.

[C79, 81, §712.4]

2020 Acts, ch 1062, §72

Referred to in §712.9

712.5 Reckless use of fire, explosives, or destructive devices.

Any person who uses fire, explosives, or destructive devices to recklessly endanger the property or safety of another shall be guilty of a serious misdemeanor.

[C51, §2607; R60, §4231; C73, §3889; C97, §4785; C24, 27, 31, 35, 39, §**12992;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §707.7; C79, 81, §712.5]

2023 Acts, ch 12, §3, 8

Referred to in §712.9

712.6 Explosive materials or destructive devices.

1. A person who possesses any explosive material or destructive device with the intent to use such device or material to commit a public offense shall be guilty of a class "C" felony.

2. *a.* A person who possesses any explosive material or destructive device shall be guilty of an aggravated misdemeanor.

b. This subsection does not apply to a person holding a valid commercial license or user's permit issued pursuant to chapter 101A, provided that the person is acting within the scope of authority granted by the license or permit.

3. A person who, with the intent to intimidate, annoy, or alarm another person, places

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a simulated explosive or simulated destructive device in a place that the person reasonably believes is likely to cause public alarm or inconvenience, is guilty of a serious misdemeanor.

4. A person who uses any explosive material or destructive device to commit any public offense or who possesses any explosive material or destructive device during the commission of a felony shall be guilty of a class "C" felony.

[C71, 73, 75, 77, §697.11; C79, 81, §712.6]

2004 Acts, ch 1125, §16; 2008 Acts, ch 1147, §4; 2023 Acts, ch 12, §4, 8

Referred to in §712.9

712.7 False reports.

A person who, knowing the information to be false, conveys or causes to be conveyed to any person any false information concerning the placement of any incendiary or explosive device or material or other destructive substance or device in any place where persons or property would be endangered commits a class "D" felony.

[C71, 73, 75, 77, §697.6; C79, 81, §712.7]

Referred to in §712.9

712.8 Threats.

Any person who threatens to place or attempts to place any incendiary or explosive device or material, or any destructive substance or device in any place where it will endanger persons or property, commits a class "D" felony.

[C71, 73, 75, 77, §697.7; C79, 81, §712.8]

Referred to in §712.9

712.9 Violations of individual rights — penalties.

A violation of sections 712.3 through 712.8, which is also a hate crime as defined in section 729A.2, shall be classified and punished as an offense one degree higher than the underlying offense.

92 Acts, ch 1157, §4

Referred to in §729A.2

712.10 Destructive device.

For purposes of this chapter, *"destructive device"* means the same as defined in section 101A.1.

2023 Acts, ch 12, §5, 8

CHAPTER 713

BURGLARY

Referred to in §331.307, 364.22, 701.1, 702.12

713.1	Burglary defined.	713.6	Attempted burglary in the second degree.
713.2	Attempted burglary defined.	713.6A	Burglary in the third degree.
713.3	Burglary in the first degree.	713.6B	Attempted burglary in the third degree.
713.4	Attempted burglary in the first degree.	713.7	Possession of burglar's tools.
713.5	Burglary in the second degree.	713.8 through 713.45	Reserved.

713.1 Burglary defined.

Any person, having the intent to commit a felony, assault or theft therein, who, having no right, license or privilege to do so, enters an occupied structure, such occupied structure not being open to the public, or who remains therein after it is closed to the public or after the

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person's right, license or privilege to be there has expired, or any person having such intent who breaks an occupied structure, commits burglary.

[C51, §2608, 2611; R60, §4232, 4235; C73, §3891, 3894; C97, §4787, 4791, 4792, 4794; C24, 27, 31, 35, 39, §**12994, 13001 – 13004;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §708.1, 708.8 – 708.11; C79, 81, §713.1]

84 Acts, ch 1247, §2

Referred to in §229A.2, 714.2B

Definition of occupied structure, §702.12

713.2 Attempted burglary defined.

Any person, having the intent to commit a felony, assault or theft therein, who, having no right, license, or privilege to do so, attempts to enter an occupied structure, the occupied structure not being open to the public, or who attempts to remain therein after it is closed to the public or after the person's right, license, or privilege to be there has expired, or any person having such intent who attempts to break an occupied structure, commits attempted burglary.

[81 Acts, ch 204, §8]

84 Acts, ch 1247, §3

713.3 Burglary in the first degree.

1. A person commits burglary in the first degree if, while perpetrating a burglary in or upon an occupied structure in which one or more persons are present, any of the following circumstances apply:

a. The person has possession of an explosive or incendiary device or material.

b. The person has possession of a dangerous weapon.

c. The person intentionally or recklessly inflicts bodily injury on any person.

d. The person performs or participates in a sex act with any person which would constitute sexual abuse under section 709.1.

2. Burglary in the first degree is a class "B" felony.

3. For purposes of determining whether the person should register as a sex offender pursuant to the provisions of chapter 692A for violations of subsection 1, paragraphs "*a*", "*b*", or "*c*", the fact finder shall make a determination as provided in section 692A.126.

[C51, §2609; R60, §4233; C73, §3892; C97, §4788; S13, §4799-a; C24, 27, 31, 35, 39; §**12995, 12997 – 12999;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §708.2, 708.4-708.6, C79, 81, §713.2]

C83, §713.3

90 Acts, ch 1233, §41; 92 Acts, ch 1231, §57; 94 Acts, ch 1107, §15; 98 Acts, ch 1059, §1; 2010 Acts, ch 1104, §16, 23

Referred to in §236A.7, 692A.101, 692A.102, 692A.126, 903B.1

Definition of forcible felony, see §702.11

713.4 Attempted burglary in the first degree.

1. A person commits attempted burglary in the first degree if, while perpetrating an attempted burglary in or upon an occupied structure in which one or more persons are present, the person has possession of an explosive or incendiary device or material, or a dangerous weapon, or intentionally or recklessly inflicts bodily injury on any person.

2. Attempted burglary in the first degree is a class "C" felony.

3. For purposes of determining whether the person should register as a sex offender pursuant to the provisions of chapter 692A, the fact finder shall make a determination as provided in section 692A.126.

[81 Acts, ch 204, §8]

C83, §713.4

92 Acts, ch 1231, §58; 94 Acts, ch 1107, §16; 2010 Acts, ch 1104, §17, 23

Referred to in §692A.102, 692A.126

713.5 Burglary in the second degree.

1. A person commits burglary in the second degree in either of the following circumstances:

a. While perpetrating a burglary in or upon an occupied structure in which no persons

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are present, the person has possession of an explosive or incendiary device or material, or a dangerous weapon, or a bodily injury results to any person.

b. While perpetrating a burglary in or upon an occupied structure in which one or more persons are present, the person does not have possession of an explosive or incendiary device or material, nor a dangerous weapon, and no bodily injury is caused to any person.

2. Burglary in the second degree is a class "C" felony.

3. For purposes of determining whether the person should register as a sex offender pursuant to the provisions of chapter 692A, the fact finder shall make a determination as provided in section 692A.126.

[C79, 81, §713.3]

C83, §713.5

92 Acts, ch 1231, §59; 94 Acts, ch 1107, §17; 2010 Acts, ch 1104, §18, 23

Referred to in §692A.102, 692A.126

713.6 Attempted burglary in the second degree.

1. A person commits attempted burglary in the second degree in either of the following circumstances:

a. While perpetrating an attempted burglary in or upon an occupied structure in which no persons are present, the person has possession of an explosive or incendiary device or material, or a dangerous weapon, or a bodily injury results to any person.

b. While perpetrating an attempted burglary in or upon an occupied structure in which one or more persons are present, the person does not have possession of an explosive or incendiary device or material, nor a dangerous weapon, and no bodily injury is caused to any person.

2. Attempted burglary in the second degree is a class "D" felony.

3. For purposes of determining whether the person should register as a sex offender pursuant to the provisions of chapter 692A, the fact finder shall make a determination as provided in section 692A.126.

[81 Acts, ch 204, §8]

92 Acts, ch 1231, §60; 94 Acts, ch 1107, §18; 2010 Acts, ch 1104, §19, 23

Referred to in §692A.102, 692A.126

713.6A Burglary in the third degree.

1. All burglary which is not burglary in the first degree or burglary in the second degree is burglary in the third degree. Burglary in the third degree is a class "D" felony, except as provided in subsection 2.

2. Burglary in the third degree involving a burglary of an unoccupied motor vehicle or motor truck as defined in section 321.1, or a vessel defined in section 462A.2, is an aggravated misdemeanor for a first offense. A second or subsequent conviction under this subsection is punishable under subsection 1.

3. For purposes of determining whether the person should register as a sex offender pursuant to the provisions of chapter 692A, the fact finder shall make a determination as provided in section 692A.126.

92 Acts, ch 1231, §61; 2001 Acts, ch 165, §1; 2002 Acts, ch 1050, §53; 2010 Acts, ch 1104, §20, 23

Referred to in §692A.102, 692A.126

713.6B Attempted burglary in the third degree.

1. All attempted burglary which is not attempted burglary in the first degree or attempted burglary in the second degree is attempted burglary in the third degree. Attempted burglary in the third degree is an aggravated misdemeanor, except as provided in subsection 2.

2. Attempted burglary in the third degree involving an attempted burglary of an unoccupied motor vehicle or motor truck as defined in section 321.1, or a vessel defined in section 462A.2, is a serious misdemeanor for a first offense. A second or subsequent conviction under this subsection is punishable under subsection 1.

3. For purposes of determining whether the person should register as a sex offender

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pursuant to the provisions of chapter 692A, the fact finder shall make a determination as provided in section 692A.126.

92 Acts, ch 1231, §62; 2001 Acts, ch 165, §2; 2002 Acts, ch 1050, §54; 2010 Acts, ch 1104, §21, 23

Referred to in §692A.102, 692A.126

713.7 Possession of burglar's tools.

Any person who possesses any key, tool, instrument, device or any explosive, with the intent to use it in the perpetration of a burglary, commits an aggravated misdemeanor.

[C97, §4790; S13, §4790; C24, 27, 31, 35, 39, §**13000;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §708.7; C79, 81, §713.4]

C83, §713.7

92 Acts, ch 1231, §63

713.8 through 713.45 Reserved.

CHAPTERS 713A and 713B

RESERVED

CHAPTER 714

THEFT, FRAUD, AND RELATED OFFENSES

Referred to in §99B.4, 99B.14, 103.38, 169A.14, 203.11, 203C.36, 249A.50, 257.11B, 261B.3A, 331.307, 364.22, 523A.703, 523D.8, 523I.211, 551A.10, 622.51A, 645.2, 645.3, 701.1

714.1 Theft defined.
714.2 Degrees of theft.
714.2A Theft against an older individual.
714.2B Organized retail theft.
714.2C Looting.
714.2D Crimes involving gift cards.
714.3 Value.
714.3A Aggravated theft. Repealed by 2019 Acts, ch 140, §9.
714.4 Claim of right.
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714.6 Land.
714.6A Video or equipment rental property theft — evidence of intention — affirmative defense.
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714.7A Reserved.
714.7B Theft detection devices — shield or removal prohibited.
714.7C Theft of pseudoephedrine — enhancement.
714.7D Retail motor fuel.
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714.11 Fraudulent practice in the third degree.
714.12 Fraudulent practice in the fourth degree.
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714.14 Value for purposes of fraudulent practices.
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714.16B Identity theft — civil cause of action.
714.16C Consumer education and litigation fund.
714.17 Unlawful advertising and selling of educational courses.
714.18 Evidence of financial responsibility.
714.19 Nonapplicability.
714.20 One contract per person.
714.21 Penalty.
714.21A Civil enforcement.
714.22 Trade and vocational schools — exemption — conditions. Repealed by 2012 Acts, ch 1077, §20.

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714.23	Refund policies — penalty.	714.27A	Used catalytic converter transactions — reporting — penalties.
714.24	Additional requirements.	714.28	Claims against purchased or pledged goods held by pawnbrokers.
714.25	Disclosure.	714.29	Records filed with intent to harass or defraud.
714.26	Intellectual property counterfeiting.		
714.27	Scrap metal transactions and reporting — penalties.		

714.1 Theft defined.

A person commits theft when the person does any of the following:

1. Takes possession or control of the property of another, or property in the possession of another, with the intent to deprive the other thereof.

2. Misappropriates property which the person has in trust, or property of another which the person has in the person's possession or control, whether such possession or control is lawful or unlawful, by using or disposing of it in a manner which is inconsistent with or a denial of the trust or of the owner's rights in such property, or conceals found property, or appropriates such property to the person's own use, when the owner of such property is known to the person.

a. Failure by a bailee or lessee of personal property to return the property within seventy-two hours after a time specified in a written agreement of lease or bailment shall be evidence of misappropriation.

b. If a time is not specified in the written agreement of lease or bailment for the expiration or termination of the lease or bailment or for the return of the personal property, failure by a lessee or bailee to return the property within five days after proper notice to the lessee or bailee shall be evidence of misappropriation. For the purposes of this paragraph, *"proper notice"* means a written notice of the expiration or termination of the lease or bailment agreement sent to the lessee or bailee by certified or restricted certified mail at the address of the lessee or bailee specified in the agreement. The notice shall be considered effective on the date of the mailing of the notice regardless of whether or not the lessee or bailee signs a receipt for the notice.

3. Obtains the labor or services of another, or a transfer of possession, control, or ownership of the property of another, or the beneficial use of property of another, by deception. Where compensation for goods and services is ordinarily paid immediately upon the obtaining of such goods or the rendering of such services, the refusal to pay or leaving the premises without payment or offer to pay or without having obtained from the owner or operator the right to pay subsequent to leaving the premises gives rise to an inference that the goods or services were obtained by deception.

4. Exercises control over stolen property, knowing such property to have been stolen, or having reasonable cause to believe that such property has been stolen, unless the person's purpose is to promptly restore it to the owner or to deliver it to an appropriate public officer. The fact that the person is found in possession of property which has been stolen from two or more persons on separate occasions, or that the person is a dealer or other person familiar with the value of such property and has acquired it for a consideration which is far below its reasonable value, or that the person violated section 714.27A in a transaction involving the property, shall be evidence from which the court or jury may infer that the person knew or believed that the property had been stolen.

5. Takes, destroys, conceals or disposes of property in which someone else has a security interest, with intent to defraud the secured party.

6. Makes, utters, draws, delivers, or gives any check, share draft, draft, or written order on any bank, credit union, person, or corporation, and obtains property, the use of property, including rental property, or service in exchange for such instrument, if the person knows that such check, share draft, draft, or written order will not be paid when presented.

a. Whenever the drawee of such instrument has refused payment because of insufficient funds, and the maker has not paid the holder of the instrument the amount due thereon within ten days of the maker's receipt of notice from the holder that payment has been refused by the drawee, the court or jury may infer from such facts that the maker knew that the instrument

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would not be paid on presentation. Notice of refusal of payment shall be by certified mail, or by personal service in the manner prescribed for serving original notices.

b. Whenever the drawee of such instrument has refused payment because the maker has no account with the drawee, the court or jury may infer from such fact that the maker knew that the instrument would not be paid on presentation.

7. Obtains gas, electricity or water from a public utility or obtains cable television or telephone service from an unauthorized connection to the supply or service line or by intentionally altering, adjusting, removing or tampering with the metering or service device so as to cause inaccurate readings.

8. Knowingly and without authorization accesses or causes to be accessed a computer, computer system, or computer network, or any part thereof, for the purpose of obtaining computer services, information, or property or knowingly and without authorization and with the intent to permanently deprive the owner of possession, takes, transfers, conceals, or retains possession of a computer, computer system, or computer network or any computer software or computer program, or computer data contained in a computer, computer system, or computer network.

9. *a.* Obtains the temporary use of video rental property or equipment rental property with the intent to deprive the owner of the use and possession of the video rental property or equipment rental property without the consent of the owner.

b. Lawfully obtains the temporary use of video rental property or equipment rental property and fails to return the video rental property or equipment rental property by the agreed time with the intent to deprive the owner of the use and possession of the video rental property or equipment rental property without the consent of the owner. The aggregate value of the video rental property or equipment rental property involved shall be the original retail value of the video rental property or equipment rental property.

10. Any act that is declared to be theft by any provision of the Code.

[C51, §2612, 2615 – 2618, 2620, 2621; R60, §806, 807, 4236, 4237, 4240 – 4243, 4245, 4246, 4251; C73, §3895, 3902, 3905 – 3911, 3915; C97, §4831, 4837 – 4842, 4844, 4845, 4850, 4852, 5076; S13, §4850, 4852-c, -d, -e; C24, §13005, 13010, 13014 – 13016, 13018, 13027, 13030, 13031, 13035 – 13037, 13042, 13046 – 13048, 13052; C27, 31, 35, §13005, 13010, 13014 – 13016, 13018, 13027, 13030, 13031, 13034 – a1 – 13037, 13042, 13046 – 13048, 13052; C39, §**13005, 13010, 13014 – 13016, 13018, 13027, 13030, 13031, 13034.1 – 13037, 13042, 13046 – 13048, 13052;** C46, 50, 54, 58, §709.1, 709.6 – 709.9, 709.11, 710.1, 710.4, 710.5, 710.9 – 710.12, 712.1, 713.2 – 713.4, 713.7; C62, 66, §709.1, 709.6 – 709.9, 709.11, 709.20, 710.1, 710.4, 710.5, 710.9 – 710.12, 712.1, 713.2 – 713.4, 713.7; C71, 73, 75, 77, §709.1, 709.6 – 709.9, 709.11, 709.20, 709.25, 710.1, 710.4, 710.5, 710.9 – 710.12, 710.14, 712.1, 713.2 – 713.4, 713.7; C79, 81, §714.1]

85 Acts, ch 164, §1; 89 Acts, ch 170, §1; 97 Acts, ch 167, §1; 2000 Acts, ch 1201, §9; 2005 Acts, ch 84, §1; 2013 Acts, ch 30, §206; 2017 Acts, ch 89, §1; 2022 Acts, ch 1092, §1

Referred to in §702.1A, 714.2B, 714.6A
Computer terminology, see §702.1A

714.2 Degrees of theft.

1. The theft of property exceeding 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 one thousand five hundred dollars but not exceeding ten thousand dollars in value or theft of a motor vehicle as defined in chapter 321 not exceeding 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 40, paragraph *"b"*.

3. The theft of property exceeding seven hundred fifty dollars but not exceeding one thousand five hundred dollars in value, or the theft of any property not exceeding seven hundred fifty 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.

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4. The theft of property exceeding three hundred dollars in value but not exceeding seven hundred fifty 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 three hundred dollars in value is theft in the fifth degree. Theft in the fifth degree is a simple misdemeanor.

[C51, §2612, 2618; R60, §4237, 4243, 4247, 4251; C73, §3902, 3908, 3915; C97, §4831, 4840, 4846, 4850; S13, §4850; C24, 27, 31, 35, 39, §**13006, 13016, 13026, 13028;** C46, 50, 54, 58, §709.2, 709.9, 709.19, 710.2; C62, 66, 71, 73, 75, 77, §709.2, 709.9, 709.19, 709.20, 710.2; C79, 81, §714.2; 81 Acts, ch 204, §9]

83 Acts, ch 134, §1; 92 Acts, ch 1060, §1; 99 Acts, ch 153, §11; 2019 Acts, ch 140, §11; 2020 Acts, ch 1044, §1

Referred to in §481A.147, 714.2A, 714.7C, 714.7D, 911.5

714.2A Theft against an older individual.

1. If a person commits theft against an individual who was an older individual at the time the theft was committed and knew or should have known the conduct was directed at an older individual, notwithstanding the penalties specified in section 714.2, all of the following shall apply:

a. If a person commits theft in the first degree pursuant to section 714.2, subsection 1, the person is guilty of a class "B" felony.

b. If a person commits theft in the second degree pursuant to section 714.2, subsection 2, the person is guilty of a class "C" felony.

c. If a person commits theft in the third degree pursuant to section 714.2, subsection 3, the person is guilty of a class "D" felony.

d. If a person commits theft in the fourth degree pursuant to section 714.2, subsection 4, the person is guilty of an aggravated misdemeanor.

e. If a person commits theft in the fifth degree pursuant to section 714.2, subsection 5, the person is guilty of a serious misdemeanor.

2. For the purposes of this section, *"older individual"* means an individual who is sixty years of age or older.

2022 Acts, ch 1132, §2

Referred to in §13.2, 633.669, 633.670, 726.24, 726.25

714.2B Organized retail theft.

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

a. "Pattern of retail theft" means acts committed or directed by a person on at least two separate occasions in the preceding six months that would constitute a violation of any of the following:

(1) Burglary under section 713.1 when the structure is a retail establishment.

(2) Theft under section 714.1, subsection 1, 3, 4, or 6, involving retail merchandise.

(3) A violation of section 714.7B concerning theft detection devices.

(4) Theft of pseudoephedrine, under section 714.7C, from a retail establishment.

b. "Retail establishment" means the building where a retailer sells retail merchandise.

c. "Retail merchandise" means all forms of tangible property held out for sale by a retailer.

d. "Retail theft enterprise" means a group of two or more individuals with a shared goal involving the unauthorized removal of retail merchandise from a retailer. *"Retail theft enterprise"* does not require the membership of the enterprise to remain the same or that the same individuals participate in each offense committed by the enterprise.

e. "Retailer" means a person or entity that sells retail merchandise.

f. "Value" means the same as provided in section 714.3.

2. A person commits organized retail theft when all of the following occur:

a. The person is employed by or associated with a retail theft enterprise.

b. The person has previously engaged in a pattern of retail theft and intentionally commits an act or directs another member of the retail theft enterprise to commit an act involving retail merchandise that is a violation of section 713.1, section 714.1, subsection 1, 3, 4, or 6, section 714.7B, or section 714.7C.

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c. The person or another member of the retail theft enterprise sells or intends to sell the stolen retail merchandise, advertises or displays any item of the stolen retail merchandise for sale, or returns any item of the stolen retail merchandise to a retailer for anything of value.

3. A person who commits organized retail theft is guilty of the following:

a. A class "C" felony if the value of the property stolen exceeds five thousand dollars.

b. A class "D" felony if either of the following circumstances exists:

(1) The value of the property stolen is more than one thousand dollars but not more than five thousand dollars.

(2) The value of the property is more than five hundred dollars but not more than one thousand dollars and the person has been convicted at least twice before for a violation of this section, section 713.1, section 714.1, subsection 1, 3, 4, or 6, section 714.7B, or section 714.7C, or a statute from another state, the United States, or a foreign jurisdiction, in conformity with any of those sections, and the person received a felony or an aggravated misdemeanor sentence for the offense, and at least two of the prior convictions occurred in the previous ten years.

c. An aggravated misdemeanor if either of the following circumstances exist:

(1) The value of the property stolen is more than five hundred dollars but not more than one thousand dollars.

(2) The value of the property is five hundred dollars or less and the person commits the offense within ten years of a previous conviction under this section, section 713.1, section 714.1, subsection 1, 3, 4, or 6, section 714.7B, or section 714.7C, or a statute from another state, the United States, or a foreign jurisdiction, in conformity with any of those sections, and the person received a felony or aggravated misdemeanor sentence for the offense.

d. A serious misdemeanor if the value of the property stolen is five hundred dollars or less.

4. The value of the retail merchandise received by the defendant in violation of this section within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this section, provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this section.

5. If a violation of this section creates a reasonably foreseeable risk of bodily harm to another, the penalties described in subsection 3 are enhanced as follows:

a. If the penalty is a serious misdemeanor or an aggravated misdemeanor, the offense shall be classified and punished as an offense one degree higher than the underlying offense.

b. If the penalty is a felony, the offense shall be classified and punished as an offense one degree higher than the underlying offense.

2024 Acts, ch 1045, §1, 2; 2024 Acts, ch 1154, §20, 27, 29

714.2C Looting.

1. For purposes of this section, *"looting"* means the intentional entry without authorization of any dwelling, place of business, vehicle, watercraft, building, plant, or other structure, moveable or immovable, by a person, acting in joint criminal conduct, as defined in section 703.2, with another person or any group of persons and the person obtains, exerts control over, damages, or removes the property of another without authorization.

2. The looting of property exceeding ten thousand dollars in value, by any one person or all persons engaged in the looting of the property, or the looting of any property not exceeding ten thousand dollars in value by one person who has once before been convicted of looting in the first or second degree, or any looting that involves a dangerous weapon, is looting in the first degree. Looting in the first degree is a class "C" felony punishable by all of the following:

a. Commitment to the custody of the director of the department of corrections for an indeterminate term not to exceed ten years, with a mandatory minimum term of five years.

b. Assessment of a minimum fine of one thousand dollars and a maximum fine of ten thousand dollars.

3. The looting of property exceeding one thousand dollars in value but not exceeding ten thousand dollars in value, by any one person or all persons engaged in the looting of the property, or the looting of any property not exceeding one thousand dollars in value by one

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person who has once before been convicted of looting in the third degree, is looting in the second degree. Looting in the second degree is a class "D" felony punishable by all of the following:

a. Commitment to the custody of the director of the department of corrections for an indeterminate term not to exceed five years, with a mandatory minimum term of one and one-half years.

b. Assessment of a minimum fine of six hundred fifty dollars and a maximum fine of seven thousand five hundred dollars.

4. The looting of property exceeding three hundred dollars in value but not exceeding one thousand dollars in value, by any one person or all persons engaged in the looting of the property, is looting in the third degree. Looting in the third degree is an aggravated misdemeanor punishable by all of the following:

a. Commitment to the custody of the director of the department of corrections for an indeterminate term not to exceed two years.

b. Assessment of a minimum fine of five hundred seventy dollars and a maximum fine of six thousand two hundred fifty dollars.

5. A person whose business or property is directly or indirectly injured by conduct constituting a violation of this section may bring a civil action against any person involved in the violation, and may recover up to threefold the actual damages sustained and costs and expenses including reasonable attorney fees. Each person exerting control over, damaging, or removing the property of another shall be jointly and severally liable for any such injury.

2024 Acts, ch 1085, §1

714.2D Crimes involving gift cards.

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

a. "Cardholder" means any person in possession of a physical or digital gift card issued through a purchase by the person, or received by the person from a willing party.

b. "Card issuer" means any person that issues a gift card or the agent of a gift card issuer.

c. "Gift card" means a physical or digital card, code, or device that is issued to a consumer on a prepaid basis primarily for personal, family, or household purposes in a specified amount, regardless of whether that amount may be increased or reloaded in exchange for payment, and is redeemable upon presentation by a consumer either at a single merchant, a group of affiliated merchants, or at multiple unaffiliated merchants for goods or services within the payment card network.

d. "Gift card redemption information" means information unique to each gift card that allows the cardholder to access, transfer, or spend the funds on that gift card.

e. "Gift card seller" means a merchant that is engaged in the business of selling gift cards to consumers.

f. "Value" means the greatest amount of economic loss the owner of the property might reasonably suffer including, in the case of a gift card, the full monetary face value or potential value for variable-load gift cards.

2. *a.* Any person who, with intent to defraud, acquires or retains possession of a gift card or gift card redemption information without the consent of the cardholder, card issuer, or gift card seller commits theft and is guilty of an aggravated misdemeanor.

b. Any person who, with intent to defraud, alters or tampers with a gift card commits forgery and is guilty of an aggravated misdemeanor.

c. Any person who, with intent to defraud, devises a scheme to obtain a gift card or gift card redemption information from a card holder, card issuer, or gift card seller by means of false or fraudulent pretenses, representations, or promises engages in a fraudulent practice and is guilty of the following:

(1) A class "C" felony if the amount of money or value of property or services involved exceeds five thousand dollars.

(2) A class "D" felony if the amount of money or value of property or services involved exceeds one thousand dollars but does not exceed five thousand dollars.

(3) An aggravated misdemeanor if the amount of money or value of property or services involved exceeds five hundred dollars but does not exceed one thousand dollars.

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(4) A serious misdemeanor if the amount of money or value of property or services involved is five hundred dollars or less.

d. Any person who, with intent to defraud, uses, for the purpose of obtaining money, goods, services, or anything else of value, a gift card or gift card redemption information that has been obtained in violation of this section commits theft and is guilty of the following:

(1) A class "C" felony if the value of the property stolen exceeds five thousand dollars.

(2) A class "D" felony if the value of the property stolen is more than one thousand dollars but not more than five thousand dollars.

(3) An aggravated misdemeanor if the value of the property stolen is more than five hundred dollars but not more than one thousand dollars.

(4) A serious misdemeanor if the value of the property stolen is five hundred dollars or less.

3. The value of the retail merchandise received by the person in violation of this section within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this section.

2025 Acts, ch 17, §1

714.3 Value.

1. The value of property is its highest value by any reasonable standard at the time that it is stolen. Reasonable standard includes but is not limited to market value within the community, actual value, or replacement value.

2. If money or property is stolen from the same person or location by two or more acts, or from different persons by two or more acts which occur in approximately the same location or time period, or from different locations by two or more acts within a thirty-day period, so that the thefts are attributable to a single scheme, plan, or conspiracy, these acts may be considered a single theft and the value may be the total value of all the property stolen.

[C51, §2625; R60, §4250; C73, §3909, 3914; C97, §4842, 4849; C24, 27, 31, 35, 39, §**13007, 13032;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §709.3, 710.6; C79, 81, §714.3]

84 Acts, ch 1162, §1; 85 Acts, ch 195, §60; 2004 Acts, ch 1087, §1

Referred to in §714.2B

714.3A Aggravated theft. Repealed by 2019 Acts, ch 140, §9. See §711.3B.

714.4 Claim of right.

No person who takes, obtains, disposes of, or otherwise uses or acquires property, is guilty of theft by reason of such act if the person reasonably believes that the person has a right, privilege or license to do so, or if the person does in fact have such right, privilege or license.

[C79, 81, §714.4]

714.5 Library materials and equipment — unpurchased merchandise — evidence of intention.

1. The fact that a person has concealed library materials or equipment as defined in section 702.22 or unpurchased property of a store or other mercantile establishment, either on the premises or outside the premises, is material evidence of intent to deprive the owner, and the finding of library materials or equipment or unpurchased property concealed upon the person or among the belongings of the person, is material evidence of intent to deprive and, if the person conceals or causes to be concealed library materials or equipment or unpurchased property, upon the person or among the belongings of another, the finding of the concealed materials, equipment or property is also material evidence of intent to deprive on the part of the person concealing the library materials, equipment or goods.

2. The fact that a person fails to return library materials for two months or more after the date the person agreed to return the library materials, or fails to return library equipment for one month or more after the date the person agreed to return the library equipment, is evidence of intent to deprive the owner, provided a reasonable attempt, including the mailing by restricted certified mail of notice that such material or equipment is overdue and criminal actions will be taken, has been made to reclaim the materials or equipment. Notices

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stating the provisions of this section and of section 808.12 with regard to library materials or equipment shall be posted in clear public view in all public libraries, in all libraries of educational, historical or charitable institutions, organizations or societies, in all museums and in all repositories of public records.

3. After the expiration of three days following the due date, the owner of borrowed library equipment may request the assistance of a dispute resolution center, mediation center or appropriate law enforcement agency in recovering the equipment from the borrower.

4. The owner of library equipment may require deposits by borrowers and in the case of late returns the owner may impose graduated penalties of up to twenty-five percent of the value of the equipment, based upon the lateness of the return.

5. In the case of lost library materials or equipment, arrangements may be made to make a monetary settlement.

[C62, 66, 71, 73, 75, 77, §709.21; C79, 81, §714.5]
85 Acts, ch 187, §2; 87 Acts, ch 56, §1; 2016 Acts, ch 1011, §121
Referred to in §808.12

714.6 Land.

The mere trespass on or occupation of land, contrary to the rights of the owner thereof, is not theft.

[C79, 81, §714.6]

714.6A Video or equipment rental property theft — evidence of intention — affirmative defense.

1. The fact that a person obtains possession of video rental property or equipment rental property by means of deception, including but not limited to furnishing a false name, address, or other identification to the owner, is evidence that possession was obtained with intent to knowingly deprive the owner of the use and possession of the video rental property or equipment rental property.

2. The fact that a person, having lawfully obtained possession of video rental property or equipment rental property, fails to pay the owner the fair market value of the video rental property or equipment rental property or to return or make arrangements acceptable to the owner to return the video rental property or equipment rental property to the owner within forty-eight hours after receipt of written notice and demand from the owner is evidence of an intent to knowingly deprive the owner of the use and possession of the video rental property or equipment rental property.

3. It shall be an affirmative defense to a prosecution under section 714.1, subsection 9, paragraph *"a"*, if the defendant in possession of video rental property or equipment rental property pays the owner the fair market value of the video rental property or equipment rental property or returns the property to the owner within forty-eight hours of arrest, together with any standard overdue charges for the period that the owner was unlawfully deprived of possession, but not to exceed one hundred twenty days, and the value of the damage to the property, if any.

2000 Acts, ch 1201, §10; 2017 Acts, ch 89, §2

714.7 Operating vehicle without owner's consent.

Any person who shall take possession or control of any railroad vehicle, or any self-propelled vehicle, aircraft, or motor boat, the property of another, without the consent of the owner of such, but without the intent to permanently deprive the owner thereof, shall be guilty of an aggravated misdemeanor. A violation of this section may be proved as a lesser included offense on an indictment or information charging theft.

[C97, §4813, 4814; S13, §4823; C24, 27, 31, 35, §13092, 13125 – 13127; C39, §**5006.05, 13125 – 13127;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §321.76, 716.13 – 716.15; C79, 81, §714.7]

714.7A Reserved.

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714.7B Theft detection devices — shield or removal prohibited.

1. A person shall not intentionally manufacture or attempt to manufacture, sell or attempt to sell, possess, use, distribute or attempt to distribute, a theft detection shielding device.

2. A person shall not remove or attempt to remove a theft detection device with the intent of committing a theft and without the permission of the merchant who is displaying or selling the goods, wares, or merchandise.

3. A person shall not possess any tool, instrument, or device with the intent to use it in the unlawful removal of a theft detection device.

4. For purposes of this section, *"theft detection shielding device"* means any laminated or coated bag or device designed to shield merchandise from detection by an electronic or magnetic theft alarm system or any other system designed to alert a person of a possible theft. *"Theft detection device"* means any electronic or other device attached to goods, wares, or merchandise on display or for sale by a merchant.

5. A person who violates subsection 1 or 3 commits a serious misdemeanor.

6. A person who violates subsection 2 commits the following:

a. A simple misdemeanor if the value of the goods, wares, or merchandise does not exceed three hundred dollars.

b. A serious misdemeanor if the value of the goods, wares, or merchandise exceeds three hundred dollars.

2000 Acts, ch 1108, §1; 2019 Acts, ch 140, §12
Referred to in §714.2B

714.7C Theft of pseudoephedrine — enhancement.

Notwithstanding section 714.2, subsection 5, a person who commits a simple misdemeanor theft of a product containing pseudoephedrine from a retailer as defined in section 126.23A commits a serious misdemeanor.

2004 Acts, ch 1127, §3; 2005 Acts, ch 15, §6, 14
Referred to in §714.2B

714.7D Retail motor fuel.

Upon a second or subsequent conviction of a person under section 714.2, subsection 5, for theft of motor fuel from a retail dealer as defined in section 214A.1, the court may order the state department of transportation to suspend the driver's license or nonresident operating privilege of the convicted person for up to thirty days in lieu of, or in addition to, a fine or imprisonment.

2005 Acts, ch 141, §3
Referred to in §321.215

714.8 Fraudulent practices defined.

A person who does any of the following acts is guilty of a fraudulent practice:

1. Makes, tenders or keeps for sale any warehouse receipt, bill of lading, or any other instrument purporting to represent any right to goods, with knowledge that the goods represented by such instrument do not exist.

2. Knowingly attaches or alters any label to any goods offered or kept for sale so as to materially misrepresent the quality or quantity of such goods, or the maker or source of such goods.

3. Knowingly executes or tenders a false certification under penalty of perjury, false affidavit, or false certificate, if the certification, affidavit, or certificate is required by law or given in support of a claim for compensation, indemnification, restitution, or other payment.

4. Makes any entry in or alteration of any public records, or any records of any corporation, partnership, or other business enterprise or nonprofit enterprise, knowing the same to be false.

5. Removes, alters or defaces any serial or other identification number, or any owners' identification mark, from any property not the person's own.

6. For the purpose of soliciting assistance, contributions, or other thing of value, falsely represents oneself to be a veteran of the armed forces of the United States, or a member of

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any fraternal, religious, charitable, or veterans organization, or any pretended organization of a similar nature, or to be acting on behalf of such person or organization.

7. For the purpose of obtaining employment or other personal gain, knowingly and with intent falsely represents oneself as possessing an academic degree or academic credentials.

8. For the purpose of obtaining employment or other personal gain, knowingly and with intent falsely represents oneself as possessing a professional or occupational license regulated under chapter 272C.

9. Manufactures, sells, or keeps for sale any token or device suitable for the operation of a coin-operated device or vending machine, with the intent that such token or device may be so used, or with the representation that they can be so used; provided, that the owner or operator of any coin-operated device or vending machine may sell slugs or tokens for use in the person's own devices.

10. Manufactures or possesses any false or counterfeit label, with the intent that it be placed on merchandise to falsely identify its origin or quality, or who sells any such false or counterfeit label with the representation that it may be so used.

11. Alters or renders inoperative or inaccurate any meter or measuring device used in determining the value of or compensation for the purchase, use or enjoyment of property, with the intent to defraud any person.

12. Does any act expressly declared to be a fraudulent practice by any other section of the Code.

13. Removes, defaces, covers, alters, or destroys any component part number as defined in section 321.1, vehicle identification number as defined in section 321.1, or product identification number as defined in section 321.1, for the purpose of concealing or misrepresenting the identity or year of manufacture of the component part or vehicle.

14. Knowingly transfers or assigns a legal or equitable interest in property, as defined in section 702.14, for less than fair consideration, with the intent to obtain public assistance under chapters 16, 35B, and 35D, or Title VI, subtitles 2 through 6, or accepts a transfer of or an assignment of a legal or equitable interest in property, as defined in section 702.14, for less than fair consideration, with the intent of enabling the party transferring the property to obtain public assistance under chapters 16, 35B, and 35D, or Title VI, subtitles 2 through 6. A transfer or assignment of property for less than fair consideration within one year prior to an application for public assistance benefits shall be evidence of intent to transfer or assign the property in order to obtain public assistance for which a person is not eligible by reason of the amount of the person's assets. If a person is found guilty of a fraudulent practice in the transfer or assignment of property under this subsection the maximum sentence shall be the penalty established for a serious misdemeanor and sections 714.9, 714.10, and 714.11 shall not apply.

15. *Fraudulent practices in connection with targeted small business programs.*

a. (1) Knowingly transfers or assigns assets, ownership, or equitable interest in property of a business to a woman or minority person primarily for the purpose of obtaining benefits under targeted small business programs if the transferor would otherwise not be qualified for such programs.

(2) Solicits and is awarded a state contract on behalf of a targeted small business for the purpose of transferring the contract to another for a percentage if the person transferring or intending to transfer the work had no intention of performing the work.

(3) Knowingly falsifying information on an application for the purpose of obtaining benefits under targeted small business programs.

b. A violation under this subsection is grounds for decertification of the targeted small business connected with the violation. Decertification shall be in addition to any penalty otherwise authorized by this section.

16. *a.* Makes payment pursuant to an agreement with a dealer or market agency for livestock held by the dealer or market agency by use of a financial instrument which is a check, share draft, draft, or written order on any financial institution, as defined in section 203.1, if after seven days from the date that possession of the livestock is transferred pursuant to the purchase, the financial institution refuses payment on the instrument because of insufficient funds in the maker's account.

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b. This subsection is not applicable if the maker pays the holder of the instrument the amount due on the instrument within one business day from a receipt of notice by certified mail from the holder that payment has been refused by the financial institution.

c. As used in this subsection, "*dealer*" means a person engaged in the business of buying or selling livestock, either on the person's own account, or as an employee or agent of a vendor or purchaser. "*Market agency*" means a person engaged in the business of buying or selling livestock on a commission basis.

17. Obtains or attempts to obtain the transfer of possession, control, or ownership, of the property of another by deception through communications conducted primarily by telephone and involving direct or implied claims that the other person contacted has won or is about to win a prize, or involving direct or implied claims that the other person contacted may be able to recover any losses suffered by such other person in connection with a prize promotion.

18. Knowingly provides false information to the treasurer of state when claiming, pursuant to section 556.19, an interest in unclaimed property held by the state, or knowingly provides false information to a person or fails to disclose the nature, value, and location of unclaimed property prior to entering into a contract to receive compensation to recover or assist in the recovery of property reported as unclaimed pursuant to section 556.11.

19. A packer who includes a confidentiality provision in a contract with a livestock seller in violation of section 202A.4.

20. *a.* Manufactures, creates, reproduces, alters, possesses, uses, transfers, or otherwise knowingly contributes to the production or use of a fraudulent retail sales receipt or universal product code label with intent to defraud another person engaged in the business of retailing.

b. For purposes of this subsection:

(1) "*Retail sales receipt*" means a document intended to evidence payment for goods or services.

(2) "*Universal product code label*" means the unique ten-digit bar code placed on the packaging of an item that may be used for purposes including but not limited to tracking inventory, maintaining price information in a computerized database, and serving as proof of purchase of a particular item.

21. A contractor who enforces a provision in a production contract that provides that information contained in the production contract is confidential as provided in section 202.3.

22. A contract seller who intentionally provides inaccurate information with regard to any matter required to be disclosed under section 558.70, subsection 1, or section 558A.4.

23. Knowingly, by deception and with intent to defraud another person, represents that the child expected as the result of that person's pregnancy or the pregnancy of another person may be available for adoption.

24. Practicing veterinary medicine without a valid license or temporary permit issued by the board of veterinary medicine pursuant to chapter 169, as described in section 169.19.

25. For the purpose of retaining or obtaining employment, or any other thing of value, falsely provides the employer or prospective employer with a social security number that does not belong to that person.

26. An employer knowingly providing a potential employee with a fraudulent social security number for the purpose of hiring the potential employee.

[C51, §2744, 2755; R60, §4394, 4405; C73, §4073, 4084, 4088; C97, §5041, 5056, 5068; C24, 27, §13045, 13058, 13059, 13071; C31, 35, §13045, 13058, 13059, 13071, 13092-d1; C39, §**13045, 13058, 13059, 13071, 13092.1;** C46, §713.1, 713.13, 713.14, 713.26, 714.12; C50, 54, 58, 62, §713.1, 713.13, 713.14, 713.26, 713.36 – 713.38, 714.12; C66, 71, 73, 75, 77, §713.1, 713.13, 713.14, 713.26, 713.36 – 713.38, 713.40, 714.12; C79, 81, §714.8]

84 Acts, ch 1048, §2; 85 Acts, ch 195, §61; 90 Acts, ch 1156, §12; 91 Acts, ch 15, §1; 91 Acts, ch 258, §65; 94 Acts, ch 1023, §70; 94 Acts, ch 1185, §1; 96 Acts, ch 1038, §2; 99 Acts, ch 88, §9, 13; 99 Acts, ch 107, §1; 99 Acts, ch 108, §11; 99 Acts, ch 169, §21, 22, 24; 2002 Acts, ch 1136, §5, 6; 2009 Acts, ch 133, §178; 2011 Acts, ch 34, §146; 2017 Acts, ch 113, §24; 2023 Acts, ch 155, §20, 24; 2024 Acts, ch 1161, §131, 137; 2026 Acts, ch 1038, §1; 2026 Acts, ch 1156, §6, 35

Referred to in §96.16, 189A.10, 202.5, 202A.7, 203.20, 203C.25, 714.11, 714.13
NEW subsections 7 and 8 and former subsections 7 – 22 renumbered as 9 – 24
NEW subsections 25 and 26

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714.9 Fraudulent practice in the first degree.

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

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

[C79, 81, §714.9]

92 Acts, ch 1060, §2; 2014 Acts, ch 1055, §1

Referred to in §15A.3, 96.16, 714.8

714.10 Fraudulent practice in the second degree.

1. Fraudulent practice in the second degree is the following:

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

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

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

[C79, 81, §714.10]

92 Acts, ch 1060, §3; 2013 Acts, ch 30, §207; 2019 Acts, ch 140, §13

Referred to in §96.16, 237A.29, 714.8

714.11 Fraudulent practice in the third degree.

1. Fraudulent practice in the third degree is the following:

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

b. A fraudulent practice as set forth in section 714.8, subsections 2, 10, 11, and 23.

c. A fraudulent practice where it is not possible to determine an amount of money or value of property and services involved.

d. A fraudulent practice as set forth in section 714.8, subsection 8.

2. Fraudulent practice in the third degree is an aggravated misdemeanor.

[C79, 81, §714.11]

92 Acts, ch 1060, §4; 2013 Acts, ch 30, §208; 2014 Acts, ch 1055, §2; 2015 Acts, ch 30, §192; 2017 Acts, ch 113, §25; 2019 Acts, ch 140, §14; 2026 Acts, ch 1038, §2

Referred to in §96.16, 714.8

Subsection 1, NEW paragraph d

714.12 Fraudulent practice in the fourth degree.

1. Fraudulent practice in the fourth degree is a fraudulent practice where the amount of money or value of property or services involved exceeds three hundred dollars but does not exceed seven hundred fifty dollars.

2. Fraudulent practice in the fourth degree is a serious misdemeanor.

[C79, 81, §714.12]

92 Acts, ch 1060, §5; 99 Acts, ch 153, §12; 2018 Acts, ch 1041, §127; 2019 Acts, ch 140, §15

Referred to in §96.16, 135L.6

714.13 Fraudulent practice in the fifth degree.

1. Fraudulent practice in the fifth degree is any of the following:

a. A fraudulent practice for which the amount of money or value of property or services involved does not exceed three hundred dollars.

b. A fraudulent practice as set forth in section 714.8, subsection 7.

2. Fraudulent practice in the fifth degree is a simple misdemeanor.

[C79, 81, §714.13]

92 Acts, ch 1060, §6; 99 Acts, ch 153, §13; 2018 Acts, ch 1041, §127; 2019 Acts, ch 140, §16; 2026 Acts, ch 1038, §3

Referred to in §96.16

Subsection 1 amended

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714.14 Value for purposes of fraudulent practices.

1. The value of property or service is its highest value by any reasonable standard at the time the fraudulent practice is committed. Reasonable standard includes but is not limited to market value within the community, actual value, or replacement value.

2. If money, property, or a service involved in two or more acts of fraudulent practice is from the same person or location, or from different persons by two or more acts which occur in approximately the same location or time period so that the fraudulent practices are attributable to a single scheme, plan, or conspiracy, these acts may be considered as a single fraudulent practice and the value may be the total value of all money, property, and services involved.

[C79, 81, §714.14]

84 Acts, ch 1162, §2; 2014 Acts, ch 1055, §3; 2015 Acts, ch 30, §193

Referred to in §96.16

714.15 Reproduction of sound recordings.

1. For the purposes of this section:

a. "Owner" means any person who owns the original fixation of sounds embodied in the master phonograph record, master disc, master tape, master film or other device used for reproducing sounds on phonograph records, discs, tapes, films, or other articles upon which sound is recorded, and from which the transferred recorded sounds are derived.

b. "Person" shall mean person as defined in section 4.1, subsection 20.

2. Except as provided in subsection 4, it is unlawful for a person knowingly to:

a. Transfer or cause to be transferred any sounds recorded on a phonograph record, disc, wire, tape, film or other article without the consent of the owner; or

b. Sell; distribute; circulate; offer for sale, distribution or circulation; possess for the purpose of sale, distribution or circulation; or cause to be sold, distributed, circulated; offered for sale, distribution or circulation; or possessed for sale, distribution or circulation, any article or device on which sounds have been transferred without the consent of the person who owns the master phonograph record, master disc, master tape or other device or article from which the sounds are derived.

3. It is unlawful for a person to sell, distribute, circulate, offer for sale, distribution or circulation or possess for the purposes of sale, distribution or circulation, any phonograph record, disc, wire, tape, film or other article on which sounds have been transferred unless the phonograph record, disc, wire, tape, film or other article bears the actual name and address of the transferor of the sounds in a prominent place on its outside face or package.

4. This section does not apply to a person who transfers or causes to be transferred sounds intended for or in connection with radio or television broadcast transmission or related uses, synchronized sound tracks of motion pictures or sound tracks recorded for synchronizing with motion pictures, for archival purposes or for the personal use of the person transferring or causing the transfer and without any compensation being derived by the person from the transfer.

5. A person who violates the provisions of this section is guilty of theft.

[C77, §713.44, 713.45; C79, 81, §714.15]

2013 Acts, ch 90, §232

Referred to in §549.9

714.16 Consumer frauds.

1. Definitions:

a. The term *"advertisement"* includes the attempt by publication, dissemination, solicitation, or circulation to induce directly or indirectly any person to enter into any obligation or acquire any title or interest in any merchandise.

b. "Contaminant" means any physical, chemical, biological, or radiological substance in water.

c. "Deception" means an act or practice which has the tendency or capacity to mislead a substantial number of consumers as to a material fact or facts.

d. "Health-related contaminant" means a contaminant which has a potentially adverse

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health effect and for which a maximum contaminant level or treatment technique requirement or an action level established in lieu of a maximum contaminant level has been specified in the national primary drinking water regulations.

e. The term *"merchandise"* includes any objects, wares, goods, commodities, intangibles, securities, bonds, debentures, stocks, real estate or services.

f. The term *"person"* includes any natural person or the person's legal representative, partnership, corporation (domestic and foreign), company, trust, business entity or association, and any agent, employee, salesperson, partner, officer, director, member, stockholder, associate, trustee or cestui que trust thereof.

g. The term *"sale"* includes any sale, offer for sale, or attempt to sell any merchandise for cash or on credit.

h. The term *"subdivided lands"* refers to improved or unimproved land or lands divided or proposed to be divided for the purpose of sale or lease, whether immediate or future, into five or more lots or parcels; provided, however, it does not apply to the leasing of apartments, offices, stores or similar space within an apartment building, industrial building or commercial building unless an undivided interest in the land is granted as a condition precedent to occupying space in said structure.

i. *"Unfair practice"* means an act or practice which causes substantial, unavoidable injury to consumers that is not outweighed by any consumer or competitive benefits which the practice produces.

j. *"Water treatment system"* means a device or assembly for which a claim is made that it will improve the quality of drinking water by reducing one or more contaminants through mechanical, physical, chemical, or biological processes or combinations of the processes. As used in this paragraph and in subsection 2, paragraph *"h"*, each model of a water treatment system shall be deemed a distinct water treatment system.

2. *a.* The act, use or employment by a person of an unfair practice, deception, fraud, false pretense, false promise, or misrepresentation, or the concealment, suppression, or omission of a material fact with intent that others rely upon the concealment, suppression, or omission, in connection with the lease, sale, or advertisement of any merchandise or the solicitation of contributions for charitable purposes, whether or not a person has in fact been misled, deceived, or damaged, is an unlawful practice.

It is deceptive advertising within the meaning of this section for a person to represent in connection with the lease, sale, or advertisement of any merchandise that the advertised merchandise has certain performance characteristics, accessories, uses, or benefits or that certain services are performed on behalf of clients or customers of that person if, at the time of the representation, no reasonable basis for the claim existed. The burden is on the person making the representation to demonstrate that a reasonable basis for the claim existed.

A retailer who uses advertising for a product, other than a drug or other product claiming to have a health related benefit or use, prepared by a supplier shall not be liable under this section unless the retailer participated in the preparation of the advertisement; knew or should have known that the advertisement was deceptive, false, or misleading; refused to withdraw the product from sales upon the request of the attorney general pending a determination of whether the advertisement was deceptive, false, or misleading; refused upon the request of the attorney general to provide the name and address of the supplier; or refused to cooperate with the attorney general in an action brought against the supplier under this section.

"Material fact" as used in this subsection does not include repairs of damage to or adjustments on or replacements of parts with new parts of otherwise new merchandise if the repairs, adjustments or replacements are made to achieve compliance with factory specifications and are made before sale of the merchandise at retail and the actual cost of any labor and parts charged to or performed by a retailer for any such repairs, adjustments and parts does not exceed three hundred dollars or ten percent of the actual cost to a retailer including freight of the merchandise, whichever is less, providing that the seller posts in a conspicuous place notice that repairs, adjustments or replacements will be disclosed upon request. The exemption provided in this paragraph does not apply to the concealment,

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suppression or omission of a material fact if the purchaser requests disclosure of any repair, adjustment or replacement.

b. The advertisement for sale, lease or rent, or the actual sale, lease, or rental of any merchandise at a price or with a rebate or payment or other consideration to the purchaser which is contingent upon the procurement of prospective customers provided by the purchaser, or the procurement of sales, leases, or rentals to persons suggested by the purchaser, is declared to be an unlawful practice rendering any obligation incurred by the buyer in connection therewith, completely void and a nullity. The rights and obligations of any contract relating to such contingent price, rebate, or payment shall be interdependent and inseverable from the rights and obligations relating to the sale, lease, or rental.

c. It is an unlawful practice for any person to advertise the sale of merchandise at reduced rates due to the cessation of business operations and after the date of the first such advertisement remain in business under the same or substantially the same ownership, or under the same or substantially the same trade name, or to continue to offer for sale the same type of merchandise at the same location for more than one hundred twenty days. As used in this paragraph *"person"* includes a person who acquires an ownership interest in the business either within sixty days before the initial advertisement of the sale or at any time after the initial advertisement of the sale. In addition, a person acquiring an ownership interest shall comply with paragraph *"g"* if the person adds additional merchandise to the sale.

d. (1) No person shall offer or advertise within this state for sale or lease, any subdivided lands without first filing with the real estate commission true and accurate copies of all road plans, plats, field notes, and diagrams of water, sewage, and electric power lines as they exist at the time of the filing, however, this filing is not required for a subdivision subject to section 306.21 or chapter 354. A filing shall be accompanied by a fee of fifty dollars for each subdivision included, payable to the real estate commission.

(2) False or misleading statements filed pursuant to subparagraph (1) or section 306.21 or chapter 354, and advertising, offers to sell, or contracts not in substantial conformity with the filings made pursuant to section 306.21 or chapter 354 are unlawful.

e. Any violations of chapter 123 or any other provisions of law by a manufacturer, distiller, vintner, importer, or any other person participating in the distribution of alcoholic liquor or beer as defined in chapter 123.

f. A violation of a provision of sections 535C.1 through 535C.10 is an unlawful practice.

g. It is an unlawful practice for a person to acquire directly or indirectly an interest in a business which has either gone out of business or is going out of business and conduct or continue a going-out-of-business sale where additional merchandise has been added to the merchandise of the liquidating business for the purposes of the sale, unless the person provides a clear and conspicuous notice in all advertisements that merchandise has been added. The advertisement shall also state the customary retail price of the merchandise that has been added or brought in for the sale. The person acquiring the interest shall obtain a permit to hold the sale before commencing the sale. If the sale is to be held in a city which has an ordinance regulating going-out-of-business sales, then the permit shall be obtained from the city. If the sale is to be located outside of a city or in a city which does not have an ordinance regulating going-out-of-business sales, then the permit shall be obtained from the county in which the proposed sale is to be held. The county board of supervisors shall prescribe the procedures necessary to obtain the permit. The permit shall state the percentage of merchandise for sale that was obtained from the liquidating business and the percentage of merchandise for sale that was added from other sources. The permit or an accurate reproduction of the permit shall be clearly and conspicuously posted at all entrances to the site of the sale and at all locations where sales are consummated. A person who violates this paragraph, including any misrepresentation of the presence and the percentage of additional merchandise that had been added to that of the liquidating company, is liable for a civil penalty of not to exceed one thousand dollars for each day of each violation. The civil penalties collected shall be deposited in the general fund of the political entity which prosecutes the violation. The civil penalty is in addition to and not in lieu of any criminal penalty. A political entity enforcing this paragraph may obtain a

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preliminary injunction without posting a bond to enjoin a violation of paragraph "*c*" and this paragraph pending a hearing.

This paragraph does not prohibit a city or county from adopting an ordinance prohibiting the conducting of a going-out-of-business sale in which additional merchandise is added to the merchandise of the liquidating business for the purposes of the sale.

h. It is an unlawful practice for a person to sell, lease, rent, or advertise the sale, lease, or rental of a water treatment system in this state, for which claims or representations related to the removal of health-related contaminants are made, unless a certification body accredited by the American national standards institute certifies all of the claims or representations related to the removal of health-related contaminants. This paragraph shall not be construed as limiting a manufacturer's ability to make claims or representations of removing contaminants that are not health-related contaminants.

i. It is an unlawful practice for a person to sell, lease, rent, or advertise the sale, lease, or rental of a water treatment system in this state for which false or deceptive claims or representations of removing health-related contaminants are made.

j. It is an unlawful practice for a person to make any representation or claim that the seller's water treatment system has been approved or endorsed by any agency of the state.

k. It is an unlawful practice for a supplier to commit a deceptive act or practice under chapter 537B.

l. It is an unlawful practice for a repair facility or manufacturer or distributor of aftermarket crash parts, as defined in section 537B.4, to commit a deceptive act or practice under chapter 537B.

m. It is an unlawful practice for a person to advertise the sale of wood products without disclosing information which may affect the price of the product.

An advertisement for all plywood and dimension lumber products shall include the grade and species, in accordance with federal products standards 1 and 20, and the measure. The products advertised shall also be labeled according to the federal products standards.

An advertisement for any other wood product shall include the grade and species, according to the applicable federal product standards, and the measure. These products need not be labeled.

An advertisement for any wood products must also include the following:

(1) The condition of the wood product, including but not limited to the following designations:

(a) Green.

(b) Kiln-dried.

(c) Air-dried or partially air-dried.

(2) Whether the wood product consists of seconds, culls, shop grade, or ungraded material.

Use of any contrived or unrecognized grading standard is prohibited, and any factors affecting the final delivered price of the products shall be disclosed and displayed in a conspicuous place.

This paragraph applies only to persons who offer wood products for sale in the ordinary course of business, except that this paragraph does not apply to any person who produces rough-sawed lumber, commonly referred to as native lumber, in this state. For purposes of this paragraph:

"*Dimension lumber*" means softwood lumber nominally referred to as "two inch by four inch" or greater.

"*Labeling*" means all labels and other written, printed, branded, or graphic matter upon any building material.

"*Plywood*" means a structural material consisting of sheets or chips of wood glued or cemented together.

"*Wood products*" means any wood products derived from trees as a result of any work or manufacturing process upon the wood, and intended primarily for use as a building material.

n. (1) It is an unlawful practice for a person to misrepresent the geographic location of a supplier of a service or product by listing a fictitious business name or an assumed business

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name in a local telephone directory or directory assistance database if all of the following apply:

(a) The name purportedly represents the geographic location of the supplier.

(b) The listing does not identify the address, including the city and state, of the supplier.

(c) Calls made to a local telephone number are routinely forwarded to or otherwise transferred to a business location that is outside the local calling area covered by the local telephone directory or directory assistance database.

(2) A telephone company, provider of directory assistance, publisher of a local telephone directory, or officer, employee, or agent of such company, provider, or publisher shall not be liable in a civil action under this section for publishing in any directory or directory assistance database the listing of a fictitious or assumed business name of a person in violation of subparagraph (1) unless the telephone company, directory assistance provider, directory publisher, or officer, employee, or agent of the company, provider, or publisher is the person committing such violation.

(3) For purposes of this paragraph:

(a) *"Local telephone directory"* means a telephone classified advertising directory or the business section of a telephone directory that is distributed free of charge to some or all telephone subscribers in a local area.

(b) *"Local telephone number"* means a telephone number that has a three-number prefix used by the provider of telephone service for telephone customers physically located within the area covered by the local telephone directory in which the number is listed. The term does not include long distance numbers or 800, 888, or 900 exchange numbers listed in the telephone directory.

o. (1) It is an unlawful practice for a person to make a free offer to a consumer, or impose a financial obligation on the consumer as a result of the consumer's acceptance of a free offer, unless the person provides the consumer with clear and conspicuous information regarding the terms of the free offer before the consumer agrees to accept the free offer, including at a minimum all of the following:

(a) Identification of all goods or services, or enrollments in a membership, subscription, or service contract, that the consumer will receive or incur a financial obligation for as a result of accepting the free offer.

(b) The cost to the consumer of any financial obligation the consumer will incur if the consumer accepts the free offer, including any fees or charges.

(c) Any requirement, if applicable, that the consumer take affirmative action to reject the free offer and instructions about how the consumer is to indicate the consumer's rejection of the free offer.

(d) A statement, if applicable, that by accepting the free offer, the consumer will become obligated for additional goods or services, or enrollment in a membership, subscription, or service contract, unless the consumer takes affirmative action to cancel the free offer or otherwise reject receipt of the additional goods or services or the enrollment in a membership, subscription, or service contract.

(e) The consumer's right to cancel the free offer using procedures specifically intended for that purpose that, at a minimum, enable the consumer to cancel by calling a toll-free telephone number or to cancel in a manner substantially similar to that by which the consumer accepted the free offer.

(f) The time period during which the consumer must cancel in order to avoid incurring a financial obligation as a result of accepting the free offer.

(g) If applicable, the consumer's right to receive a credit on goods or services received as a result of accepting the free offer when the goods or services are returned or rejected, and the time period during which the goods or services must be returned or rejected for the purpose of receiving a credit.

(2) It is an unlawful practice for a person to cause a consumer to incur a financial obligation as a result of accepting a free offer unless one of the following occurs:

(a) The person obtains the consumer's billing information directly from the consumer. For purposes of this subparagraph division, a person obtains a consumer's billing information

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directly from the consumer if the billing information is obtained by the person or by the person's agent or employee.

(b) The consumer gives affirmative consent at the time the consumer accepts a free offer for the person to provide billing information to a person other than the person making the free offer.

(3) It is an unlawful practice for a person to impose a financial obligation on a consumer as a result of the consumer's acceptance of a free offer unless the consumer's affirmative consent to the terms of the free offer as disclosed in subparagraph (1) is obtained.

(4) It is an unlawful practice for a person that makes a free offer to a consumer to fail or refuse to cancel the free offer if the consumer has used, or made reasonable efforts to attempt to use, one of the procedures required to be available to the consumer as described in subparagraph (1), subparagraph division (e).

(5) This paragraph *"o"* does not apply to free offers made in connection with services that are subject to the federal Communications Act of 1934, 47 U.S.C. §151 et seq.

(6) For purposes of this paragraph *"o"*:

(a) *"Affirmative consent"* means a consumer's agreement to incur a financial obligation as a result of accepting a free offer, or to provide the consumer's billing information, given or made in the manner specifically identified for the consumer to indicate the consumer's agreement.

(b) *"Billing information"* means any record or information compiled or maintained with respect to a consumer that identifies the consumer and provides a means by which the consumer's financial obligation incurred by accepting a free offer may be paid or otherwise satisfied, including but not limited to information pertaining to a consumer's credit card, payment card, charge card, debit card, checking, savings, or other banking account, and electronic funds transfer information.

(c) *"Clear and conspicuous information"* means language that is readily understandable and presented in such size, color, contrast, and location, or audibility and cadence, compared to other language, as to be readily noticed and understood, and that is in close proximity to the request for consent to a free offer.

(d) *"Consumer"* means an individual who seeks to accept or accepts a free offer.

(e) (i) *"Free offer"* means an offer of goods or services without cost, or for a one-time payment to cover only incidental charges such as shipping or handling, to a consumer that, if accepted, causes the consumer to incur a financial obligation for any of the following:

(A) The goods or services received.

(B) Additional goods or services other than those initially received.

(C) Enrollment in a membership, subscription, or service contract as a result of accepting the offer.

(ii) *"Free offer"* does not include a free good or service that is received by a consumer as a result of the consumer's entering into an agreement for enrollment in a membership, subscription, or service contract that is not otherwise a free offer or a consequence of the consumer's agreement to accept a free offer.

(iii) *"Free offer"* does not include enrollment in a subscription to a publication, including but not limited to a magazine, newspaper, or other periodical, if the consumer may cancel the subscription at any time and receive a refund for issues not yet distributed, or in the case of a newspaper, a refund for newspapers that would otherwise be distributed after the expiration of the current month.

p. It is an unlawful practice for an athlete agent to violate any of the provisions of chapter 9A.

q. It shall be an unlawful practice for a person to violate section 558B.2, subsection 3.

r. It shall be an unlawful practice for a financial institution to violate section 525.1.

s. It is an unlawful practice for a person to violate section 554I.2.

t. It shall be an unlawful practice for a person to violate section 533C.1004.

u. It is an unlawful practice for a person to violate section 523C.7 or 523C.13.

3. When it appears to the attorney general that a person has engaged in, is engaging in, or is about to engage in any practice declared to be unlawful by this section or when the attorney general believes it to be in the public interest that an investigation should be made

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to ascertain whether a person in fact has engaged in, is engaging in or is about to engage in, any such practice, the attorney general may:

a. Require such person to file on such forms as the attorney general may prescribe a statement or report in writing under oath or otherwise, as to all the facts and circumstances concerning the sale or advertisement of merchandise by such person, and such other data and information as the attorney general may deem necessary;

b. Examine under oath any person in connection with the sale or advertisement of any merchandise;

c. Examine any merchandise or sample thereof, record, book, document, account or paper as the attorney general may deem necessary; and

d. Pursuant to an order of a district court impound any record, book, document, account, paper, or sample of merchandise that is produced in accordance with this section, and retain the same in the attorney general's possession until the completion of all proceedings in connection with which the same are produced.

4. *a.* To accomplish the objectives and to carry out the duties prescribed by this section, the attorney general, in addition to other powers conferred upon the attorney general by this section, may issue subpoenas to any person, administer an oath or affirmation to any person, conduct hearings in aid of any investigation or inquiry, prescribe such forms and promulgate such rules as may be necessary, which rules shall have the force of law.

b. Subject to paragraph "*c*", information, documents, testimony, or other evidence provided to the attorney general by a person pursuant to paragraph "*a*" or subsection 3, or provided by a person as evidence in any civil action brought pursuant to this section, shall not be admitted in evidence, or used in any manner whatsoever, in any criminal prosecution or forfeiture proceeding against that person. If a criminal prosecution or forfeiture proceeding is initiated in a state court against a person who has provided information pursuant to paragraph "*a*" or subsection 3, the state shall have the burden of proof that the information provided was not used in any manner to further the criminal investigation, prosecution, or forfeiture proceeding.

c. Paragraph "*b*" does not apply unless the person has first asserted a right against self-incrimination and the attorney general has elected to provide the person with a written statement that the information, documents, testimony, or other evidence at issue are subject to paragraph "*b*". After a person has been provided with such a written statement by the attorney general, a claim of privilege against self-incrimination is not a defense to any action or proceeding to obtain the information, documents, testimony, or other evidence. The limitation on the use of evidence in a criminal proceeding contained in this section does not apply to any prosecution or proceeding for perjury or contempt of court committed in the course of the giving or production of the information, documents, testimony, or other evidence.

5. Service by the attorney general of any notice requiring a person to file a statement or report, or of a subpoena upon any person, shall be made personally within this state, but if such cannot be obtained, substituted service therefor may be made in the following manner:

a. Personal service thereof without this state; or

b. The mailing thereof by registered mail to the last known place of business, residence or abode within or without this state of such person for whom the same is intended; or

c. As to any person other than a natural person, in the manner provided in the rules of civil procedure as if a petition had been filed; or

d. Such service as a district court may direct in lieu of personal service within this state.

6. If a person fails or refuses to file a statement or report, or obey any subpoena issued by the attorney general, the attorney general may, after notice, apply to the Polk county district court or the district court for the county in which the person resides or is located and, after hearing, request an order:

a. Granting injunctive relief, restraining the sale or advertisement of any merchandise by such persons.

b. Dissolving a corporation created by or under the laws of this state or revoking or suspending the certificate of authority to do business in this state of a foreign corporation or

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revoking or suspending any other licenses, permits, or certificates issued pursuant to law to such person which are used to further the allegedly unlawful practice.

c. Granting such other relief as may be required until the person files the statement or report, or obeys the subpoena.

7. A civil action pursuant to this section shall be by equitable proceedings. If it appears to the attorney general that a person has engaged in, is engaging in, or is about to engage in a practice declared to be unlawful by this section, the attorney general may seek and obtain in an action in a district court a temporary restraining order, preliminary injunction, or permanent injunction prohibiting the person from continuing the practice or engaging in the practice or doing an act in furtherance of the practice. The court may make orders or judgments as necessary to prevent the use or employment by a person of any prohibited practices, or which are necessary to restore to any person in interest any moneys or property, real or personal, which have been acquired by means of a practice declared to be unlawful by this section, including the appointment of a receiver in cases of substantial and willful violation of this section. If a person has acquired moneys or property by any means declared to be unlawful by this section and if the cost of administering reimbursement outweighs the benefit to consumers or consumers entitled to the reimbursement cannot be located through reasonable efforts, the court may order disgorgement of moneys or property acquired by the person by awarding the moneys or property to the state to be used by the attorney general for the administration and implementation of this section. Except in an action for the concealment, suppression, or omission of a material fact with intent that others rely upon it, it is not necessary in an action for reimbursement or an injunction, to allege or to prove reliance, damages, intent to deceive, or that the person who engaged in an unlawful act had knowledge of the falsity of the claim or ignorance of the truth. A claim for reimbursement may be proved by any competent evidence, including evidence that would be appropriate in a class action.

In addition to the remedies otherwise provided for in this subsection, the attorney general may request and the court may impose a civil penalty not to exceed forty thousand dollars per violation against a person found by the court to have engaged in a method, act, or practice declared unlawful under this section; provided, however, a course of conduct shall not be considered to be separate and different violations merely because the conduct is repeated to more than one person. In addition, on the motion of the attorney general or its own motion, the court may impose a civil penalty of not more than five thousand dollars for each day of intentional violation of a temporary restraining order, preliminary injunction, or permanent injunction issued under authority of this section. A penalty imposed pursuant to this subsection is in addition to any penalty imposed pursuant to section 537.6113. Civil penalties ordered pursuant to this subsection shall be paid to the treasurer of state to be deposited in the general fund of the state.

8. When a receiver is appointed by the court pursuant to this section, the receiver shall have the power to sue for, collect, receive and take into possession all the goods and chattels, rights and credits, moneys and effects, lands and tenements, books, records, documents, papers, choses in action, bills, notes and property of every description, derived by means of any practice declared to be illegal and prohibited by this section, including property with which such property has been mingled if it cannot be identified in kind because of such commingling, and to sell, convey, and assign the same and hold and dispose of the proceeds thereof under the direction of the court. Any person who has suffered damages as a result of the use or employment of any unlawful practices and submits proof to the satisfaction of the court that the person has in fact been damaged, may participate with general creditors in the distribution of the assets to the extent the person has sustained out-of-pocket losses. In the case of a partnership or business entity, the receiver shall settle the estate and distribute the assets under the direction of the court. The court shall have jurisdiction of all questions arising in such proceedings and may make such orders and judgments therein as may be required.

9. Subject to an order of the court terminating the business affairs of any person after receivership proceedings held pursuant to this section, the provisions of this section shall not

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bar any claim against any person who has acquired any moneys or property, real or personal, by means of any practice herein declared to be unlawful.

10. A civil action pursuant to this section may be commenced in the county in which the person against whom it is brought resides, has a principal place of business, or is doing business, or in the county where the transaction or any substantial portion of the transaction occurred, or where one or more of the victims reside.

11. In an action brought under this section, the attorney general is entitled to recover costs of the court action and any investigation which may have been conducted, including reasonable attorneys' fees, for the use of this state.

12. If any provision of this section or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions of applications of the section which can be given effect without the invalid provision or application and to this end the provisions of this section are severable.

13. The attorney general or the designee of the attorney general is deemed to be a regulatory agency under chapter 692 for the purpose of receiving criminal intelligence data relating to violations of this section.

14. This section does not apply to the newspaper, magazine, publication, or other print media in which the advertisement appears, or to the radio station, television station, or other electronic media which disseminates the advertisement if the newspaper, magazine, publication, radio station, television station, or other print or electronic media has no knowledge of the fraudulent intent, design, or purpose of the advertiser at the time the advertisement is accepted; and provided, further, that nothing herein contained shall apply to any advertisement which complies with the rules and regulations of, and the statutes administered by the federal trade commission.

15. The attorney general may bring an action on behalf of the residents of this state, or as parens patriae, under the federal Telemarketing and Consumer Fraud and Abuse Prevention Act, Pub. L. No. 103-297, and pursue any and all enforcement options available under that Act. Subsequent amendments to that Act which do not substantially alter its structure and purpose shall not be construed to affect the authority of the attorney general to pursue an action pursuant to this section, except to the extent the amendments specifically restrict the authority of the attorney general.

[S13, §5051-a; C24, 27, 31, 35, 39, §**13069, 13070;** C46, 50, 54, 58, 62, §713.24, 713.25; C66, 71, 73, 75, 77, §713.24; C79, 81, §714.16]

83 Acts, ch 146, §12; 85 Acts, ch 16, §1, 2; 87 Acts, ch 164, §1 – 7; 88 Acts, ch 1016, §1, 2; 89 Acts, ch 93, §7; 89 Acts, ch 129, §1; 90 Acts, ch 1010, §6; 90 Acts, ch 1236, §53; 91 Acts, ch 212, §1; 92 Acts, ch 1062, §3; 94 Acts, ch 1142, §5; 98 Acts, ch 1200, §1 – 3; 2000 Acts, ch 1079, §1; 2000 Acts, ch 1232, §85; 2001 Acts, ch 58, §15, 16; 2002 Acts, ch 1119, §194, 203; 2015 Acts, ch 29, §113; 2015 Acts, ch 101, §2; 2018 Acts, ch 1139, §32; 2022 Acts, ch 1015, §1 – 6; 2023 Acts, ch 47, §3; 2025 Acts, ch 25, §2; 2025 Acts, ch 126, §5; 2026 Acts, ch 1078, §10 – 12; 2026 Acts, ch 1188, §16, 17

Referred to in §9A.116, 13C.2, 13C.8, 22A.1, 103A.71, 123.23, 126.5, 154A.24, 154A.26, 162.10D, 261B.12, 261F.9, 261G.6, 321.69, 321.69A, 321.71A, 321H.6, 322.6, 322.19A, 322C.6, 322G.2, 322G.10, 453A.52B, 476.95, 516D.7, 516D.9, 523A.807, 523C.13, 523G.9, 523I.205, 525.1, 533A.8A, 533A.10, 533C.1004, 533D.11, 535B.10, 535B.13, 535C.10, 536.10, 536A.15, 537.2403, 537.3309, 543D.18A, 546B.5, 551A.10, 552.13, 552A.5, 554.3513, 554I.4, 555A.6, 557A.16, 557B.14, 558A.4A, 558B.2, 577.3, 602.6803, 714.16A, 714.16B, 714.16C, 714.21A, 714A.1, 714A.5, 714B.1, 714B.7, 714B.9, 714D.2, 714D.7, 714E.6, 714F.9, 714G.11, 714H.2, 714H.3, 715A.8, 715C.2, 716A.6

Subsection 2, paragraph t applies to civil actions commenced on or after May 6, 2026; 2026 Acts, ch 1078, §12

Subsection 2, paragraph u effective January 1, 2027; 2026 Acts, ch 1188, §17

Subsection 2, NEW paragraph t

Subsection 2, NEW paragraph u

714.16A Additional civil penalty for consumer frauds committed against older individuals — fund established.

1. *a.* If a person violates section 714.16, and the violation is committed against an older individual, in an action brought by the attorney general, in addition to any other civil penalty, the court may impose an additional civil penalty not to exceed five thousand dollars for each such violation. Additionally, the attorney general may accept a civil penalty as determined by the attorney general in settlement of an investigation of a violation of section 714.16, regardless of whether an action has been filed pursuant to section 714.16.

b. A civil penalty imposed by a court or determined and accepted by the attorney general

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pursuant to this section shall be paid to the treasurer of state, who shall deposit the money in the elderly victim fund, a separate fund created in the state treasury and administered by the attorney general for the investigation and prosecution of frauds against the elderly. Notwithstanding section 8.33, any balance in the fund on June 30 of any fiscal year shall not revert to the general fund of the state. An award of reimbursement pursuant to section 714.16 has priority over a civil penalty imposed by the court pursuant to this subsection.

2. In determining whether to impose a civil penalty under subsection 1, and the amount of any such penalty, the court shall consider the following:

a. Whether the defendant's conduct was in willful disregard of the rights of the older individual.

b. Whether the defendant knew or should have known that the defendant's conduct was directed to an older individual.

c. Whether the older individual was substantially more vulnerable to the defendant's conduct because of age, poor health, infirmity, impaired understanding, restricted mobility, or disability, than other persons.

d. Any other factors the court deems appropriate.

3. As used in this section, *"older individual"* means an individual who is sixty years of age or older.

91 Acts, ch 102, §1; 94 Acts, ch 1142, §6; 98 Acts, ch 1200, §4; 2013 Acts, ch 30, §261; 2022 Acts, ch 1132, §3

Referred to in §13.2, 633.669, 633.670

714.16B Identity theft — civil cause of action.

1. In addition to any other remedies provided by law, a person as defined under section 714.16, subsection 1, suffering a pecuniary loss as a result of an identity theft by another person under section 715A.8, or a financial institution on behalf of an account holder suffering a pecuniary loss as a result of an identity theft by another person under section 715A.8, may bring an action against such other person to recover all of the following:

a. Five thousand dollars or three times the actual damages, whichever is greater.

b. Reasonable costs incurred due to the violation of section 715A.8, including all of the following:

(1) Costs for repairing the victim's credit history or credit rating.

(2) Costs incurred for bringing a civil or administrative proceeding to satisfy a debt, lien, judgment, or other obligation of the victim.

(3) Punitive damages, attorney fees, and court costs.

2. For purposes of this section, *"financial institution"* means the same as defined in section 527.2, and includes an insurer organized under Title XIII, subtitle 1, of this Code, or under the laws of any other state or the United States.

99 Acts, ch 47, §1; 2005 Acts, ch 18, §2; 2013 Acts, ch 30, §209

Referred to in §614.4A

714.16C Consumer education and litigation fund.

1. A consumer education and litigation fund is created as a separate fund in the state treasury to be administered by the attorney general. Moneys credited to the fund shall include amounts received as a result of a state or federal civil consumer fraud judgment or settlement, civil penalties, costs, or attorney fees, and amounts which are specifically directed to the credit of the fund by the judgment or settlement, and amounts which are designated by the judgment or settlement for use by the attorney general for consumer litigation or education purposes. Moneys designated for consumer reimbursement shall not be credited to the fund, except to the extent that such moneys are permitted to be used for enforcement of section 714.16.

2. For each fiscal year, not more than one million eight hundred seventy-five thousand dollars is appropriated from the fund to the department of justice to be used for public education relating to consumer fraud and for enforcement of section 714.16 and federal consumer laws, and not more than one hundred twenty-five thousand dollars is appropriated from the fund to the department of justice to be used for investigation, prosecution, and

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consumer education relating to consumer and criminal fraud committed against older Iowans.

3. Notwithstanding section 8.33, moneys credited to the fund shall not revert to any other fund. Notwithstanding section 12C.7, interest or earnings on the moneys in the fund shall be credited to the fund.

2007 Acts, ch 213, §24; 2025 Acts, ch 154, §21

Referred to in §715D.1, 715D.8

See annual Iowa Acts for appropriations from fund for farm mediation services and for criminal prosecutions, criminal appeals, and state tort claim representation

See annual Iowa Acts for appropriation of unappropriated moneys in fund to the department of justice for a given fiscal year

714.17 Unlawful advertising and selling of educational courses.

It shall be unlawful for any person, firm, association, or corporation maintaining, advertising, or conducting in Iowa any educational course for profit, or for tuition charge, whether by classroom instructions, by correspondence, or by other delivery method to:

1. Falsely advertise or represent to any person any matter material to an educational course. All advertising of such courses shall adhere to and comply with the applicable rules and regulations of the federal trade commission.

2. Collect tuition or other charges in excess of one hundred fifty dollars in the case of educational courses offered by correspondence, in advance of the receipt and approval by the pupil of the first assignment or lesson of such course. Any contract providing for advance payment of more than one hundred fifty dollars shall be voidable on the part of the pupil or any person liable for the tuition provided for in the contract.

3. Promise or guarantee employment utilizing information, training, or skill purported to be provided or otherwise enhanced by an educational course, unless the promisor or guarantor offers the student or prospective student a bona fide contract of employment agreeing to employ said student or prospective student for a period of not less than one hundred twenty days in a business or other enterprise regularly conducted by the promisor or guarantor and in which such information, training, or skill is a normal condition of employment.

[C66, 71, 73, 75, 77, §713A.1; C79, 81, §714.17]

2012 Acts, ch 1077, §10

Referred to in §261G.4, 714.19, 714.21, 714.21A

714.18 Evidence of financial responsibility.

1. Every person, firm, association, or corporation maintaining or conducting in Iowa any educational course by classroom instruction or by correspondence or by other delivery method, or soliciting in Iowa the sale of such course, shall file with the college student aid commission, in a format prescribed by the commission, all of the following:

a. A continuous corporate surety bond to the state of Iowa in the sum of fifty thousand dollars or ten percent of the total annual tuition determined in accordance with subsection 2, whichever is less, conditioned on the faithful performance of all contracts and agreements with students made by such person, firm, association, or corporation, or their salespersons. The aggregate liability of the surety for all breaches of the conditions of the bond shall not exceed the sum of the bond. The surety on the bond may cancel the bond upon giving thirty days' written notice to the college student aid commission and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of the cancellation.

b. A statement designating a resident agent for the purpose of receiving service in civil actions. In the absence of such designation, service may be had upon the secretary of state if service cannot otherwise be made in this state.

c. A copy of any catalog, prospectus, brochure, or other advertising material intended for distribution in Iowa. Such material shall state the cost of the educational course offered, the schedule of tuition refunds for portions of the educational course not completed, and if no refunds are to be paid, the material shall so state. Any contract induced by advertising materials not previously filed as provided in this chapter shall be voidable on the part of the pupil or any person liable for the tuition provided for in the contract.

2. *a.* A school that files with the college student aid commission a continuous corporate

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surety bond in a sum less than fifty thousand dollars shall provide to the college student aid commission, in the format prescribed by the commission, a notarized statement attesting to the total amount of tuition the school charged to students in the immediately preceding fiscal year. The commission shall determine the sufficiency of the statement and the amount of the bond or, as permitted under subsection 3, letter of credit. Tuition information submitted pursuant to this subsection shall be kept confidential.

b. The aggregate liability of the surety for all breaches of the conditions of the bond shall not exceed the sum of the bond. The surety on the bond may cancel the bond upon giving thirty days' written notice to the college student aid commission and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of the cancellation.

3. *a.* The college student aid commission may accept a letter of credit issued by a state or federally chartered bank or credit union in lieu of and for the amount of the corporate surety bond required under subsection 2.

b. For purposes of this chapter and chapter 261B, a letter of credit must meet all of the following conditions:

(1) Be payable to the commission.

(2) Be valid for a period of at least one year from the date of issuance and subject to renewal as required by the commission.

(3) Allow the commission to draw one or multiple installments of the total letter of credit amount upon making the required presentations to the issuer.

c. For purposes of this section, *"letter of credit"* means a financial instrument subject to the provisions of chapter 554, article 5, with irrevocable terms and conditions that cannot be modified or canceled after issuance without the consent of all of the parties.

4. If a letter of credit accepted by the college student aid commission under subsection 3 is canceled, revoked, not renewed, or otherwise fails to be of full force and effect, the school shall comply with the provisions of subsection 2.

5. This section shall not apply to the provision of an educational course of flight instruction under regulations promulgated by the federal aviation administration for which students do not pay tuition in advance of instruction and which students may cancel at any time with no further monetary obligation.

[C66, 71, 73, 75, 77, §713A.2; C79, 81, §714.18]

85 Acts, ch 212, §21; 89 Acts, ch 240, §6; 90 Acts, ch 1222, §1, 2; 2002 Acts, ch 1140, §40-42; 2009 Acts, ch 12, §15; 2012 Acts, ch 1077, §11, 12; 2015 Acts, ch 140, §50, 51, 53, 54; 2021 Acts, ch 158, §3 – 5

Referred to in §261B.4, 261B.11, 261G.4, 714.19, 714.21, 714.21A, 714.24

714.19 Nonapplicability.

The provisions of sections 714.17, 714.18, 714.20, and 714.21 shall not apply to the following:

1. A community college established under chapter 260C or an institution of higher learning under the control of the state board of regents.

2. A public college or university created or authorized by the laws of any other state to grant degrees, in which state the college or university maintains its principal domicile and from which the college or university receives public funds to support the operating costs of the college or university.

3. A school district described in chapter 274.

4. Private and nonprofit elementary or secondary schools recognized by the department of education or the board of directors of a school district for the purpose of complying with chapter 299 and employing teachers licensed under chapter 256, subchapter VII, part 3.

5. Nonprofit schools exclusively engaged in training persons with disabilities in the state of Iowa.

6. Schools and educational programs conducted by firms, corporations, or persons for which no fee is charged to any student or any other party who assumes the cost of education on the student's behalf.

7. Seminars, refresher courses, and schools of instruction conducted by professional,

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business, or farming organizations or associations for the members and employees of members of such organizations or associations. A person who provides instruction under this subsection who is not a member or an employee of a member of the organization or association shall not be eligible for this exemption.

8. Private college preparatory schools accredited or probationally accredited under section 256.11, subsection 13.

9. Private, nonprofit schools that meet the criteria established under section 256.183, subsection 1.

[C66, 71, 73, 75, 77, §713A.3; C79, 81, §714.19]

86 Acts, ch 1245, §1498; 89 Acts, ch 240, §7; 96 Acts, ch 1129, §108; 2001 Acts, ch 24, §59; 2010 Acts, ch 1079, §19; 2012 Acts, ch 1077, §13 – 15; 2018 Acts, ch 1026, §173; 2021 Acts, ch 158, §6, 7; 2023 Acts, ch 19, §2602; 2025 Acts, ch 30, §100

Referred to in §261B.4, 261B.11, 714.24

714.20 One contract per person.

It shall be unlawful to sell more than one lifetime contract to any one person.

[C66, 71, 73, 75, 77, §713A.4; C79, 81, §714.20]

Referred to in §261G.4, 714.19, 714.21, 714.21A, 714.24

714.21 Penalty.

Violation of any of the provisions of section 714.17, 714.18 or 714.20 shall be a serious misdemeanor.

[C66, 71, 73, 75, 77, §713A.5; C79, 81, §714.21]

Referred to in §261G.4, 714.19, 714.24

714.21A Civil enforcement.

A violation of chapter 261B, or section 714.17, 714.18, 714.20, 714.23, or 714.25 constitutes an unlawful practice pursuant to section 714.16.

2009 Acts, ch 12, §16

Referred to in §714.24

714.22 Trade and vocational schools — exemption — conditions. Repealed by 2012 Acts, ch 1077, §20.

714.23 Refund policies — penalty.

1. For purposes of this section:

a. "Payment period" means the same as set forth in 34 C.F.R. §668.4.

b. "Postsecondary educational program" means a series of postsecondary educational courses that lead to a recognized educational credential including but not limited to an academic or professional degree, diploma, license, or other certification or designation, regardless of whether the school awards the credential.

c. "Proprietary school" means a person offering a postsecondary educational program, for profit.

d. "School period" means the course, term, payment period, postsecondary educational program, or other period for which the school assessed tuition charges to the student.

2. *a.* A proprietary school shall refund all tuition charges to a student who withdraws within the first two calendar weeks of instruction.

b. A proprietary school shall make a pro rata refund of tuition charges to a student who terminates from any of the school's postsecondary educational programs or courses after the first two calendar weeks in an amount that is not less than ninety-five percent of the amount of tuition charged to the student multiplied by the ratio of the number of calendar days remaining in the school period to the total number of calendar days in the school period. If a terminating student has completed sixty percent or more of a school period, the school offering the postsecondary educational program is not required to refund tuition charges to the student.

c. (1) A proprietary school as provided in subparagraph (2) shall provide to a student who terminates after the first two calendar weeks a refund of tuition charges in an amount that is

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not less than ninety-five percent of the amount of tuition charged to the student multiplied by the ratio of the remaining number of calendar days in the school period to the total number of calendar days in the school period.

(2) This paragraph *"c"* applies to a proprietary school whose cohort default rate for students under the Stafford loan program as reported by the United States department of education for the most recent federal fiscal year is more than one hundred ten percent of the national average cohort default rate of all schools for the same federal fiscal year or six percent, whichever is higher.

3. A proprietary school that assesses tuition charges to the student at the beginning of each course, term, payment period, or other period that is shorter than the postsecondary educational program's length shall base its tuition refund on the amount of tuition costs the school charged for the course, term, or other period in which the student terminated. A school shall not base its tuition refund calculation on any portion of a postsecondary educational program that remains after a student terminates unless the student was charged for that remaining portion of the postsecondary educational program before the student's termination and the student began attendance in the school term or course.

4. Notwithstanding the provisions of subsection 2, paragraphs *"b"* and "c", if, at any time, a student terminates a postsecondary educational program after the first two calendar weeks due to the student's physical incapacity or, for a program that requires classroom instruction, due to the transfer of the student's spouse's employment to another city, the terminating student shall receive a refund of the tuition charges in an amount that equals the amount of tuition charged to the student multiplied by the ratio of the remaining number of calendar days in the school period to the total number of calendar days in the school period.

5. In the case of a program in which student progress is measured only in clock hours, all occurrences of "calendar days" in subsections 2 and 4 shall be replaced with "scheduled clock hours".

6. A student who does not receive a tuition refund up to the full refund of tuition charges due to the effect of an interstate reciprocity agreement under section 261G.4, subsection 1, may apply to the attorney general for a refund in a sum that represents the difference between any tuition refund received from the school and the full refund of tuition charges. For purposes of this subsection, *"full refund of tuition charges"* means the monetary sum of the refund for which the student would be eligible pursuant to the application of this section.

7. A tuition refund fund is created as a separate fund in the office of the treasurer of state under the control of the attorney general. Moneys credited to the fund shall include amounts appropriated by the general assembly and moneys received as a result of a court order, judgment, or settlement which specifically directs that moneys be used for the purpose of providing student tuition refunds, or which authorizes the attorney general to use moneys for any other purpose at the discretion of the attorney general. All moneys credited to the fund are appropriated and made available to the attorney general for such purposes. For each fiscal year, the attorney general may expend all moneys in the fund to provide tuition refunds to eligible students. Notwithstanding section 8.33, any balance in the fund on June 30 of each fiscal year shall not revert to the general fund of the state, but shall be available for purposes of this subsection in subsequent fiscal years. Notwithstanding section 12C.7, interest or earnings on the moneys in the fund shall be credited to the fund.

8. A refund of tuition charges shall be provided to the student within forty-five days following the date of the school's determination that a student has terminated from a postsecondary educational program.

9. A student who terminates a postsecondary educational program shall not be charged any fee or other monetary penalty for terminating the postsecondary educational program, other than a reduction in tuition refund as specified in this section.

10. A proprietary school shall apply the refund policy it adopts in accordance with this section to all students who attend on-campus classes or at instructional sites in Iowa and to all Iowa resident students who attend the school's distance education programs. A proprietary school offering instructional programs or courses under an interstate reciprocity agreement entered into or recognized by the commission under chapter 261G shall apply the policy it

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adopts under this section to Iowa resident and nonresident students who attend distance education programs the school offers under the interstate reciprocity agreement.

11. This section does not apply to any of the following:

a. Personal vehicle driving education schools.

b. Postsecondary vocational schools that offer solely discrete continuing education courses.

c. A for-profit school that offers solely programs for which the sum of tuition, fees, instructional materials, technology, and other items required for program completion is less than three thousand dollars.

12. A violation of this section is a simple misdemeanor.

85 Acts, ch 220, §1; 90 Acts, ch 1222, §3; 91 Acts, ch 97, §61; 2012 Acts, ch 1077, §16, 17; 2015 Acts, ch 107, §2, 3; 2015 Acts, ch 138, §49, 161, 162; 2021 Acts, ch 158, §8

Referred to in §261B.4, 261B.11, 261G.4, 714.21A, 714.24, 714.25

714.24 Additional requirements.

1. A required filing of evidence of financial responsibility pursuant to section 714.18 must be completed at least once every two years.

2. An entity that claims an exemption under section 714.19 must file an exemption claim with the commission. The commission may approve or deny the exemption claim. Except for a school that claims an exemption under section 714.19, subsection 1, 2, 3, or 9, a filing of a claim for an exemption pursuant to section 714.19 must be completed at least once every two years.

3. An entity that claims an exemption under section 714.19 must file evidence of financial responsibility pursuant to section 714.18 within sixty calendar days following the date upon which conditions that qualify the entity for an exemption under section 714.19 no longer exist. The commission may grant an entity a longer period to file evidence of financial responsibility based on documentation the entity provides to the commission of its substantial progress to comply with section 714.18, subsection 1, paragraph *"a"*.

4. An entity that is required to file evidence of financial responsibility under section 714.18, or an entity that files a claim of exemption under section 714.19, shall utilize required forms approved and supplied by the commission.

5. A proprietary school that must comply with sections 714.23 and 714.25 shall submit documentation of compliance with sections 714.23 and 714.25 to the commission for review and approval as part of the evidence of financial responsibility filed pursuant to section 714.18.

6. The commission and the attorney general may, individually or jointly, adopt rules pursuant to chapter 17A for the implementation of sections 714.18 through 714.25.

7. Except as provided in section 714.18, subsection 2, the information submitted under sections 714.18, 714.19, 714.23, and 714.25 are public records under chapter 22.

2012 Acts, ch 1077, §18; 2013 Acts, ch 90, §189; 2021 Acts, ch 158, §9

Referred to in §261G.4, 714.25

714.25 Disclosure.

1. For purposes of this section, *"proprietary school"* means the same as defined in section 714.23, subsection 1.

2. A proprietary school shall, prior to the time a student is obligated for payment of any moneys, inform the student and the college student aid commission of all of the following:

a. The current total cost of the postsecondary educational program as charged by the proprietary school.

b. An estimate of fees that may be charged to the student by others in order to obtain a recognized educational credential, including but not limited to fees for examination or licensure.

c. The percentage of students who successfully complete the postsecondary educational program and the percentage who terminate prior to completing the postsecondary educational program in accordance with paragraph *"e"*.

d. If claims are made by the proprietary school as to successful placement of students in

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jobs upon completion of the proprietary school's postsecondary educational programs, the proprietary school shall, in accordance with paragraph *"e"*, provide the student with all of the following:

(1) The percentage of graduating students who were placed in jobs in fields related to the postsecondary educational programs.

(2) The percentage of graduating students who went on to further education immediately upon graduation.

(3) The percentage of students who, ninety days after graduation, were without a job and had not gone on to further education.

(4) The method by which the proprietary school collected and verified the validity of data provided in accordance with this paragraph *"d"*.

e. Information provided by the proprietary school in accordance with paragraph *"c"* and, if applicable, paragraph *"d"*, shall include all of the following additional data:

(1) The applicable program name and the normal length of time required to complete the program.

(2) The total number of students in the cohort for which data is reported and the year in which the students began the program.

(3) The percentages of students that met the conditions described in paragraph *"c"* and, if applicable, paragraph *"d"*, by the most recent ending date for program completion in each of the school's programs.

f. If claims are made by the proprietary school as to income levels of students who have graduated and are working in fields related to the proprietary school's postsecondary educational programs, the proprietary school shall inform the student of the method used to derive such information.

3. A proprietary school that is initiating operation for the first time is exempt from data reporting under subsection 2, paragraphs *"c"* and *"d"*, until the school's first biennial renewal application under section 714.24, subsection 5.

4. This section shall not apply to any of the following:

a. A proprietary school that is eligible for federal student financial aid under Tit. IV of the federal Higher Education Act of 1965, as amended.

b. A person described in section 714.23, subsection 11.

88 Acts, ch 1274, §47; 89 Acts, ch 296, §87; 90 Acts, ch 1222, §4; 2007 Acts, ch 10, §182; 2012 Acts, ch 1077, §19; 2021 Acts, ch 158, §10

Referred to in §261G.4, 714.21A, 714.24

714.26 Intellectual property counterfeiting.

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

a. *"Counterfeit mark"* means any unauthorized reproduction or copy of intellectual property, or intellectual property affixed to any item knowingly sold, offered for sale, manufactured, or distributed, or identifying services offered or rendered, without authority of the owner of the intellectual property.

b. *"Intellectual property"* means any trademark, service mark, trade name, label, term, device, design, or word adopted or used by a person to identify the items or services of the person.

c. *"Retail value"* means the highest value of an item determined by any reasonable standard at the time the item bearing or identified by a counterfeit mark is seized. If a seized item bearing or identified by a counterfeit mark is a component of a finished product, *"retail value"* also means the highest value, determined by any reasonable standard, of the finished product on which the component would have been utilized. The retail value shall be the retail value of the aggregate quantity of all items seized which bear or are identified by a counterfeit mark. For purposes of this paragraph, *"reasonable standard"* includes but is not limited to the market value within the community, actual value, replacement value, or the counterfeiter's regular selling price for the item bearing or identified by a counterfeit mark, or the intellectual property owner's regular selling price for an item similar to the item bearing or identified by a counterfeit mark.

2. *Criminal offense.* A person who knowingly manufactures, produces, displays,

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advertises, distributes, offers for sale, sells, possesses with intent to sell or distributes any item or knowingly provides service bearing or identified by a counterfeit mark commits intellectual property counterfeiting.

a. (1) A person commits intellectual property counterfeiting in the first degree if any of the following apply:

(a) The person is manufacturing or producing an item bearing or identified by a counterfeit mark.

(b) The offense involves more than one thousand items bearing or identified by a counterfeit mark or the total retail value of such items is equal to or greater than ten thousand dollars.

(c) The offense is a third or subsequent violation of this section.

(2) Intellectual property counterfeiting in the first degree is a class "C" felony.

b. (1) A person commits intellectual property counterfeiting in the second degree if any of the following apply:

(a) The offense involves more than one hundred items but does not involve more than one thousand items bearing or identified by a counterfeit mark or the total retail value of such items is equal to or greater than one thousand dollars but less than ten thousand dollars.

(b) The offense is a second violation of this section.

(2) Intellectual property counterfeiting in the second degree is a class "D" felony.

c. All intellectual property counterfeiting which is not intellectual property counterfeiting in the first degree or second degree is intellectual property counterfeiting in the third degree. Intellectual property counterfeiting in the third degree is an aggravated misdemeanor.

3. *Evidence.* Any state or federal certificate of registration of any intellectual property shall be prima facie evidence of ownership of the intellectual property in dispute.

4. *Seizure and disposition.* Any items bearing or identified by a counterfeit mark, and all personal property, including but not limited to any items, objects, tools, machines, equipment, instrumentalities, or vehicles used in connection with a violation of this section, shall be seized by any law enforcement agency.

a. All seized personal property shall be disposed of in accordance with section 809.5 or as provided in paragraph *"b"*.

b. Upon request of the intellectual property owner, all seized items bearing or identified by a counterfeit mark shall be released by the seizing agency to the intellectual property owner for destruction or disposition. If the intellectual property owner does not request release of the seized items, the items shall be destroyed unless the intellectual property owner consents to another disposition.

2004 Acts, ch 1112, §1; 2004 Acts, ch 1175, §390; 2013 Acts, ch 30, §210

714.27 Scrap metal transactions and reporting — penalties.

1. For purposes of this section, and unless the context otherwise requires, the following definitions shall apply:

a. "Scrap metal" means any metal suitable for reprocessing. *"Scrap metal"* does not include a motor vehicle or a catalytic converter detached from a motor vehicle.

b. "Scrap metal dealer" means any person operating a business at a fixed or mobile location that is engaged in one of the following activities:

(1) Buying, selling, procuring, collecting, gathering, soliciting, or dealing in scrap metal.

(2) Operating, managing, or maintaining a scrap metal yard.

c. "Scrap metal yard" means any yard, plot, space, enclosure, building, mobile facility, or other place where scrap metal is collected, gathered together, stored, or kept for shipment, sale, or transfer.

2. *a.* A person shall not sell scrap metal to a scrap metal dealer in this state unless the person provides to the scrap metal dealer, at or before the time of sale, the person's name, address, and place of business, if any, and presents to the scrap metal dealer a valid driver's license or nonoperator's identification card, military identification card, passport, or other government-issued photo identification.

b. A scrap metal dealer shall not make an initial purchase of scrap metal from a person without demanding and receiving the information required by this subsection. However, after

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an initial transaction, a scrap metal dealer may only require the person's name and place of business for subsequent purchases, provided the scrap metal dealer retains all information received during the initial transaction.

3. A scrap metal dealer shall keep a confidential register or log of each transaction, including a record of the information required by subsection 2. All records and information kept pursuant to this subsection shall be retained for at least two years, and shall be provided to a law enforcement agency or other officer or employee designated by a county or city to enforce this section upon request during normal business hours when the law enforcement agency or designated officer or employee of a county or city has reasonable grounds to request such information as part of an investigation. A law enforcement agency or designated officer or employee of a county or city shall preserve the confidentiality of the information provided under this subsection and shall not disclose it to a third party, except as may be necessary in enforcement of this section or the prosecution of a criminal violation.

4. All scrap metal transactions, other than those transactions exempt pursuant to subsection 5, in which the total sale price exceeds fifty dollars shall require payment by check or electronic funds transfer.

5. The following scrap metal transactions are exempt from the requirements of this section:

a. Transactions in which the total sale price is fifty dollars or less.

b. Transactions in which a scrap metal dealer is selling scrap metal.

c. Transactions in which the person selling the scrap metal is known to the scrap metal dealer purchasing the scrap metal to be the officer, employee, or agent of an established commercial or industrial business, operating from a fixed location, that may reasonably be expected to produce scrap metal during the operation of the business.

6. *a.* The provisions of this section shall take precedence over and supersede any local ordinance adopted by a political subdivision that regulates scrap metal transactions.

b. Notwithstanding paragraph *"a"* of this subsection, a city ordinance regarding scrap metal or other scrap material in effect prior to January 1, 2012, in a city with a population exceeding one hundred fifty thousand as shown by the 2010 federal decennial census may continue to be enforced by the city which adopted it.

7. A person who violates subsection 2, paragraph *"a"*, or a person who conducts a scrap metal transaction by or on behalf of a scrap metal dealer who violates this section shall be subject to a civil penalty as follows:

a. An initial violation shall subject the person to a civil penalty in the amount of one hundred dollars.

b. A second violation within two years shall subject the person to a civil penalty in the amount of five hundred dollars.

c. A third or subsequent violation within two years shall subject the person to a civil penalty in the amount of one thousand dollars.

2011 Acts, ch 51, §1; 2012 Acts, ch 1021, §112; 2012 Acts, ch 1099, §1; 2022 Acts, ch 1092, §2 – 4

Referred to in §321.52, 714.27A, 805.8C(10)
For applicable scheduled fines, see §805.8C, subsection 10

714.27A Used catalytic converter transactions — reporting — penalties.

1. For purposes of this section:

a. *"Business transaction"* means an exchange of consideration for a catalytic converter between a scrap metal dealer, as defined in section 714.27, and another scrap metal dealer, an authorized vehicle recycler licensed under chapter 321H operating a business at a fixed location, a motor vehicle dealer licensed under chapter 322 operating a business at a fixed location, a towable recreational vehicle dealer licensed under chapter 322C operating a business at a fixed location, a mechanic or an automotive repair facility operating a business at a fixed location, or a person operating a similar business at a fixed location in another state.

b. *"Catalytic converter"* means a catalytic converter that was previously installed in a motor vehicle and subsequently removed.

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2. *a.* A person shall not sell a catalytic converter in this state unless the person provides to the purchaser, at or before the time of sale, the person's name, address, and place of business, if any, and presents to the purchaser a valid driver's license or nonoperator's identification card, military identification card, passport, or other government-issued photo identification.

b. For a business transaction in which the person selling the catalytic converter operates a business at a fixed location in this state, the person shall provide to the purchaser a copy of the person's valid sales tax permit issued pursuant to chapter 423 or a copy of the person's valid business license or permit. For a business transaction in which the person selling the catalytic converter operates a business at a fixed location in another state and is authorized to conduct a business transaction in this state, the person shall provide to the purchaser a copy of the person's valid sales tax permit issued pursuant to chapter 423, if the person has such a permit, or a copy of the person's valid business license or permit from the other state. If a person is unable to provide the documentation required in this paragraph, the person shall instead comply with paragraph "*c*".

c. For transactions other than business transactions, the person selling the catalytic converter shall provide to the purchaser an original receipt or invoice for a replacement catalytic converter purchased fewer than thirty days before the person sells the replaced catalytic converter, a signed affidavit attesting to the seller's valid ownership of the catalytic converter, or a junking certificate for a vehicle that was issued fewer than thirty days before the person sells the catalytic converter.

(1) The receipt, invoice, affidavit, or junking certificate presented by the person to the purchaser must be unmarked by a purchaser pursuant to subsection 3.

(2) This paragraph does not apply to a transaction if the person presents proof, unmarked pursuant to subsection 3, to the purchaser that the sale is approved by the sheriff of the county in which the vehicle from which the catalytic converter was removed is registered.

3. *a.* A person shall not purchase a catalytic converter from a seller without demanding and receiving the information required by subsection 2.

b. A person who purchases a catalytic converter shall mark the receipt, invoice, affidavit, junking certificate, or proof of sheriff approval presented under subsection 2 to indicate the catalytic converter has been sold. The person shall take a photograph of the catalytic converter that clearly identifies the item as a catalytic converter.

c. A person who purchases a catalytic converter shall have a residence or fixed business address within this state.

4. A person who purchases a catalytic converter shall keep a confidential register or log of each transaction, including a copy of the information required by subsections 2, 3, and 5. All records and information kept pursuant to this subsection shall be retained for at least two years, and shall be provided to a law enforcement agency or other officer or employee designated by a county or city to enforce this section upon request during normal business hours when the law enforcement agency or designated officer or employee of a county or city has reasonable grounds to request such information as part of an investigation. A law enforcement agency or designated officer or employee of a county or city shall preserve the confidentiality of the information provided under this subsection and shall not disclose it to a third party, except as may be necessary in enforcement of this section or the prosecution of a criminal violation.

5. A transaction under this section shall make use of a traceable payment method including but not limited to payment made by check, voucher, issuance of a prepaid bank, credit, or debit card, or electronic funds transfer.

6. A person, including a person who conducts a business transaction on behalf of another person, who violates this section shall be subject to a civil penalty as follows:

a. For an initial violation, one thousand dollars.

b. For a second violation within two years, five thousand dollars.

c. For a third or subsequent violation within two years, ten thousand dollars.

7. Proof that a person, including a person who conducted a business transaction on behalf of another person, violated subsection 2 or 3 shall be evidence from which the court or jury may infer any of the following:

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a. The person aided and abetted the underlying theft of the catalytic converter involved in the transaction from a vehicle, under section 703.1.

b. The person had knowledge that a public offense has been committed and that a certain person committed it, for purposes of proving the person acted as an accessory after the fact under section 703.3.

2022 Acts, ch 1092, §5; 2024 Acts, ch 1184, §1, 2
Referred to in §714.1, 805.8C(11)
For applicable scheduled fines, see §805.8C, subsection 11

714.28 Claims against purchased or pledged goods held by pawnbrokers.

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

a. *"Claimant"* means a person who claims that the person's property was misappropriated.

b. *"Conveying customer"* means a person who delivers property into the custody of a pawnbroker, either by pawn, sale, consignment, or trade.

c. *"Misappropriated"* means stolen, embezzled, converted, or otherwise wrongfully appropriated against the will of the rightful owner.

2. To obtain possession of purchased or pledged goods held by a pawnbroker which a claimant claims to have been misappropriated, the claimant must notify the pawnbroker by certified mail, return receipt requested, or in person evidenced by signed receipt, of the claimant's claim to the purchased or pledged goods. The notice must contain a complete and accurate description of the purchased or pledged goods and must be accompanied by a legible copy of the applicable law enforcement agency's report documenting the misappropriation of the property. If the claimant and the pawnbroker do not resolve the right to possession within ten days after the pawnbroker's receipt of the notice, the claimant may petition the district court sitting in small claims to order the return of the property, naming the pawnbroker as a defendant, and shall serve the pawnbroker with a copy of the petition. The pawnbroker shall hold the property described in the petition until the right to possession is resolved by the parties or by the court.

3. If, after notice and a hearing, the court finds that the property was misappropriated and orders the return of the property to the claimant, both of the following shall apply:

a. The claimant may recover from the pawnbroker the costs of the action.

b. If the conveying customer was convicted in a separate criminal proceeding of theft or dealing in stolen property involving the misappropriated property, the court shall order the conveying customer to repay the pawnbroker the full amount that the conveying customer received from the pawnbroker for the property, plus all applicable pawn service charges. As used in this paragraph, *"convicted"* includes a plea of no contest to the charges or any agreement in which adjudication is withheld.

4. If the court finds that the claimant failed to comply with the requirements of this section or otherwise finds against the claimant, the claimant shall be liable for the defendant's costs.

2014 Acts, ch 1070, §2
Referred to in §631.1

714.29 Records filed with intent to harass or defraud.

1. A person shall not cause to be communicated to the filing office as defined in section 554.9102 for filing a record if all of the following are true:

a. The person is not authorized to file the record under section 554.9509.

b. The record is not related to an existing or anticipated transaction that is or will be governed by chapter 554, article 9.

c. The record is filed with the intent to harass or defraud the person identified as debtor in the record.

2. A person that violates subsection 1 is guilty of a simple misdemeanor for a first offense and a serious misdemeanor for a second or subsequent offense.

2021 Acts, ch 183, §11

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CHAPTER 714A

PAY-PER-CALL SERVICE

Referred to in §331.307, 364.22, 701.1, 714H.3

714A.1 Definitions.
714A.2 Disclosure of charges.
714A.3 Advertisements.
714A.4 Billing and collection.
714A.5 Enforcement.

714A.1 Definitions.

As used in this chapter:

1. *"Advertisement"* means advertisement as defined in section 714.16, subsection 1, paragraph *"a"*. However, for purposes of this chapter, advertisement does not include a residential listing or a listing in any section of the directory in which businesses or professions are listed alphabetically rather than grouped by subject category, or a standard listing in the subject category section of a telephone directory. Advertisement also does not include a display advertisement or a listing which is made to appear more conspicuous than other listings in the subject category section of a telephone directory, provided that such display advertisement or listing includes a conspicuous disclosure that the call is a pay-per-call service and refers a reader in a clear and conspicuous manner to a page number of the directory where the reader may find an explanation of pay-per-call services. Such explanation of pay-per-call services shall include all of the following:

a. The disclosure and preamble requirements under the law.

b. The availability and costs of blocking options, if any.

c. Whether a consumer's phone service may be terminated for failure to pay for pay-per-call services.

d. The procedures for handling consumer inquiries and complaints.

2. *"Amount of time necessary to complete a call"* means for purposes of a fixed length call, the total length of the call in minutes, and for purposes of a variable length call, a reasonable, good faith estimate in minutes of the likely length of the call.

3. *"Merchandise"* means merchandise as defined in section 714.16, subsection 1, paragraph *"e"*.

4. *a. "Pay-per-call service"* means electronic communications products and services which are provided to end users by information or service providers, and which meet all of the following requirements:

(1) The end users send or receive information, services, or communications whose general subject matter is determined or influenced by the service provider.

(2) The end users send or receive the information, services, or communications via a telephone connection using audio input which is not modulated or demodulated by the end user.

(3) The charge to the end user for the information, services, or communications is determined by the information or service provider and is made on a per-call or per-minute basis.

b. (1) Where the requirements under paragraph *"a"* are met, pay-per-call service includes, but is not limited to, the following:

(a) Information retrieval from a remote database.

(b) Information collection for polling and data entry.

(c) Services offered for public entertainment in which users participate in or listen to a conversation.

(2) Pay-per-call service does not include electronic communication for the purpose of conducting financial transactions, or any service the price of which is established pursuant to a tariff approved by a regulatory agency.

5. *"Person"* means person as defined in section 714.16, subsection 1, paragraph *"f"*, and includes a long distance company and local exchange company as defined in section 477.10.

91 Acts, ch 171, §1

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714A.2 Disclosure of charges.

With respect to each pay-per-call service, the call shall contain an introductory disclosure message that specifies clearly, and at the same audio volume of the ensuing program, if the charge for the call is on a flat rate basis, the total charge for the call, or if charged on a per-minute basis, the charge per minute for the call, the charge for each additional minute, and the amount of time necessary to complete the call, and all other fees, and which informs the caller of the option to disconnect the call at the end of the introductory message without incurring a charge. However, an introductory message is not required if the total charge for the call is one dollar or less.

91 Acts, ch 171, §2

714A.3 Advertisements.

Advertisements for pay-per-call service shall clearly state if the charge for the service is on a flat rate basis, the total charge for the call or, if charged on a per-minute basis, the charge per minute for the call, the charge for each additional minute, and the amount of time necessary to complete the call. Additionally, if in order to obtain the full advertised services or other merchandise, a caller will be required to make any payments in addition to the cost of the initial call, that fact shall be disclosed, along with the amounts of such additional payments. If the advertisement is oral, all cost information must be disclosed clearly and at the same audio volume of the ensuing program prior to providing the pay-per-call number and each time the number is mentioned.

91 Acts, ch 171, §3

714A.4 Billing and collection.

1. A person shall not bill or collect for a pay-per-call service if such person has actual knowledge of the failure of the pay-per-call service to comply with the requirements of this chapter. A person shall cease billing and collecting for a pay-per-call service which fails to comply with the requirements of this chapter as soon as practicable, but in no event more than thirty days, after acquiring knowledge of the noncompliance. Billing and collection contracts shall contain a provision which refers the pay-per-call service to chapter 714A, which provides for an introductory disclosure message and the requirements for such message.

2. Additionally, a person shall not bill or collect a charge for a pay-per-call service unless the call for which the charge is being made is completed.

91 Acts, ch 171, §4; 2021 Acts, ch 76, §150

714A.5 Enforcement.

A violation of this chapter is an unfair or deceptive trade practice and is subject to the provisions of section 714.16, except that the remedies and penalties provided pursuant to that section shall not be applied to a newspaper, magazine, publication, directory, or other print media in which an advertisement appears, or to a radio station, television station, or other electronic media which disseminates the advertisement, and no other penalty or cause of action under this chapter shall accrue against the media in or by which the advertisement appears or is disseminated, where the particular advertisement is not sponsored by the media, unless the media also performs the billing or collecting for the pay-per-call service.

91 Acts, ch 171, §5

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CHAPTER 714B
PRIZE PROMOTIONS

Referred to in §331.307, 364.22, 701.1

714B.1 Definitions.
714B.2 Written prize notice — content — form.
714B.3 Prohibited practices.
714B.4 Prize award required.
714B.5 Information requested by attorney general.
714B.6 Criminal penalties.
714B.7 Civil enforcement.
714B.8 Private action.
714B.9 Compliance with other laws.
714B.10 Exemptions.

714B.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Advertisement"* means as defined in section 714.16, subsection 1.
2. *"Merchandise"* means as defined in section 714.16, subsection 1.
3. *"Person"* means as defined in section 714.16, subsection 1.
4. *"Prize"* means a gift, award, cash award, or other merchandise of value that is offered or awarded to a person in a real or purported contest, competition, sweepstakes, puzzle, drawing, scheme, plan, or other selection process.
5. *"Retail value"* of a prize means the following:

a. A price at which the sponsor of the prize can substantiate that a substantial number of the items of merchandise have been sold to the public in the year preceding the date of the written prize notice in the regular course of business other than through a prize promotion.

b. No more than one and one-half times the amount the sponsor paid for the prize in a bona fide purchase from an unaffiliated seller, if the sponsor is unable to substantiate a price pursuant to paragraph *"a"*.

6. *"Sponsor"* means a person who awards another person a prize or who allows the person to receive, use, compete for, or obtain information about a prize.

94 Acts, ch 1185, §2

714B.2 Written prize notice — content — form.

1. *a.* A sponsor of a prize shall not require a person to purchase merchandise or pay or donate money as a condition of awarding a prize or as a condition of allowing the person to receive, use, compete for, or obtain information about a prize, unless the person has first received a written prize notice which satisfies the requirements of subsections 2 and 3. A sponsor shall not create the reasonable impression that such a purchase, payment, or donation is required, unless the person has first received a written prize notice which satisfies the requirements of subsections 2 and 3.

b. For purposes of this chapter, a sponsor is deemed to have created the reasonable impression that a payment, purchase, or donation is required as a condition of awarding the person a prize, or as a condition of allowing the person to receive, use, compete for, or obtain information about a prize, if the sponsor does any of the following:

(1) Fails to clearly and conspicuously disclose that a purchase, payment, or donation is not required in immediate proximity to, and in the same type and boldness as, each written reference to a purchase, payment, or donation, or in immediate proximity to, and in the same audio volume as, each verbal reference to a purchase, payment, or donation.

(2) Uses a verbal or written solicitation, or other advertisement which contains any express or implied representations that a participant's likelihood of receiving a prize or other favorable treatment is enhanced by making a purchase, payment, or donation.

(3) Uses a verbal or written solicitation, course of solicitation, or other advertisement which when considered in its totality creates an overall impression that a participant's likelihood of receiving a prize or other favorable treatment is enhanced by making a purchase, payment, or donation.

c. A written prize notice satisfying the requirements of subsections 2 and 3 must precede every verbal advertisement by a sponsor which requires a person to purchase merchandise

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or pay or donate money, or gives the reasonable impression that such a purchase, payment, or donation is required, as a condition of awarding a prize, or as a condition of allowing a person to receive, use, compete for, or obtain information about a prize.

d. Each written advertisement by a sponsor which requires a person to purchase merchandise or pay or donate money, or gives the reasonable impression that such a purchase, payment, or donation is required as a condition of awarding a prize or as a condition of allowing a person to receive, use, compete for, or obtain information about a prize, must satisfy the requirements of subsections 2 and 3.

2. A written prize notice must contain each of the following:

a. The true name or names of the sponsor and the street address of the sponsor's actual principal place of business.

b. The retail value of each prize the person receiving the notice has been selected to receive or may be eligible to receive.

c. A statement of the odds the person has of receiving each prize identified in the notice.

d. Any requirement that the person pay shipping or handling fees, or any other charges to obtain or use a prize, including the nature and amount of the charge.

e. A statement that a restriction applies and a description of the restriction, if receipt of the prize is subject to a restriction.

f. Any limitations on eligibility to receive a prize.

g. If a sponsor represents that a person is a winner or finalist, has been specially selected, is in first place, or is otherwise among a limited group of persons with an enhanced likelihood of receiving a prize; or that a person is entering a contest, sweepstakes, drawing, or other competitive enterprise from which a single winner or select group of winners will receive a prize, and if the notice is not prohibited under section 714B.3, subsection 1, paragraph *"c"*, a statement of the maximum number of persons in the group or purported group with this enhanced likelihood of receiving a prize.

h. Any requirement or invitation for the person to view, hear, or attend a sales presentation in order to claim a prize, a good faith estimate of the length of the sales presentation, a description of the merchandise that is the subject of the sales presentation, and the total cost of such merchandise.

3. The information required in the written prize notice pursuant to subsection 2 must be provided as follows:

a. The retail value and the statement of odds required under subsection 2 must be stated in immediate proximity to each identification of a prize on the written notice, and must be in the same size and boldness of type as the reference to the prize.

b. The retail value must be stated in Arabic numerals, and must be in the following form:

Retail value: $.....

c. The statement of odds must include, for each prize, the total number of prizes to be given away and the total number of written prize notices to be distributed. The number of prizes and written prize notices must be stated in Arabic numerals. The statement of odds must be in the following form:

..... (number of prizes) out of ..... (notices distributed).

d. If a person is required to pay shipping or handling fees or any other charges to obtain a prize, to be eligible to obtain a prize, or to participate in a contest, a statement must appear in immediate proximity to each listing of the prize in the written prize notice in not less than ten point boldface type as follows:

YOU MUST PAY $..... IN ORDER TO RECEIVE OR USE THIS ITEM, or, YOU MUST PAY $..... IN ORDER TO COMPETE FOR THIS ITEM, as applicable.

e. The information required under subsection 2, paragraphs *"e"*, *"f"*, and *"h"* must be on the first page of the written prize notice in not less than ten point boldface type.

f. A statement required under subsection 2, paragraph *"g"*, must appear in immediate proximity to each representation that the person is among a group of persons with an

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enhanced likelihood of receiving a prize, and must be in the same type size and boldness as the representation.

94 Acts, ch 1185, §3

714B.3 Prohibited practices.

1. A sponsor of a prize shall not do any of the following:

a. Deliver a written prize notice, or an envelope containing a written prize notice, that contains language, or is designed in a manner, that would have the tendency or capacity to mislead intended recipients as to the source of the written prize notice. This prohibition includes, but is not limited to, a written prize notice or envelope which indicates that the notice or envelope originates from a government agency, public utility, insurance company, consumer reporting agency, debt collector, or law firm, unless the written prize notice or envelope originates from such source.

b. Represent directly or by implication that the number of persons eligible for the prize is limited or that a person has been selected to receive a particular prize, unless the representation is true.

c. Represent that a person is a winner or finalist, has been specially selected, is in first place, or is otherwise among a limited group of persons with an enhanced likelihood of receiving a prize, or that a person is entering a contest, sweepstakes, drawing, or other competitive enterprise, from which a single winner or select group of winners will receive a prize, when in fact the enterprise is a promotional scheme designed to make contact with prospective customers and all or a substantial number of those receiving the notice are awarded the same prize.

d. Represent directly or by implication that a person will have an increased chance of receiving a prize by making multiple or duplicate purchases, payments or donations, or by entering a game, drawing, sweepstakes, or other contest more than one time, unless the representation is true. A sponsor is deemed to have made such representation if the sponsor delivers one or more prize notices to a person after the person has already made a purchase, payment, or donation to the sponsor for the same promotion, or has already entered the same game, drawing, sweepstakes, or other contest, unless the sponsor can demonstrate a bona fide error even though the sponsor has implemented procedures reasonably designed to prevent such duplication.

e. Represent directly or by implication that a person is being notified a second or final time of the opportunity to receive or compete for a prize, unless the representation is true.

f. Represent directly or by implication that a prize notice is urgent, or otherwise convey an impression of urgency by use of description, narrative copy, phrasing on an envelope, or similar method, unless there is a limited time period in which the recipient must take some action to claim or be eligible to receive a prize, and the date by which such action is required appears in immediate proximity to each representation of urgency and in the same type size and boldness as each representation of urgency.

g. Knowingly sell, rent, exchange, transfer, or otherwise furnish to or purchase from other persons, financial data regarding Iowans disclosed in connection with a prize promotion not in compliance with this chapter. For purposes of this chapter, financial data includes credit card numbers, bank account numbers, other payment device numbers, and dollars spent on prize promotions which are not in compliance with this chapter.

h. Request an individual to disclose the individual's phone number, age, birthdate, credit card ownership, or financial data in connection with a prize promotion which is not in compliance with this chapter.

2. If a written prize notice requires or invites a person to view, hear, or attend a sales presentation in order to claim a prize, the sales presentation shall not begin until the sponsor does all of the following:

a. Informs the person of the prize, if any, that has been awarded to the person.

b. If the person is awarded a prize, delivers to the person the prize or the item selected by the person as provided in section 714B.4, if the prize awarded is not available.

94 Acts, ch 1185, §4

Referred to in §714B.2

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714B.4 Prize award required.

A sponsor of a prize who represents to a person that the person has been awarded a prize shall, no later than thirty days after making the representation, provide the person with the prize; with a voucher, certificate, or other document indicating the person's unconditional right to receive the prize; or with either of the following items as selected by the person:

1. Any other prize listed in the written prize notice that is available and that is of equal or greater value.
2. The retail value of the prize, as stated in the written notice, in the form of cash, a money order, or a certified check.

94 Acts, ch 1185, §5
Referred to in §714B.3

714B.5 Information requested by attorney general.

A sponsor shall provide, upon the request of the attorney general made within one year after the termination date of the promotion, a record of the names and addresses of all winners of prizes of one hundred dollars or more.

94 Acts, ch 1185, §6

714B.6 Criminal penalties.

A person who intentionally violates this chapter is guilty of an aggravated misdemeanor. A person intentionally violates this chapter if the act or acts in violation occur or continue after the attorney general or county attorney has notified the person by certified mail that the person is in violation of this chapter.

94 Acts, ch 1185, §7

714B.7 Civil enforcement.

A violation of this chapter constitutes a violation of section 714.16, subsection 2, paragraph *"a"*.

94 Acts, ch 1185, §8

714B.8 Private action.

In addition to any other remedies, a person suffering pecuniary loss as a result of a violation of this chapter by another person may bring an action against such other person to recover all of the following:

1. The greater of five hundred dollars or twice the amount of the pecuniary loss.
2. Costs and reasonable attorney fees.

94 Acts, ch 1185, §9

714B.9 Compliance with other laws.

This chapter shall not be construed to permit an activity prohibited by section 714.16, or rules adopted pursuant to that section, or by chapter 725, or other applicable law.

94 Acts, ch 1185, §10

714B.10 Exemptions.

This chapter does not apply to the following:

1. Advertising by sponsors registered pursuant to chapter 557B, licensed pursuant to chapter 99B, or regulated pursuant to chapter 99D, 99E, 99F, or 99G.
2. Advertising in connection with the sale or purchase of books, recordings, videocassettes, periodicals, and similar goods through a membership group or club which is regulated by the federal trade commission pursuant to 16 C.F.R. §425.1, concerning use of negative option plans by sellers in commerce.
3. Advertising in connection with the sale or purchase of goods ordered through a contractual plan or arrangement such as a continuity plan, subscription arrangement, or a single sale or purchase series arrangement under which the seller ships goods to a consumer who has consented in advance to receive the goods and who, after the receipt of the goods,

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is given an opportunity to examine the goods and to receive a full refund of charges for the goods upon return of the goods undamaged.

4. Advertising in connection with sales by a catalog seller. For purposes of this section, *"catalog seller"* means a person at least fifty percent of whose annual revenues are derived from the sale of merchandise sold in connection with the distribution of catalogs of at least twenty-four pages, which contain written descriptions or illustrations and sale prices for each item of merchandise and which are distributed in more than one state with a total annual distribution of at least two hundred fifty thousand.

94 Acts, ch 1185, §11; 2003 Acts, ch 178, §116, 121; 2003 Acts, ch 179, §142; 2010 Acts, ch 1061, §81; 2014 Acts, ch 1092, §195; 2019 Acts, ch 132, §39, 45, 46

CHAPTER 714C

VIDEO RENTAL PROPERTY THEFT

Repealed by 2000 Acts, ch 1201, §16;
see §702.20A, 714.1, 714.6A

CHAPTER 714D

TELECOMMUNICATIONS SERVICE PROVIDER FRAUD

Referred to in §331.307, 364.22, 701.1

714D.1	Legislative intent.	714D.5	Conditions on use of prize promotions to solicit authority to provide or change telecommunications services.
714D.2	Definitions.	714D.6	Private action.
714D.3	Unfair and deceptive practices.	714D.7	Civil enforcement.
714D.4	Prohibition of sweepstakes boxes.		

714D.1 Legislative intent.

1. The general assembly finds that customers of telephone services have been subjected to fraud in the sale and advertisement of telephone long distance and local service, as well as other services related to residential and business telephone service. The general assembly further finds that companies acting in a lawful manner have lost customers to companies that obtain customers through fraud and deception.

2. It is the intent of the general assembly to protect telephone service subscribers from fraud and to provide statutory remedies for the victims of fraud in the sale of telecommunications service. It is the intent of the general assembly to provide the attorney general with additional remedies to address the issue of fraud in the sale of telecommunications service. It is further the intent of the general assembly that this chapter does not limit the rights or remedies that are otherwise available to a consumer or the attorney general under any other law.

99 Acts, ch 16, §2; 2021 Acts, ch 76, §150

714D.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Advertisement"* means the same as defined in section 714.16, subsection 1.
2. *"Consumer"* means a person who is not a telecommunications service provider and who uses telecommunications services.
3. *"Deception"* means the same as defined in section 714.16, subsection 1.
4. *"Person"* means the same as defined in section 714.16, subsection 1.
5. *"Sweepstakes box"* means the box or receptacle into which a person may place an entry

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form or document used to enter a sweepstakes, contest, or drawing of any description, and promotional materials attached to such entry form or document.

6. *"Telecommunications Act"* means 47 U.S.C. §258, a portion of the federal Telecommunications Act of 1996, relating to changes in telephone service, and including regulations adopted pursuant to that section.

7. *"Telecommunications service"* means local exchange or long distance telephone service, and any additional service or merchandise for which any charge or assessment appears on a billing statement directed to a person by a provider of local exchange or long distance telephone service, but does not include commercial mobile radio service or charges or assessments imposed on consumers of local exchange or long distance telephone service or on such additional service or merchandise by governmental entities.

8. *"Telecommunications service provider"* means a person who advertises, sells, leases, or provides telecommunications services to another person.

9. *"Unfair practice"* means the same as defined in section 714.16, subsection 1, and also means any failure of a person to comply with the Telecommunications Act or with any statute or rule enforced by the utilities commission relating to a telecommunications service selection or change.

99 Acts, ch 16, §3; 2023 Acts, ch 19, §2699; 2024 Acts, ch 1170, §369

714D.3 Unfair and deceptive practices.

The act, use, or employment by a person of deception or an unfair practice in connection with the lease, sale, or advertisement of a telecommunications service or the solicitation of authority to provide or execute a change of a telecommunications service is an unlawful practice.

99 Acts, ch 16, §4

714D.4 Prohibition of sweepstakes boxes.

The use of a sweepstakes box by a person to solicit authority to provide or execute a change of a consumer's telecommunications service is an unlawful practice.

99 Acts, ch 16, §5

714D.5 Conditions on use of prize promotions to solicit authority to provide or change telecommunications services.

1. It is an unlawful practice for a person to use a form or document which is to be used or intended to be used by another person to enter a sweepstakes, contest, or drawing of any description as written authority to provide or execute a change of a consumer's telecommunications service.

2. It is an unlawful practice for a person to solicit the lease or sale of or to solicit the authority to provide or execute a change of a telecommunications service to another person through or in conjunction with a sweepstakes, contest, or drawing without clearly, conspicuously, and fully disclosing in all direct mail solicitations to the other person the fact that the sweepstakes, contest, or drawing is intended to solicit authority to provide or execute a change of a telecommunications service. The disclosure required shall include, at a minimum, all of the following:

a. A statement that an acceptance or change of telecommunications service is not required to enter the sweepstakes, contest, or drawing.

b. An alternative means by which a person may enter the sweepstakes, contest, or drawing without accepting or authorizing a change in a telecommunications service.

c. The name and telephone number of the entity soliciting the person to accept or to authorize a change of telecommunications service through the use of or in conjunction with the sweepstakes, contest, or drawing.

d. A brief description of the nature of the telecommunications service for which authorization is sought through the use of or in conjunction with the sweepstakes, contest, or drawing.

99 Acts, ch 16, §6

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714D.6 Private action.

1. In addition to any other remedy, a consumer may bring an action against a person who commits an unlawful practice under this chapter to recover from the person all of the following:

a. The amount of any moneys or property acquired by the person from the consumer by means of an unlawful practice under this section, or two hundred dollars, whichever is greater.

b. If a court finds that the consumer prevails in the action and that the unlawful practice was an intentional violation of this chapter, five hundred dollars or twice the amount of the consumer's actual damages, whichever is greater.

c. Costs and reasonable attorney fees.

2. A cause of action under this section shall not apply unless, prior to filing the action, the consumer has submitted a complaint to the utilities commission, the utilities commission has failed to resolve the complaint to the consumer's satisfaction within one hundred twenty days of the date the complaint was submitted, and the consumer dismisses the complaint before the utilities commission. The requirement that a consumer complaint be submitted to the utilities commission and resolved by the utilities commission to the consumer's satisfaction within one hundred twenty days of filing before the consumer may file an action pursuant to this section shall not apply to an action by the attorney general to recover moneys for the consumer pursuant to section 714D.7 or any other law. A finding by the utilities commission that a respondent has complied with rules governing carrier selection procedures adopted by the utilities commission shall be an affirmative defense to any claim brought under this section or section 476.103 or 714D.7 that an unauthorized change in service has occurred.

99 Acts, ch 16, §7; 2023 Acts, ch 19, §2700; 2024 Acts, ch 1170, §369
Referred to in §714D.7

714D.7 Civil enforcement.

1. A violation of this chapter or a rule adopted pursuant to this chapter is a violation of section 714.16, subsection 2, paragraph *"a"*. The remedies and penalties provided by section 714.16, including but not limited to injunctive relief and civil penalties, apply to violations of this chapter.

2. In seeking reimbursement pursuant to section 714.16, subsection 7, from a person who has committed an unlawful practice under this chapter, the attorney general may seek an order from the court that the person pay to the attorney general on behalf of consumers the amounts for which the person would be liable under section 714D.6 for each consumer who has a cause of action pursuant to section 714D.6. Section 714.16, as it relates to consumer reimbursement, applies to amounts recovered by the attorney general as reimbursement under this chapter. However, a consumer who is awarded monetary damages pursuant to section 714D.6 is not eligible for monetary relief under this section for the same unlawful practice.

3. The remedies provided pursuant to this chapter are in addition to any other remedies provided to the state or to a person under other law.

4. The attorney general shall not file a civil enforcement action under this chapter or under section 714.16 against a person for an act which is the subject of an administrative proceeding to impose a civil penalty which has been initiated against the person by the utilities commission. This subsection shall not be construed to limit the authority of the attorney general to file a civil enforcement or other enforcement action against a person for violating a prior agreement entered into by the person with the attorney general or a court order obtained by the attorney general against the person. This subsection shall not be construed to limit the authority of the attorney general to file a civil enforcement or other enforcement action against the person for acts which are not the subject of an administrative proceeding which has been initiated against the person by the utilities commission.

99 Acts, ch 16, §8; 2023 Acts, ch 19, §2701; 2024 Acts, ch 1170, §369
Referred to in §476.103, 714D.6

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CHAPTER 714E

FORECLOSURE CONSULTANTS

Referred to in §331.307, 364.22, 701.1

714E.1	Definitions.	714E.5	Waiver not allowed.
714E.2	Foreclosure consultant contract.	714E.6	Remedies.
714E.3	Cancellation of foreclosure consultant contract.	714E.7	Criminal penalty.
		714E.8	Provisions severable.
714E.4	Violations.	714E.9	Arbitration prohibited.

714E.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Business day"* means any calendar day except Saturday, Sunday, or a public holiday including a holiday observed on a Monday.

2. *"Contract"* means an agreement, or a term in an agreement, between a foreclosure consultant and an owner for the rendition of a service.

3. *a. "Foreclosure consultant"* means a person who, directly or indirectly, makes a solicitation, representation, or offer to an owner to perform for compensation or who, for compensation, performs a service which the person in any manner represents will do any of the following:

(1) Stop or postpone a foreclosure, foreclosure sale, forfeiture, sheriff's sale, or tax sale.

(2) Obtain a forbearance, modification, or repayment plan for a beneficiary or mortgagee.

(3) Assist the owner to exercise the right of redemption, cure the mortgage default, cure the real estate contract default, or redeem the property from a tax sale.

(4) Obtain an extension of the period within which the owner may reinstate the owner's obligation.

(5) Obtain a waiver of an acceleration clause contained in a promissory note or contract secured by a mortgage on a residence in foreclosure or contained in the mortgage.

(6) Assist the owner in foreclosure, foreclosure sale, forfeiture, sheriff's sale, tax sale, or loan default to obtain a loan or advance of funds.

(7) Avoid or ameliorate the impairment of the owner's credit resulting from the recording of a notice of default or the conduct of a foreclosure sale or a forfeiture of a real estate contract.

(8) Save the owner's residence from foreclosure, foreclosure sale, forfeiture, sheriff's sale, or tax sale.

(9) Negotiate or obtain a mortgage loan or real estate contract modification, forbearance, repayment plan, or other loss mitigation for the consumer.

b. "Foreclosure consultant" does not include any of the following:

(1) A person licensed to practice law in this state when the person renders service in the course of the person's practice as an attorney at law.

(2) A person licensed to engage in the business of debt management under chapter 533A, when the person is engaged in the business of debt management.

(3) A person licensed as a real estate broker or salesperson under chapter 543B, when the person engages in acts whose performance requires licensure under that chapter unless the person is engaged in offering services designed to, or purportedly designed to, enable the owner to retain possession of the residence in foreclosure.

(4) A person licensed as an accountant under chapter 542 when the person is acting in any capacity for which the person is licensed under those provisions.

(5) A person or the person's authorized agent acting under the express authority or written approval of the United States department of housing and urban development or other department or agency of the United States or this state to provide services.

(6) A person who holds or is owed an obligation secured by a lien on a residence in foreclosure when the person performs services in connection with the obligation or lien if the obligation or lien did not arise as the result of or as part of a proposed foreclosure reconveyance.

(7) A person or entity doing business under any law of this state, or of the United States, relating to banks, trust companies, savings and loan associations, industrial loan and thrift

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companies, regulated lenders, credit unions, insurance companies, or a mortgagee approved by the United States department of housing and urban development, and a subsidiary or affiliate of these persons or entities, and an agent or employee of these persons or entities while engaged in the business of such persons or entities.

(8) A person licensed as a mortgage broker or mortgage banker pursuant to chapter 535B, when acting under the authority of that license.

(9) A person registered as a mortgage broker or mortgage banker or originator pursuant to chapter 535B, when acting under the authority of that registration.

(10) A nonprofit agency or organization that offers counseling or advice to an owner of a residence in foreclosure or loan default if the nonprofit agency or organization does not contract for services with for-profit lenders or foreclosure purchasers.

(11) A judgment creditor of the owner, to the extent that the judgment creditor's claim accrued prior to the personal service of the foreclosure notice required by section 654.2D, but excluding a person who purchased the claim after such personal service.

(12) A foreclosure purchaser as defined in section 714F.1.

4. *"Foreclosure reconveyance"* means a transaction involving all of the following:

a. The transfer of title to real property by an owner during a foreclosure proceeding, forfeiture proceeding, or tax sale, either by transfer of interest from the owner or by creation of a mortgage or other lien or encumbrance during the foreclosure, forfeiture, or tax sale process that allows the acquirer to obtain title to the property by redeeming the property as a junior lienholder.

b. The subsequent conveyance, or promise of a subsequent conveyance, of an interest back to the owner by the acquirer or a person acting in participation with the acquirer that allows the owner to possess either the residence in foreclosure or any other real property, which interest includes but is not limited to an interest in a contract for deed, purchase agreement, option to purchase, or lease.

5. *"Owner"* means the record owner or holder of an equitable interest through contract of the residence in foreclosure at the time the notice of pendency was recorded, or at the time the default notice was served.

6. *"Person"* means the same as defined in section 4.1.

7. *"Residence in foreclosure"* or *"affected residence"* means residential real property consisting of one to four family dwelling units, one of which the owner occupies as the owner's principal place of residence, where a delinquency or default on any loan payment or debt is secured by or attached to the residential real property including but not limited to contract for deed payments, real estate contracts, or real estate taxes.

8. *"Service"* includes but is not limited to any of the following:

a. Debt, budget, or financial counseling of any type.

b. Receiving money for the purpose of distributing the money to creditors in payment or partial payment of an obligation secured by a lien on a residence in foreclosure.

c. Contacting creditors on behalf of an owner of a residence in foreclosure.

d. Arranging or attempting to arrange for an extension of the period within which the owner of a residence in foreclosure, forfeiture, or tax sale may cure the owner's default and reinstate the owner's obligation.

e. Arranging or attempting to arrange for a delay or postponement of the time of sale of the residence in foreclosure, forfeiture, or tax sale.

f. Advising the filing of a document or assisting in any manner in the preparation of a document for filing with a bankruptcy court.

g. Giving advice, explanation, or instruction to an owner of a residence in foreclosure, forfeiture, or tax sale which in any manner relates to the cure of a default in or the reinstatement of an obligation secured by a lien on the affected residence, the full satisfaction of that obligation, or the postponement or avoidance of a sale or loss of the affected residence, pursuant to a power of sale contained in a mortgage.

2008 Acts, ch 1125, §1, 19; 2009 Acts, ch 133, §179

714E.2 Foreclosure consultant contract.

1. A foreclosure consultant contract must be in writing and must fully disclose the

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exact nature of the foreclosure consultant's services and the total amount and terms of compensation.

2. The following notice, printed in at least fourteen point boldface type and completed with the name of the foreclosure consultant, must be printed immediately above the notice of cancellation statement required pursuant to section 714E.3:

> NOTICE REQUIRED BY IOWA LAW
> ..... (name) or anyone working for
> ..... (name) CANNOT:
> (1) Take any money from you or ask you for money until ..... (name) has completely finished doing everything ..... (name) said ..... (name) would do; and
> (2) Ask you to sign or have you sign any lien, mortgage, or real estate contract.

3. The contract must be written in the same language as principally used by the foreclosure consultant to describe the foreclosure consultant's services and to negotiate the contract with the consumer. The contract must be dated and signed by the owner, and must contain in immediate proximity to the space reserved in the contract for the owner's signature, a conspicuous statement in a size equal to at least ten point boldface type, as follows:

> You, the owner, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right.

4. The foreclosure consultant shall provide the owner immediately upon execution of the contract with a copy of the contract along with the notice of cancellation required in section 714E.3.

5. The three business days during which the owner may cancel the contract shall not begin to run until the foreclosure consultant has complied with this section and with section 714E.3.

2008 Acts, ch 1125, §2, 19; 2008 Acts, ch 1191, §133
Referred to in §714E.3, 714E.8, 714E.9

714E.3 Cancellation of foreclosure consultant contract.

1. In addition to any other right under law to rescind a contract, an owner has the right to cancel such a contract until midnight of the third business day after the day on which the owner signs a contract which complies with section 714E.2.

2. Cancellation occurs when the owner gives written notice of cancellation to the foreclosure consultant at the address specified in the contract.

3. Notice of cancellation, if given by mail, is effective when deposited in the mail properly addressed with postage prepaid.

4. Notice of cancellation given by the owner need not take the particular form as provided in the contract and, however expressed, is effective if the notice of cancellation indicates the intention of the owner not to be bound by the contract.

5. The notice of cancellation must contain, and the contract must contain on the first page, in a type size no smaller than that generally used in the body of the document, all of the following:

a. The real name and physical address of the foreclosure consultant to which the notice of cancellation is to be mailed or otherwise delivered. A post office box does not constitute a physical address. A post office box may be designated for delivery by mail only if it is accompanied by a physical address at which the notice could be delivered by a method other than mail. An electronic mail address may be included, in addition to the physical address.

b. The date the owner signed the contract.

6. Cancellation occurs when the owner delivers, by any means, written notice of cancellation to the address specified in the contract. If cancellation is mailed, delivery is effective upon mailing. If electronically mailed, cancellation is effective upon transmission. The contract must be accompanied by a completed form in duplicate, captioned "notice of

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cancellation", which must be attached to the contract, must be easily detachable, and must contain in at least ten point type the following statement written in the same language as used in the contract:

NOTICE OF CANCELLATION

.....
(enter date of transaction)

You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

To cancel this transaction, you may use any of the following methods: (1) mail or otherwise deliver a signed and dated copy of this cancellation notice, or any other written notice of cancellation; or (2) e-mail a notice of cancellation to ..... (name of foreclosure consultant) at ..... (physical address of foreclosure consultant's place of business) ..... (e-mail address of foreclosure consultant's place of business)

Not later than midnight of ..... (date).

I hereby cancel this transaction.

.....
(date)

.....
(owner's signature)

7. The three business days during which the owner may cancel the contract shall not begin to run until the foreclosure consultant has complied with the requirements of this section and with section 714E.2.

2008 Acts, ch 1125, §3, 19
Referred to in §714E.2, 714E.8, 714E.9

714E.4 Violations.

It is a violation of this chapter for a foreclosure consultant to do any of the following:

1. Claim, demand, charge, collect, or receive compensation until after the foreclosure consultant has fully performed each and every service the foreclosure consultant contracted to perform or represented the foreclosure consultant would perform.

2. Claim, demand, charge, collect, or receive a fee, interest, or other compensation for any reason which exceeds eight percent per annum of the amount of any loan which the foreclosure consultant may make to the owner. Such a loan must not, as provided in subsection 3, be secured by the residence in foreclosure or any other real or personal property.

3. Take a wage assignment, a lien of any type on real or personal property, or other security to secure the payment of compensation. Any such security is void and unenforceable.

4. Receive consideration from any third party in connection with services rendered to an owner unless the consideration is first fully disclosed to the owner.

5. Acquire an interest, directly or indirectly, or by means of a subsidiary or affiliate in a residence in foreclosure from an owner with whom the foreclosure consultant has contracted.

6. Take a power of attorney from an owner for any purpose, except to inspect documents as provided by law.

7. Induce or attempt to induce an owner to enter into a contract which does not comply in all respects with the requirements of this chapter.

8. Claim, demand, charge, collect, or receive a fee, interest, or other compensation for promising to negotiate a mortgage loan or real estate contract modification, forbearance, repayment plan, or other loss mitigation for the consumer and fail to successfully negotiate such a modification, forbearance, repayment plan, or other loss mitigation.

9. Prohibit the borrower from contacting any lender, servicer, government entity, attorney,

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counselor, individual, or company that may seek to help the consumer. Any such provision is void and unenforceable.

2008 Acts, ch 1125, §4, 19; 2009 Acts, ch 133, §180
Referred to in §714E.6, 714E.7, 714E.8, 714E.9

714E.5 Waiver not allowed.

A waiver by an owner of the provisions of this chapter is void and unenforceable as contrary to public policy. An attempt by a foreclosure consultant to induce an owner to waive the owner's rights is a violation of this chapter.

2008 Acts, ch 1125, §5, 19
Referred to in §714E.8, 714E.9

714E.6 Remedies.

1. A violation of this chapter is an unlawful practice pursuant to section 714.16, and all remedies of section 714.16 are available for such an action. A private cause of action brought under this chapter by an owner is in the public interest. An owner may bring an action against a foreclosure consultant for a violation of this chapter. If the court finds that the foreclosure consultant violated this chapter, the court shall award the owner actual damages, appropriate equitable relief, and the costs of the action, and shall award reasonable fees to the owner's attorney.

2. The rights and remedies provided in subsection 1 are cumulative to, and not a limitation of, any other rights and remedies provided by law. Any action brought by a person other than the attorney general pursuant to this section must be commenced within four years from the date of the alleged violation.

3. The court may award exemplary damages up to one and one-half times the compensation, fees, and interest charged by the foreclosure consultant if the court finds that the foreclosure consultant violated the provisions of section 714E.4, subsection 1, 2, or 4, and the foreclosure consultant acted in bad faith.

4. Notwithstanding any other provision of this section, an action shall not be brought on the basis of a violation of this chapter, except by an owner against whom the violation was committed or by the attorney general. This limitation does not apply to administrative action by either the attorney general or the superintendent of the banking division of the department of insurance and financial services.

2008 Acts, ch 1125, §6, 19; 2023 Acts, ch 19, §2763
Referred to in §714E.8

714E.7 Criminal penalty.

A person who commits any violation described in section 714E.4 commits a serious misdemeanor. Prosecution or conviction for a violation described in section 714E.4 shall not bar prosecution or conviction for any other offenses. These penalties are cumulative to any other remedies or penalties provided.

2008 Acts, ch 1125, §7, 19
Referred to in §714E.8

714E.8 Provisions severable.

If any provision of sections 714E.2 through 714E.7 and 714E.9 or the application of any of these provisions to any person or circumstance is held to be unconstitutional and void, the remainder of sections 714E.2 through 714E.7 and 714E.9 remains valid.

2008 Acts, ch 1125, §8, 19

714E.9 Arbitration prohibited.

A provision in a contract which attempts or purports to require arbitration of a dispute arising under sections 714E.2 through 714E.5 is void at the option of the owner.

2008 Acts, ch 1125, §9, 19
Referred to in §714E.8

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CHAPTER 714F

FORECLOSURE RECONVEYANCES

Referred to in §331.307, 364.22, 701.1

714F.1	Definitions.	714F.5	Notice of cancellation.
714F.2	Contract requirement — form and language.	714F.6	Waiver.
714F.3	Contract terms.	714F.7	Arbitration prohibited.
714F.4	Contract cancellation.	714F.8	Prohibited practices.
		714F.9	Enforcement.

714F.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Business day"* means any calendar day except Saturday, Sunday, or a public holiday including a holiday observed on a Monday.

2. *"Foreclosed homeowner"* means an owner of residential real property, including a condominium, that is the primary residence of the owner and whose mortgage on the real property is or was in foreclosure, forfeiture, or tax sale.

3. *a. "Foreclosure purchaser"* means a person that has acted as the acquirer in a foreclosure reconveyance. *"Foreclosure purchaser"* includes a person that has acted in joint venture or joint enterprise with one or more acquirers in a foreclosure reconveyance.

b. "Foreclosure purchaser" does not include any of the following:

(1) A natural person who shows that the natural person is not in the business of foreclosure purchasing and has a prior personal relationship with the foreclosed homeowner.

(2) A person or entity doing business under any law of this state, or of the United States, relating to banks, trust companies, savings and loan associations, industrial loan and thrift companies, regulated lenders, credit unions, insurance companies, or a mortgagee or mortgage servicer approved by the United States department of housing and urban development or any other nationally recognized government-sponsored enterprise, and any subsidiary or affiliate of such persons or entities, and any agent or employee of such persons or entities while engaged in the business of such persons or entities.

4. *"Foreclosure reconveyance"* means a transaction involving both of the following:

a. The transfer of title to real property by a foreclosed homeowner during a foreclosure, forfeiture, or tax sale, either by transfer of interest from the foreclosed homeowner or by creation of a mortgage or other lien or encumbrance during the process that allows the acquirer to obtain title to the property by redeeming the property as a junior lienholder.

b. The subsequent conveyance, or promise of a subsequent conveyance, of an interest back to the foreclosed homeowner by the acquirer or a person acting in participation with the acquirer that allows the foreclosed homeowner to possess either the affected residence or other real property, which interest includes but is not limited to an interest in a contract for deed, purchase agreement, option to purchase, or lease.

5. *"Resale"* means a bona fide market sale of the property subject to the foreclosure reconveyance by the foreclosure purchaser to an unaffiliated third party.

6. *"Resale price"* means the gross sale price of the property on resale.

7. *"Residence in foreclosure"* or *"affected residence"* means residential real property consisting of one to four family dwelling units, one of which the foreclosed homeowner occupies as the foreclosed homeowner's principal place of residence, where a delinquency or default on any loan payment or debt is secured by or attached to the residential real property, including but not limited to contract for deed payments, real estate contracts, or real estate taxes.

2008 Acts, ch 1125, §10, 19; 2009 Acts, ch 41, §166
Referred to in §714E.1

714F.2 Contract requirement — form and language.

A foreclosure purchaser shall enter into a foreclosure reconveyance in the form of a written contract. The contract must be written in letters of a size equal to at least twelve point boldface type, in the same language principally used by the foreclosure purchaser and foreclosed

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homeowner to negotiate the sale of the residence in foreclosure, and must be fully completed and signed and dated by the foreclosed homeowner and foreclosure purchaser before the execution of any instrument of conveyance of the residence in foreclosure.

2008 Acts, ch 1125, §11, 19
Referred to in §714F.3

714F.3 Contract terms.

1. A contract required by section 714F.2 must contain the entire agreement of the parties and shall include all the following terms:

a. The real name, business address, and the telephone number of the foreclosure purchaser.

b. The address of the residence in foreclosure.

c. The total consideration to be given by the foreclosure purchaser in connection with or incident to the sale.

d. A complete description of the terms of payment or other consideration including but not limited to any services of any nature that the foreclosure purchaser represents the foreclosure purchaser will perform for the foreclosed homeowner before or after the sale.

e. The time at which possession is to be transferred to the foreclosure purchaser.

f. A complete description of the terms of any related agreement designed to allow the foreclosed homeowner to remain in the home including but not limited to a rental agreement, repurchase agreement, contract for deed, or lease with option to buy.

g. A notice of cancellation as provided in section 714F.5.

h. The following notice in at least fourteen point boldface type, if the contract is printed or in capital letters if the contract is typed, and completed with the name of the foreclosure purchaser, immediately above the statement required by section 714F.5:

> NOTICE REQUIRED BY IOWA LAW
> Until your right to cancel this contract has ended, ... (name) or anyone working for ..... (name) CANNOT ask you to sign or have you sign any deed or any other document.

2. The contract required by section 714F.2 survives delivery of any instrument of conveyance of the residence in foreclosure, but has no effect on persons other than the parties to the contract.

2008 Acts, ch 1125, §12, 19; 2009 Acts, ch 133, §181

714F.4 Contract cancellation.

1. In addition to any other right of rescission, the foreclosed homeowner has the right to cancel any contract with a foreclosure purchaser until midnight of the third business day following the day on which the foreclosed homeowner signs a contract that complies with this chapter or until 8:00 a.m. on the last day of the period during which the foreclosed homeowner has a right of redemption, whichever occurs first.

2. Cancellation occurs when the foreclosed homeowner delivers, by any means, written notice of cancellation, provided that, at a minimum, the contract and the notice of cancellation contains a physical address to which notice of cancellation may be mailed or otherwise delivered. A post office box does not constitute a physical address. A post office box may be designated for delivery by mail only if it is accompanied by a physical address at which the notice could be delivered by a method other than mail. An electronic mail address may be provided in addition to the physical address. If cancellation is mailed, delivery is effective upon mailing. If electronically mailed, cancellation is effective upon transmission.

3. A notice of cancellation given by the foreclosed homeowner need not take the particular form as provided with the contract.

4. Within ten days following receipt of a notice of cancellation given in accordance with this section, the foreclosure purchaser shall return without condition any original contract and any other documents signed by the foreclosed homeowner.

2008 Acts, ch 1125, §13, 19; 2009 Acts, ch 41, §167; 2017 Acts, ch 54, §76
Referred to in §714F.6

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714F.5 Notice of cancellation.

1. The contract must contain in immediate proximity to the space reserved for the foreclosed homeowner's signature a conspicuous statement in a size equal to at least fourteen point boldface type if the contract is printed, or in capital letters if the contract is typed, as follows:

> You may cancel this contract for the sale of your house without any penalty or obligation at any time before ..... (date and time of day)
>
> See the attached notice of cancellation form for an explanation of this right.
>
> The foreclosure purchaser shall accurately enter the date and time of day on which the cancellation right ends.

2. The contract must be accompanied by a completed form in duplicate, captioned "*notice of cancellation*" in a size equal to a twelve point boldface type if the contract is printed, or in capital letters if the contract is typed, followed by a space in which the foreclosure purchaser shall enter the date on which the foreclosed homeowner executes the contract. This form must be attached to the contract, must be easily detachable, and must contain in type of at least ten points if the contract is printed, or in capital letters if the contract is typed, the following statement written in the same language as used in the contract:

> NOTICE OF CANCELLATION
>
> .....
>
> (enter date contract signed)
>
> You may cancel this contract for the sale of your house, without any penalty or obligation, at any time before ..... (enter date and time of day)
>
> To cancel this transaction, you may use any of the following methods: (1) mail or otherwise deliver a signed and dated copy of this cancellation notice; or (2) e-mail a notice of cancellation to ..... (name of purchaser) at ..... (physical address of purchaser's place of business) ..... (e-mail address of foreclosure consultant's place of business)
>
> Not later than ..... (enter date and time of day)
>
> I hereby cancel this transaction.
>
> .....
>
> (date)
>
> .....
>
> (seller's signature)

3. The foreclosure purchaser shall provide the foreclosed homeowner with a copy of the contract and the attached notice of cancellation at the time the contract is executed by all parties.

4. The three business days during which the foreclosed homeowner may cancel the contract shall not begin to run until all parties to the contract have executed the contract and the foreclosure purchaser has complied with this section.

2008 Acts, ch 1125, §14, 19
Referred to in §714F.3

714F.6 Waiver.

A waiver of the provisions of this chapter is void and unenforceable as contrary to public policy, except a consumer may waive the three-day right to cancel provided in section 714F.4 if the property is subject to a foreclosure sale, tax sale, or contract forfeiture within the three business days and the shortened cancellation period was not caused by the foreclosure purchaser or an agent of the foreclosure purchaser. A waiver of a foreclosed homeowner's

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right to cancel shall be in a handwritten statement signed by all parties holding title to the foreclosed property.

2008 Acts, ch 1125, §15, 19; 2009 Acts, ch 133, §182

714F.7 Arbitration prohibited.

A provision in a contract which attempts or purports to require arbitration of any dispute arising under this chapter is void at the option of the foreclosed homeowner.

2008 Acts, ch 1125, §16, 19

714F.8 Prohibited practices.

A foreclosure purchaser shall not do any of the following:

1. Enter into, or attempt to enter into, a foreclosure reconveyance with a foreclosed homeowner unless all of the following apply:

a. The foreclosure purchaser verifies and can demonstrate that the foreclosed homeowner has a reasonable ability to pay for the subsequent conveyance of an interest back to the foreclosed homeowner. In the case of a lease with an option to purchase, payment ability also includes the reasonable ability to make the lease payments and purchase the property within the term of the option to purchase. A rebuttable presumption arises that a foreclosed homeowner is reasonably able to pay for the subsequent conveyance if the foreclosed homeowner's payments for primary housing expenses and regular principal and interest payments on other personal debt, on a monthly basis, do not exceed sixty percent of the foreclosed homeowner's monthly gross income. For the purposes of this section, *"primary housing expenses"* means the sum of payments for regular principal, interest, rent, utilities, hazard insurance, real estate taxes, and association dues. A rebuttable presumption arises that the foreclosure purchaser has not verified reasonable payment ability if the foreclosure purchaser has not obtained documents other than a statement by the foreclosed homeowner of assets, liabilities, and income.

b. The foreclosure purchaser and the foreclosed homeowner complete a closing for any foreclosure reconveyance in which the foreclosure purchaser obtains a deed or mortgage from a foreclosed homeowner. For purposes of this section, *"closing"* means an in-person meeting to complete final documents incident to the sale of the real property or the creation of a mortgage on the real property conducted by a closing agent, who is not employed by or an affiliate of the foreclosure purchaser, or employed by such an affiliate, and who does not have a business or personal relationship with the foreclosure purchaser other than the provision of real estate settlement services.

c. The foreclosure purchaser obtains the written consent of the foreclosed homeowner to a grant by the foreclosure purchaser of any interest in the property during such times as the foreclosed homeowner maintains any interest in the property.

d. The foreclosure purchaser complies with the requirements for disclosure, loan terms, and conduct in the federal Home Ownership Equity Protection Act, 15 U.S.C. §1639, for any foreclosure reconveyance in which the foreclosed homeowner obtains a vendee interest in a contract for deed, regardless of whether the terms of the contract for deed meet the annual percentage rate or points and fees requirements for a covered loan in 12 C.F.R. §226.32(a) and (b).

2. Enter into a foreclosure reconveyance unless the foreclosure purchaser notifies all existing mortgage lien holders of the foreclosure purchaser's intent to accept conveyance of any interest in the property from the foreclosed homeowner, and fully complies with all terms and conditions contained in the mortgage lien documents including but not limited to due-on-sale provisions or meeting all qualification requirements for assuming the repayment of the mortgage.

3. Fail to do any of the following:

a. Ensure that title to the subject dwelling has been reconveyed to the foreclosed homeowner.

b. (1) Make a payment to the foreclosed homeowner such that the foreclosed homeowner has received consideration in an amount of at least eighty-two percent of the fair market value of the property, as the property was when the foreclosed homeowner vacated the property,

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within ninety days of either the eviction or voluntary relinquishment of possession of the property by the foreclosed homeowner. The foreclosure purchaser shall make a detailed accounting of the basis for the payment amount, or a detailed accounting of the reasons for failure to make a payment, including providing written documentation of expenses, within this ninety-day period. The accounting shall be on a form prescribed by the attorney general, in consultation with the superintendent of the banking division of the department of insurance and financial services without being subject to the rulemaking procedures of chapter 17A.

(2) For purposes of this paragraph *"b"*, all of the following shall apply:

(a) A rebuttable presumption arises that an appraisal by a person licensed or certified by an agency of the federal government or this state to appraise real estate constitutes the fair market value of the property.

(b) The time for determining the fair market value amount shall be determined in the foreclosure reconveyance contract as either at the time of the execution of the foreclosure reconveyance contract or at resale. If the contract states that the fair market value shall be determined at the time of resale, the fair market value shall be the resale price if it is sold within sixty days of the eviction or voluntary relinquishment of the property by the foreclosed homeowner. If the contract states that the fair market value shall be determined at the time of resale, and the resale is not completed within sixty days of the eviction or voluntary relinquishment of the property by the foreclosed homeowner, the fair market value shall be determined by an appraisal conducted within one hundred eighty days of the eviction or voluntary relinquishment of the property by the foreclosed homeowner and payment, if required, shall be made to the foreclosed homeowner, but the fair market value shall be recalculated as the resale price on resale and an additional payment amount, if appropriate, based on the resale price, shall be made to the foreclosed homeowner within fifteen days of resale, and a detailed accounting of the basis for the payment amount, or a detailed accounting of the reasons for failure to make additional payment, shall be made within fifteen days of resale, including providing written documentation of expenses. The accounting shall be on a form prescribed by the attorney general, in consultation with the superintendent of the banking division of the department of insurance and financial services, without being subject to the rulemaking procedures of chapter 17A.

(c) *"Consideration"* means any payment or thing of value provided to the foreclosed homeowner, including payment of unpaid rent or contract for deed payments owed by the foreclosed homeowner prior to the date of eviction or voluntary relinquishment of the property, reasonable costs paid to third parties necessary to complete the foreclosure reconveyance transaction, payment of money to satisfy a debt or legal obligation of the foreclosed homeowner that creates a lien against the affected residence, or the payment of reasonable cost of repairs for damage to the dwelling caused by the foreclosed homeowner; or a payment of a penalty imposed by a court for the filing of a frivolous claim under section 714F.9, subsection 6, but *"consideration"* shall not include amounts imputed as a down payment or fee to the foreclosure purchaser, or a person acting in participation with the foreclosure purchaser, incident to a contract for deed, lease, or option to purchase entered into as part of the foreclosure reconveyance, except for reasonable costs paid to third parties necessary to complete the foreclosure reconveyance.

4. Enter into repurchase or lease terms as part of the subsequent conveyance that are unfair or commercially unreasonable, or engage in any other unfair conduct.

5. Represent, directly or indirectly, any of the following:

a. The foreclosure purchaser is acting as an advisor or a consultant, or in any other manner represents that the foreclosure purchaser is acting on behalf of the foreclosed homeowner.

b. The foreclosure purchaser has a qualification, certification, or licensure that the foreclosure purchaser does not have, or that the foreclosure purchaser is not a member of a licensed profession if that is untrue.

c. The foreclosure purchaser is assisting the foreclosed homeowner to "save the house" or a substantially similar phrase.

d. The foreclosure purchaser is assisting the foreclosed homeowner in preventing a

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completed foreclosure, forfeiture, or tax sale if the result of the transaction is that the foreclosed homeowner will not complete a redemption of the property.

6. Make any other statements, directly or by implication, or engage in any other conduct that is false, deceptive, or misleading, or that has the likelihood to cause confusion or misunderstanding, including but not limited to statements regarding the value of the residence in foreclosure, the amount of proceeds the foreclosed homeowner will receive after a foreclosure sale, any contract term, or the foreclosed homeowner's rights or obligations incident to or arising out of the foreclosure reconveyance.

7. Do any of the following until the time during which the foreclosed homeowner may cancel the transaction has fully elapsed:

a. Accept from a foreclosed homeowner an execution of, or induce a foreclosed homeowner to execute, an instrument of conveyance of any interest in the residence in foreclosure.

b. Record with the county recorder or file with the registrar of titles any document including but not limited to an instrument of conveyance, signed by the foreclosed homeowner.

c. Transfer or encumber or purport to transfer or encumber any interest in the residence in foreclosure to any third party.

2008 Acts, ch 1125, §17, 19; 2009 Acts, ch 41, §168; 2023 Acts, ch 19, §2764, 2765

714F.9 Enforcement.

1. *Remedies.* A violation of this chapter is an unlawful practice pursuant to section 714.16, and all the remedies of section 714.16 are available for such an action. A private cause of action brought under this chapter by a foreclosed homeowner is in the public interest. A foreclosed homeowner may bring an action for a violation of this chapter. If the court finds a violation of this chapter, the court shall award to the foreclosed homeowner actual damages, appropriate equitable relief, and the costs of the action, and shall award reasonable fees to the foreclosed homeowner's attorney. Notwithstanding any other provision of this section, an action shall not be brought on the basis of a violation of this chapter except by a foreclosed homeowner against whom the violation was committed or by the attorney general. This limitation does not apply to administrative action by the superintendent of the banking division of the department of insurance and financial services.

2. *Exemplary damages.* In a private right of action for a violation of this chapter, the court may award exemplary damages. If the court determines that an award of exemplary damages is appropriate, the amount of exemplary damages awarded shall not be less than one and one-half times the foreclosed homeowner's actual damages. Any claim for exemplary damages brought pursuant to this section must be commenced within four years after the date of the alleged violation.

3. *Remedies cumulative.* The remedies provided in this section are cumulative and do not restrict any remedy that is otherwise available. The provisions of this chapter are not exclusive and are in addition to any other requirements, rights, remedies, and penalties provided by law. No action under this section shall affect the rights in the foreclosed property held by a good faith purchaser for value.

4. *Criminal penalty.* A foreclosure purchaser who engages in a practice which would operate as a fraud or deceit upon a foreclosed homeowner is guilty of a serious misdemeanor. Prosecution or conviction for any one of the violations does not bar prosecution or conviction for any other offenses.

5. *Failure of transaction.* Failure of the parties to complete the reconveyance transaction, in the absence of additional misconduct, shall not subject a foreclosure purchaser to the criminal penalties under this chapter.

6. *Stay of eviction action.*

a. A court hearing an eviction action against a foreclosed homeowner must issue an automatic stay, without imposition of a bond, if the foreclosed homeowner makes a prima facie showing that all of the following apply:

(1) The foreclosed homeowner has done any of the following:

(a) Commenced an action concerning a foreclosure reconveyance.

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(b) Asserts a defense that the property that is the subject of the eviction action is also the subject of a foreclosure reconveyance in violation of this chapter.

(c) Asserts a claim or affirmative defense of fraud, false pretense, false promise, misrepresentation, misleading statement, or deceptive practice, in connection with a foreclosure reconveyance.

(2) The foreclosed homeowner owned the residence in foreclosure.

(3) The foreclosed homeowner conveyed title to the residence in foreclosure to a third party upon a promise that the foreclosed homeowner would be allowed to occupy the residence in foreclosure or other real property in which the foreclosure purchaser or a person acting in participation with the foreclosure purchaser has an interest and that the residence in foreclosure or other real property would be the subject of a foreclosure reconveyance.

(4) Since the conveyance, the foreclosed homeowner has continuously occupied the residence in foreclosure or other real property in which the foreclosure purchaser or a person acting in participation with the foreclosure purchaser has an interest.

b. For purposes of this subsection, notarized affidavits are acceptable means of proof to meet the foreclosed homeowner's burden. Upon good cause shown, a foreclosed homeowner may request and the court may grant up to an additional two weeks to produce evidence required to make the prima facie showing.

c. A court may award to a plaintiff a penalty of up to five hundred dollars upon a showing that the foreclosed homeowner filed a frivolous claim or asserted a frivolous defense.

d. The automatic stay expires upon the later of any of the following:

(1) The failure of the foreclosed homeowner to commence an action in a court of competent jurisdiction in connection with a foreclosed reconveyance transaction within ninety days after the issuance of the stay.

(2) The issuance of an order lifting the stay by a court hearing claims related to the foreclosure reconveyance.

2008 Acts, ch 1125, §18, 19; 2009 Acts, ch 133, §183; 2023 Acts, ch 19, §2766

Referred to in §714F.8

CHAPTER 714G

CONSUMER CREDIT SECURITY

Referred to in §331.307, 364.22, 701.1

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714G.1 Definitions.

For the purposes of this chapter, unless the context otherwise requires:

1. *"Consumer"* means an individual who is a resident of this state sixteen years of age or older who does not otherwise meet the definition of a protected consumer and who is not subject to a protected consumer security freeze.

2. *"Consumer credit report"* means a consumer report, as defined in 15 U.S.C. §1681a, that is used or collected in whole or in part for the purpose of serving as a factor in establishing a consumer's eligibility for credit for personal, family, or household purposes.

3. *"Consumer reporting agency"* means the same as defined in 15 U.S.C. §1681a(f). A consumer reporting agency does not include any of the following:

a. A check service or fraud prevention service company that reports on incidents of fraud or issues authorizations for the purpose of approving or processing negotiable instruments, electronic fund transfers, or similar methods of payment.

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b. A deposit account information service company that issues reports regarding account closures due to fraud, overdrafts, automated teller machine abuse, or similar negative information regarding a consumer to inquiring financial institutions for use only in reviewing the consumer's request for a deposit account at the inquiring financial institution.

c. Any person or entity engaged in the practice of assembling and merging information contained in a database of one or more consumer reporting agencies and does not maintain a permanent database of credit information from which new consumer reports are produced.

d. A company that maintains a database or file that consists of any of the following information which is used for purposes unrelated to the granting of credit:

(1) Criminal history information.

(2) Information relating to employment, rental history, or a background check.

4. *"Identification information"* means as defined in section 715A.8.

5. *"Identity theft"* means as used in section 715A.8.

6. *"Normal business hours"* means Sunday through Saturday, between the hours of 6:00 a.m. and 9:30 p.m., central standard time or central daylight saving time.

7. *"Proper identification"* means the same as defined in 15 U.S.C. §1681h(a)(1).

8. *"Protected consumer"* means an individual who is either under sixteen years of age at the time a request for a protected consumer security freeze is made for the individual or is an incapacitated person or a protected person for whom a guardian or conservator has been appointed.

9. *"Protected consumer security freeze"* means one of the following:

a. If a consumer reporting agency does not have a file pertaining to a protected consumer, a restriction that is placed on the protected consumer's record in accordance with section 714G.8A that prohibits the consumer reporting agency from releasing the protected consumer's record except as provided in that section.

b. If a consumer reporting agency has a file pertaining to a protected consumer, a restriction that is placed on the protected consumer's consumer credit report in accordance with section 714G.8A that prohibits the consumer reporting agency from releasing the protected consumer's consumer credit report or any information derived from the protected consumer's consumer credit report except as provided in that section.

10. *"Record"* means a compilation of information that includes or satisfies all of the following:

a. Identifies a protected consumer.

b. Is created by a consumer reporting agency solely for the purpose of complying with section 714G.8A.

c. Is not created or used to consider the protected consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

11. *"Representative"* means a protected consumer's parent, guardian, or custodian who provides to a consumer reporting agency sufficient proof of authority to act on behalf of a protected consumer.

12. *"Security freeze"* means a notice placed in a consumer credit report, at the request of the consumer and subject to certain exceptions, that prohibits a consumer reporting agency from releasing the consumer credit report or score relating to the extension of credit.

13. *"Sufficient proof of authority"* means documentation that shows a representative has authority to act on behalf of a protected consumer, which may be demonstrated in the form of an order issued by a court of law, a lawfully executed and valid power of attorney, or a written notarized statement signed by the representative that expressly describes the authority of the representative to act on behalf of a protected consumer.

14. *"Sufficient proof of identification"* means one or more of the following:

a. A protected consumer's social security number or a copy of a social security card issued by the federal social security administration.

b. A certified or official copy of a protected consumer's birth certificate issued by the entity authorized to issue the birth certificate.

c. A copy of a protected consumer's driver's license, a protected consumer's nonoperator's identification card issued by the state department of transportation, or any

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other federal or state government-issued form of identification pertaining to a protected consumer.

2008 Acts, ch 1063, §1; 2014 Acts, ch 1041, §1 – 3, 6

714G.2 Security freeze.

1. A consumer may submit a written request for a security freeze to a consumer reporting agency by first-class mail, telephone, secure internet connection, or other secure electronic contact method designated by the consumer reporting agency. The consumer must submit proper identification with the request. Within three business days after receiving the request, the consumer reporting agency shall commence the security freeze. Within three business days after commencing the security freeze, the consumer reporting agency shall send a written confirmation to the consumer of the security freeze, a personal identification number or password, other than the consumer's social security number, for the consumer to use in authorizing the suspension or removal of the security freeze, including information on how the security freeze may be temporarily suspended.

2. *a.* If a consumer requests a security freeze from a consumer reporting agency that compiles and maintains files on a nationwide basis, the consumer reporting agency shall identify, to the best of its knowledge, any other consumer reporting agency that compiles and maintains files on consumers on a nationwide basis and inform consumers of appropriate contact information that would permit the consumer to place, lift, or remove a security freeze from such other consumer reporting agency.

b. For purposes of this subsection, *"consumer reporting agency that compiles and maintains files on a nationwide basis"* means the same as defined in 15 U.S.C. §1681a(p).

2008 Acts, ch 1063, §2; 2018 Acts, ch 1091, §1, 10

714G.3 Temporary suspension.

1. A consumer may request that a security freeze be temporarily suspended to allow the consumer reporting agency to release the consumer credit report for a specific time period. The consumer reporting agency shall develop procedures to expedite the receipt and processing of requests by first-class mail, telephone, secure internet connection, or other secure electronic contact method designated by the consumer reporting agency. The consumer reporting agency shall comply with the request within three business days after receiving the consumer's written request, or within fifteen minutes after the consumer's request is received by the consumer reporting agency through secure internet connection or other secure electronic contact method designated by the consumer reporting agency, or the use of a telephone, during normal business hours. The consumer's request shall include all of the following:

a. Proper identification.

b. The personal identification number or password provided by the consumer reporting agency.

c. Explicit instructions of the specific time period designated for suspension of the security freeze.

2. A consumer reporting agency need not remove a security freeze within the time frames provided in subsection 1 if the consumer fails to meet the requirements of subsection 1, or the ability of the consumer reporting agency to remove the security freeze within fifteen minutes is prevented by one of the following:

a. An act of God, including a fire, earthquake, hurricane, storm, or similar natural disaster or phenomenon.

b. Unauthorized or illegal acts by a third party, including terrorism, sabotage, riot, vandalism, labor strikes or disputes disrupting operations, or similar occurrences.

c. Operational interruption, including electrical failure, unanticipated delay in equipment or replacement part delivery, computer hardware or software failures inhibiting response time, or similar disruption.

d. Governmental action, including emergency orders or regulations, judicial law enforcement action, or similar directives.

e. Regularly scheduled maintenance, during other than normal business hours, of the

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consumer reporting agency's systems, or updates to the consumer reporting agency's systems.

f. Commercially reasonable maintenance of, or repair to, the consumer reporting agency's systems that is unexpected or unscheduled.

g. Receipt of a removal request outside of normal business hours.

2008 Acts, ch 1063, §3; 2018 Acts, ch 1091, §2, 10

714G.4 Removal.

A security freeze remains in effect until the consumer requests that the security freeze be removed. A consumer reporting agency shall remove a security freeze within three business days after receiving a request for removal that includes proper identification of the consumer, and the personal identification number or password provided by the consumer reporting agency.

2008 Acts, ch 1063, §4; 2018 Acts, ch 1091, §3, 10

714G.5 Fees prohibited.

A consumer reporting agency shall not charge a fee to a consumer for providing any service pursuant to this chapter, including but not limited to placing, removing, temporarily suspending, or reinstating a security freeze.

2008 Acts, ch 1063, §5; 2018 Acts, ch 1091, §4

714G.6 Third parties.

If a third party requests a consumer credit report that is subject to a security freeze, the consumer reporting agency may advise the third party that a security freeze is in effect. If the consumer does not expressly authorize the third party to have access to the consumer credit report through a temporary suspension of the security freeze, the third party shall not be given access to the consumer credit report but may treat a credit application as incomplete.

2008 Acts, ch 1063, §6

714G.7 Misrepresentation of fact.

A consumer reporting agency may suspend or remove a security freeze upon a material misrepresentation of fact by the consumer. However, the consumer reporting agency shall send notice to the consumer in writing prior to suspending or removing the security freeze.

2008 Acts, ch 1063, §7

714G.8 Exceptions.

A security freeze or protected consumer security freeze shall not apply to the following persons or entities:

1. A person or person's subsidiary, affiliate, agent, or assignee with which the consumer has or prior to assignment had an account, contract, or debtor-creditor relationship for the purposes of reviewing the account or collecting the financial obligation owing for the account, contract, or debt, or extending credit to a consumer with a prior or existing account, contract, or debtor-creditor relationship. *"Reviewing the account"* includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

2. A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom access has been granted under a temporary suspension for purposes of facilitating the extension of credit or another permissible use.

3. A person acting pursuant to a court order, warrant, or subpoena.

4. Child support enforcement officials when investigating a child support case pursuant to Tit. IV-D or Tit. XIX of the federal Social Security Act.

5. The department of health and human services or its agents or assignees acting to investigate fraud under the medical assistance program.

6. The department of revenue or local taxing authorities, or any of their agents or assignees, acting to investigate or collect delinquent taxes or assessments, including interest and penalties and unpaid court orders, or to fulfill any of their other statutory or other responsibilities.

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7. A person's use of credit information for prescreening as provided by the federal Fair Credit Reporting Act.

8. A person for the sole purpose of providing a credit file monitoring subscription service to which the consumer has subscribed.

9. A consumer reporting agency for the sole purpose of providing a customer with a copy of the consumer credit report upon the consumer's request.

10. A person's use of a consumer credit report in connection with the business of insurance.

2008 Acts, ch 1063, §8; 2012 Acts, ch 1023, §85; 2014 Acts, ch 1041, §4, 6; 2023 Acts, ch 19, §1304

Referred to in §714G.8A

714G.8A Protected consumer security freeze.

1. A consumer reporting agency shall implement a protected consumer security freeze for a protected consumer if the consumer reporting agency receives a request from the protected consumer's representative for the placement of the protected consumer security freeze pursuant to this section and the protected consumer's representative complies with all of the following:

a. Submits the request to the consumer reporting agency at the address or other point of contact and in the manner specified by the consumer reporting agency.

b. Provides sufficient proof of identification of the protected consumer and proof of the identity of the representative.

c. Provides sufficient proof of authority to act on behalf of the protected consumer.

2. *a.* A protected consumer security freeze requested pursuant to subsection 1 shall commence within thirty days after the request is received. If a consumer reporting agency does not have a file pertaining to a protected consumer when the consumer reporting agency receives the request, the consumer reporting agency shall create a record for the protected consumer within thirty days after the request is received.

b. While a protected consumer security freeze is in effect, a consumer reporting agency shall not release the protected consumer's consumer credit report, any information derived from the protected consumer's consumer credit report, or any information contained in the record created for the protected consumer. The protected consumer security freeze shall remain in effect until the protected consumer or the protected consumer's representative requests the consumer reporting agency to remove the protected consumer security freeze pursuant to subsection 3, or the consumer reporting agency removes the protected consumer security freeze pursuant to subsection 6.

3. A consumer reporting agency shall remove a protected consumer security freeze if the consumer reporting agency receives a request from the protected consumer or the protected consumer's representative to remove the protected consumer's security freeze that complies with all of the following:

a. The request is submitted to the consumer reporting agency at the address or other point of contact and in the manner specified by the consumer reporting agency.

b. In the case of a request by a protected consumer, the request includes proof that previously submitted sufficient proof of authority for the protected consumer's representative to act on behalf of the protected consumer is no longer valid, and sufficient proof of identification of the protected consumer.

c. In the case of a request by the representative of a protected consumer, the request includes sufficient proof of identification of the protected consumer, proof of the identity of the representative, and sufficient proof of authority to act on behalf of the protected consumer.

4. A protected consumer security freeze shall be removed by the consumer reporting agency within thirty days after the request for removal pursuant to subsection 3 is received by the consumer reporting agency.

5. A consumer reporting agency shall not charge a fee for the placement, removal, or reinstatement of a protected consumer security freeze. A consumer reporting agency may not charge any other fee for a service performed pursuant to this section.

6. A consumer reporting agency may remove a protected consumer security freeze

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for a protected consumer or delete a record of a protected consumer if the protected consumer security freeze was commenced or the record was created based on a material misrepresentation of fact by the protected consumer or the protected consumer's representative.

7. The provisions of sections 714G.8, 714G.10, and 714G.11 shall be applicable to a protected consumer security freeze.

2014 Acts, ch 1041, §5, 6; 2018 Acts, ch 1091, §5 – 7
Referred to in §714G.1

714G.9 Written confirmation.

After a security freeze is in effect, a consumer reporting agency may post a name, date of birth, social security number, or address change in a consumer credit report provided written confirmation is sent to the consumer within thirty days of posting the change. For an address change, written confirmation shall be sent to both the new and former addresses. Written confirmation is not required to correct spelling and typographical errors.

2008 Acts, ch 1063, §9

714G.10 Waiver void.

A waiver by a consumer of the provisions of this chapter is contrary to public policy and is void and unenforceable.

2008 Acts, ch 1063, §10
Referred to in §714G.8A

714G.11 Enforcement.

A person who violates this chapter violates section 714.16, subsection 2, paragraph *"a"*. All powers conferred upon the attorney general to accomplish the objectives and carry out the duties prescribed in section 714.16 are also conferred upon the attorney general to enforce this chapter including but not limited to the power to issue subpoenas, adopt rules, and seek injunctive relief and a monetary award for civil penalties, attorney fees, and costs. Additionally, the attorney general may seek and recover the greater of five hundred dollars or actual damages for each customer injured by a violation of this chapter.

2008 Acts, ch 1063, §11
Referred to in §714G.8A

CHAPTER 714H

CONSUMER FRAUD — PRIVATE ACTIONS

Referred to in §331.307, 364.22, 554I.4, 701.1

714H.1 Title.
714H.2 Definitions.
714H.3 Prohibited practices and acts.
714H.4 Exclusions.
714H.5 Private right of action — damages — statute of limitations.
714H.6 Attorney general notification.
714H.7 Class actions.
714H.8 Severability clause.

714H.1 Title.

This chapter shall be known and may be cited as the *"Private Right of Action for Consumer Frauds Act"*.

2009 Acts, ch 167, §1, 9

714H.2 Definitions.

1. *"Actual damages"* means all compensatory damages proximately caused by the prohibited practice or act that are reasonably ascertainable in amount. *"Actual damages"* does not include damages for bodily injury, pain and suffering, mental distress, or loss of consortium, loss of life, or loss of enjoyment of life.

2. *"Advertisement"* means the same as defined in section 714.16.

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3. *"Consumer"* means a natural person or the person's legal representative.

4. *"Consumer merchandise"* means merchandise offered for sale or lease, or sold or leased, primarily for personal, family, or household purposes.

5. *"Deception"* means an act or practice that is likely to mislead a substantial number of consumers as to a material fact or facts.

6. *"Merchandise"* means the same as defined in section 714.16.

7. *"Person"* means the same as defined in section 714.16.

8. *"Sale"* means any sale or offer for sale of consumer merchandise for cash or credit.

9. *"Unfair practice"* means the same as defined in section 714.16.

2009 Acts, ch 167, §2, 9

714H.3 Prohibited practices and acts.

1. A person shall not engage in a practice or act the person knows or reasonably should know is an unfair practice, deception, fraud, false pretense, or false promise, or the misrepresentation, concealment, suppression, or omission of a material fact, with the intent that others rely upon the unfair practice, deception, fraud, false pretense, false promise, misrepresentation, concealment, suppression, or omission in connection with the advertisement, sale, or lease of consumer merchandise, or the solicitation of contributions for charitable purposes. For the purposes of this chapter, a claimant alleging an unfair practice, deception, fraud, false pretense, false promise, or misrepresentation must prove that the prohibited practice related to a material fact or facts. *"Solicitations of contributions for charitable purposes"* does not include solicitations made on behalf of a political organization as defined in section 13C.1, solicitations made on behalf of a religious organization as defined in section 13C.1, solicitations made on behalf of a state, regionally, or nationally accredited college or university, or solicitations made on behalf of a nonprofit foundation benefiting a state, regionally, or nationally accredited college or university subject to section 509(a)(1) or 509(a)(3) of the Internal Revenue Code of 1986.

2. A person shall not engage in any practice or act that is in violation of any of the following:

a. Section 321.69.

b. Section 321.71A.

c. Chapter 516D.

d. Section 523C.7 or 523C.13.

e. Section 554I.2.

f. Chapter 555A.

g. Section 714.16, subsection 2, paragraphs *"b"* through *"n"*.

h. Chapter 714A.

2009 Acts, ch 167, §3, 9; 2015 Acts, ch 72, §3, 4; 2020 Acts, ch 1063, §375; 2025 Acts, ch 126, §6

714H.4 Exclusions.

1. This chapter shall not apply to any of the following:

a. Merchandise offered or provided by any of the following persons, including business entities organized under Title XII by those persons and the officers, directors, employees, and agents of those persons or business entities, pursuant to a profession or business for which they are licensed or registered:

(1) Insurance companies subject to Title XIII.

(2) Attorneys licensed to practice law in this state.

(3) Financial institutions which includes any bank incorporated under the provisions of any state or federal law, any savings and loan association or savings bank incorporated under the provisions of any state or federal law, and any credit union organized under the provisions of any state or federal law, and any affiliate or subsidiary of a bank, savings and loan association, savings bank, or credit union.

(4) Persons or facilities licensed, certified, or registered under chapters 135B, 135C, 135J, 148, 148A, 148B, 148C, 149, 151, 152, 152A, 152B, 153, 154, 154B, 154C, 154D, 155A, 156, 169, 522B, 542, 542B, 543B, 544A, or 544B.

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b. Advertising by a retailer for a product, other than a drug or other product claiming to have a health-related benefit or use, if the advertising is prepared by a supplier, unless the retailer participated in the preparation of the advertisement or knew or should have known that the advertisement was deceptive, false, or misleading.

c. In connection with an advertisement that violates this chapter, the newspaper, magazine, publication, or other print media in which the advertisement appears, including the publisher of the newspaper, magazine, publication, or other print media in which the advertisement appears, or the radio station, television station, or other electronic media which disseminates the advertisement, including an employee, agent, or representative of the publisher, newspaper, magazine, publication or other print media, or the radio station, television station, or other electronic media.

d. The provision of local exchange carrier telephone service.

e. Public utilities as defined in section 476.1 that furnish gas by a piped distribution system or electricity to the public for compensation.

f. Any advertisement that complies with the statutes, rules, and regulations of the federal trade commission.

g. Conduct that is required or permitted by the orders or rules of, or a statute administered by, a federal, state, or local governmental agency.

h. An affirmative act that violates this chapter but is specifically required by other applicable law, to the extent that the actor could not reasonably avoid a violation of this chapter.

i. In any action relating to a charitable solicitation, an individual who has engaged in the charitable solicitation as an unpaid, uncompensated volunteer and who does not receive monetary gain of any sort from engaging in the solicitation.

j. The provision of cable television service or video service pursuant to a franchise under section 364.2 or 477A.2.

k. A corporation holding one or more industrial loan licenses pursuant to chapter 536A and employing fewer than sixty full-time employees or a corporation holding one or more regulated loan licenses pursuant to chapter 536 and employing fewer than sixty full-time employees. For purposes of this paragraph, "*corporation*" means the same as defined in section 536A.2.

2. "*Material fact*" as used in this chapter does not include repairs of damage to, adjustments on, or replacements of parts with new parts of otherwise new merchandise if the repairs, adjustments, or replacements are made to achieve compliance with factory specifications and are made before sale of the merchandise at retail and the actual cost of any labor and parts charged to or performed by a retailer for any such repairs, adjustments, and parts does not exceed three hundred dollars or ten percent of the actual cost to a retailer including freight of the merchandise, whichever is less, provided that the seller posts in a conspicuous place notice that repairs, adjustments, or replacements will be disclosed upon request. The exclusion provided in this subsection does not apply to the concealment, suppression, or omission of a material fact if the purchaser requests disclosure of any repair, adjustment, or replacement.

2009 Acts, ch 167, §4, 9; 2018 Acts, ch 1160, §31
Referred to in §321.69A

714H.5 Private right of action — damages — statute of limitations.

1. A consumer who suffers an ascertainable loss of money or property as the result of a prohibited practice or act in violation of this chapter may bring an action at law to recover actual damages. The court may order such equitable relief as it deems necessary to protect the public from further violations, including temporary and permanent injunctive relief.

2. If the court finds that a person has violated this chapter and the consumer is awarded actual damages, the court shall award to the consumer the costs of the action and to the consumer's attorney reasonable fees. Reasonable attorney fees shall be determined by the value of the time reasonably expended by the attorney including but not limited to consideration of the following factors:

a. The time and labor required.

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b. The novelty and difficulty of the issues in the case.

c. The skills required to perform the legal services properly.

d. The preclusion of other employment by the attorney due to the attorney's acceptance of the case.

e. The customary fee.

f. Whether the fee is fixed or contingent.

g. The time limitations imposed by the client or the circumstances of the case.

h. The amount of money involved in the case and the results obtained.

i. The experience, reputation, and ability of the attorney.

j. The undesirability of the case.

k. The nature and length of the professional relationship between the attorney and the client.

l. Attorney fee awards in similar cases.

3. In order to recover damages, a claim under this section shall be proved by a preponderance of the evidence.

4. If the finder of fact finds by a preponderance of clear, convincing, and satisfactory evidence that a prohibited practice or act in violation of this chapter constitutes willful and wanton disregard for the rights or safety of another, in addition to an award of actual damages, statutory damages up to three times the amount of actual damages may be awarded to a prevailing consumer.

5. An action pursuant to this chapter must be brought within two years of the occurrence of the last event giving rise to the cause of action under this chapter or within two years of the discovery of the violation of this chapter by the person bringing the action, whichever is later.

6. This section shall not affect a consumer's right to seek relief under any other theory of law.

7. A person shall not be held liable in any action brought under this section for a violation of this chapter if the person shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid the error.

2009 Acts, ch 167, §5, 9
Referred to in §321.69A

714H.6 Attorney general notification.

1. A party filing a petition, counterclaim, cross-petition, or pleading, or any count thereof, in intervention alleging a violation under this chapter, within seven days following the date of filing such pleading, shall provide a copy to the attorney general and, within seven days following entry of any final judgment in the action, shall provide a copy of the judgment to the attorney general.

2. A party appealing to district court a small claims order or judgment involving an issue raised under this chapter, within seven days of providing notice of the appeal, shall notify the attorney general in writing and provide a copy of the pleading raising the issue and a copy of the small claims court order or judgment.

3. A party appealing an order or judgment involving an issue raised under this chapter, within seven days following the date such notice of appeal is filed with the court, shall notify the attorney general in writing and provide a copy of the pleading raising the issue and a copy of the court order or judgment being appealed.

4. Upon timely application to the court in which an action involving an issue raised under this chapter is pending, the attorney general may intervene as a party at any time or may be heard at any time. The attorney general's failure to intervene shall not preclude the attorney general from bringing a separate enforcement action.

5. All copies of pleadings, orders, judgments, and notices required by this section to be sent to the attorney general shall be sent by certified mail unless the attorney general has previously been provided such copies of pleadings, orders, judgments, or notices in the same action by certified mail, in which case subsequent mailings may be made by regular mail. Failure to provide the required mailings to the attorney general shall not be grounds for

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dismissal of an action under this chapter, but shall be grounds for a subsequent action by the attorney general to vacate or modify the judgment.

2009 Acts, ch 167, §6, 9

714H.7 Class actions.

A class action lawsuit alleging a violation of this chapter shall not be filed with a court unless it has been approved by the attorney general. The attorney general shall approve the filing of a class action lawsuit alleging a violation of this chapter unless the attorney general determines that the lawsuit is frivolous. This section shall not affect the requirements of any other law or of the Iowa rules of civil procedure relating to class action lawsuits.

2009 Acts, ch 167, §7, 9

714H.8 Severability clause.

If any provision of this chapter or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

2009 Acts, ch 167, §8, 9

CHAPTER 714I

FRAUD IN ASSISTED REPRODUCTION ACT

Referred to in §331.307, 364.22, 701.1

714I.1 Short title.
714I.2 Definitions.
714I.3 Prohibited practices and acts.
714I.4 Private right of action — damages.

714I.1 Short title.

This chapter shall be known and may be cited as the *"Fraud in Assisted Reproduction Act"*.

2022 Acts, ch 1123, §1

714I.2 Definitions.

For purposes of this chapter, unless the context otherwise requires:

1. *"Assisted reproduction"* means a method of causing pregnancy other than sexual intercourse involving medical or scientific intervention.
2. *"Donor"* means an individual who provides gametes intended for use in assisted reproduction, whether or not for consideration.
3. *"Gamete"* means a sperm, an egg, or any part of a sperm or an egg.
4. *"Health care professional"* means a person who is licensed, certified, or otherwise authorized or permitted by the law of this state to administer health care in the ordinary course of business or in the practice of a profession.
5. *"Health facility"* means a hospital, clinic, sperm bank, laboratory, or other health care institution involved in the assisted reproduction process.
6. *"Human reproductive material"* means a human gamete or a human organism at any stage of development from fertilized ovum to embryo.
7. *"Live birth"* means the same as defined in section 144.1.
8. *"Patient"* means a person who has received or is receiving health services from a health care professional.
9. *"Spouse"* means the spouse of a patient who undergoes assisted reproduction at the time of conception, birth, or at any time during the period between conception and birth of a child through assisted reproduction.

2022 Acts, ch 1123, §2

Referred to in §692A.102, 709.4A

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714I.3 Prohibited practices and acts.

1. A person shall not engage in a practice or act the person knows or reasonably should have known provides false information to a patient related to an assisted reproduction procedure or treatment including false information relating to any of the following:

a. The human reproductive material used or provided for assisted reproduction.

b. The identity of a donor of human reproductive material used or provided for assisted reproduction including but not limited to the donor's name, birthdate, or address at the time of donation.

c. A donor's medical history including but not limited to an illness of the donor at the time of donation, any past illness of the donor, or the social, genetic, or family history of the donor.

2. A health care professional or a health facility shall not knowingly or intentionally do any of the following:

a. Use or provide a patient with human reproductive material for assisted reproduction other than that to which the patient expressly consented in writing.

b. Use or provide a patient with human reproductive material for assisted reproduction that is not used or provided with the donor's consent or in a manner or to an extent other than that to which the donor consented.

3. It is not a defense to a violation of this section that a patient expressly consented in writing to the use of human reproductive material from an anonymous donor.

4. A violation of this section by a health care professional or health facility constitutes grounds for denial of an application for, denial of renewal of, or revocation of any license, permit, certification, or any other form of permission required to practice a profession or establish, conduct, or maintain a facility regulated by the state. A violation of this section by a health care professional constitutes unprofessional conduct.

2022 Acts, ch 1123, §3; 2023 Acts, ch 66, §152
Referred to in §147.55, 692A.102, 709.4A, 714I.4

714I.4 Private right of action — damages.

1. A cause of action for damages against any person in violation of section 714I.3, subsection 2, may be brought in accordance with the following:

a. (1) (a) By the patient or the spouse of the patient, if the patient conceives and gives birth to a child through assisted reproduction in violation of section 714I.3, subsection 2.

(b) By a child born as the result of being conceived through assisted reproduction in violation of section 714I.3, subsection 2, if the patient who conceived and gave birth to such child or the patient's spouse is deceased or is otherwise unable to bring such cause of action.

(2) A patient, or the spouse of the patient, has a separate cause of action under this paragraph *"a"* for each conception and birth of a child through assisted reproduction performed in violation of section 714I.3, subsection 2.

b. (1) By the patient or the spouse of the patient, if the patient conceives through assisted reproduction in violation of section 714I.3, subsection 2, but the conception does not result in the live birth of the child.

(2) A cause of action is barred under this paragraph *"b"* if the conception does not result in a live birth because of an induced termination of pregnancy required to be reported pursuant to section 144.29A or because the patient or the patient's spouse intentionally terminates the pregnancy in violation of section 707.7.

2. A cause of action for damages may be brought by a donor whose human reproductive material resulted in the conception or conception and birth of a child conceived through assisted reproduction in violation of section 714I.3 or whose human reproductive material was used without the donor's consent or in a manner or to an extent other than that to which the donor consented in violation of section 714I.3.

3. In addition to compensatory or punitive damages, a prevailing plaintiff who brings an action under subsection 1, paragraph *"a"*, is entitled to all of the following:

a. (1) If the health care professional used the health care professional's own human reproductive material for assisted reproduction in violation of section 714I.3, subsection 2, the health care professional is determined through blood or genetic testing to be a biological parent as defined in section 600A.2 of the child, and the action is brought within the time

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limitations specified in section 614.8, damages in an amount that is the sum of all of the following:

(a) The basic support obligation prescribed by the child support guidelines established pursuant to section 598.21B based on the health care professional's monthly adjusted net income for the time period specified for support for a child under section 598.1, subsection 9.

(b) Medical support as defined in section 252E.1.

(c) A postsecondary education subsidy as defined in section 598.1.

(d) Such other sums as described in section 252A.3, subsection 12, giving due regard to the circumstances of the plaintiff.

(2) A determination that the health care professional is a biological parent of the child or the awarding of damages under this paragraph *"a"* does not create a parent-child relationship between the child and the health care professional for any legal purpose.

b. Statutory damages in the amount of two hundred thousand dollars. Such damages shall be awarded to the prevailing plaintiff regardless of whether the child born as the result of being conceived through assisted reproduction in violation of section 714I.3, subsection 2, is deceased at the time the civil action is commenced or at the time a violation is found.

c. Costs attributable to the assisted reproduction procedure or treatment process.

d. Court costs.

e. Reasonable attorney fees.

4. In addition to compensatory or punitive damages, a prevailing plaintiff who brings an action under subsection 1, paragraph *"b"*, is entitled to all of the following:

a. Statutory damages in the amount of five thousand dollars.

b. Costs attributable to the assisted reproduction procedure or treatment process.

c. Court costs.

d. Reasonable attorney fees.

5. In addition to compensatory or punitive damages, a prevailing plaintiff who brings an action under subsection 2 is entitled to all of the following:

a. Statutory damages in the amount of five thousand dollars.

b. Court costs.

c. Reasonable attorney fees.

6. Notwithstanding any provision of law to the contrary, an action brought pursuant to this section is not subject to a statute of limitations and may be commenced at any time.

2022 Acts, ch 1123, §4

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CHAPTER 715

COMPUTER SPYWARE, MALWARE, AND RANSOMWARE PROTECTION

Referred to in §331.307, 364.22, 701.1

SUBCHAPTER I

INTENT AND DEFINITIONS

715.1 Legislative intent.
715.2 Title.
715.3 Definitions.

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COMPUTER SPYWARE AND MALWARE

715.4 Prohibitions — transmission and use of software.
715.5 Other prohibitions.
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715.7 Criminal penalties.
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SUBCHAPTER III

RANSOMWARE

715.9 Ransomware prohibition.
715.10 Criminal penalties.
715.11 Venue.

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SUBCHAPTER I

INTENT AND DEFINITIONS

715.1 Legislative intent.

It is the intent of the general assembly to protect owners and operators of computers in this state from the use of spyware and malware that is deceptively or surreptitiously installed on the owner's or the operator's computer.

2005 Acts, ch 94, §1

715.2 Title.

This chapter shall be known and may be cited as the *"Computer Spyware, Malware, and Ransomware Protection Act"*.

2005 Acts, ch 94, §2; 2023 Acts, ch 77, §1

715.3 Definitions.

For purposes of this chapter, unless the context otherwise requires:

1. *"Advertisement"* means a communication, the primary purpose of which is the commercial promotion of a commercial product or service, including content on an internet site operated for a commercial purpose.

2. *"Computer control language"* means ordered statements that direct a computer to perform specific functions.

3. *"Computer database"* means a representation of information, knowledge, facts, concepts, or instructions that is intended for use in a computer, computer system, or computer network that is being prepared or has been prepared in a formalized manner, or is being produced or has been produced by a computer, computer system, or computer network.

4. *"Computer software"* means a sequence of instructions written in any programming language that is executed on a computer. *"Computer software"* does not include computer software that is an internet site or data components of an internet site that are not executable independently of the internet site.

5. *"Damage"* means any significant impairment to the integrity or availability of data, software, a system, or information.

6. *"Execute"*, when used with respect to computer software, means the performance of the functions or the carrying out of the instructions of the computer software.

7. *"Intentionally deceptive"* means any of the following:

a. An intentionally and materially false or fraudulent statement.

b. A statement or description that intentionally omits or misrepresents material information in order to deceive an owner or operator of a computer.

c. An intentional and material failure to provide a notice to an owner or operator regarding

the installation or execution of computer software for the purpose of deceiving the owner or operator.

8. *"Internet"* means the same as defined in section 4.1.

9. *"Owner or operator"* means the owner or lessee of a computer, or a person using such computer with the owner or lessee's authorization, but does not include a person who owned a computer prior to the first retail sale of the computer.

10. *"Person"* means the same as defined in section 4.1.

11. *"Personally identifiable information"* means any of the following information with respect to the owner or operator of a computer:

a. The first name or first initial in combination with the last name.

b. A home or other physical address including street name.

c. An electronic mail address.

d. Credit or debit card number, bank account number, or any password or access code associated with a credit or debit card or bank account.

e. Social security number, tax identification number, driver's license number, passport number, or any other government-issued identification number.

f. Account balance, overdraft history, or payment history that personally identifies an owner or operator of a computer.

12. *"Ransomware"* means a computer or data contaminant, encryption, or lock that is placed or introduced without authorization into a computer, computer network, or computer system that restricts access by an authorized person to a computer, computer data, a computer system, or a computer network in a manner that results in the person responsible for the placement or introduction of the contaminant, encryption, or lock making a demand for payment of money or other consideration to remove the contaminant, encryption, or lock.

13. *"Transmit"* means to transfer, send, or make available computer software using the internet or any other medium, including local area networks of computers other than a wireless transmission, and a disc or other data storage device. *"Transmit"* does not include an action by a person providing any of the following:

a. An internet connection, telephone connection, or other means of transmission capability such as a compact disc or digital video disc through which the computer software was made available.

b. The storage or hosting of the computer software program or an internet site through which the software was made available.

c. An information location tool, such as a directory, index, reference, pointer, or hypertext link, through which the user of the computer located the computer software, unless the person transmitting receives a direct economic benefit from the execution of such software on the computer.

2005 Acts, ch 94, §3; 2013 Acts, ch 90, §190, 191, 257; 2023 Acts, ch 77, §2

SUBCHAPTER II

COMPUTER SPYWARE AND MALWARE

715.4 Prohibitions — transmission and use of software.

It is unlawful for a person who is not an owner or operator of a computer to transmit computer software to such computer knowingly or with conscious avoidance of actual knowledge, and to use such software to do any of the following:

1. Modify, through intentionally deceptive means, settings of a computer that control any of the following:

a. The internet site that appears when an owner or operator launches an internet browser or similar computer software used to access and navigate the internet.

b. The default provider or internet proxy that an owner or operator uses to access or search the internet.

c. An owner's or an operator's list of bookmarks used to access internet sites.

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2. Collect, through intentionally deceptive means, personally identifiable information through any of the following means:

a. The use of a keystroke-logging function that records keystrokes made by an owner or operator of a computer and transfers that information from the computer to another person.

b. In a manner that correlates personally identifiable information with data respecting all or substantially all of the internet sites visited by an owner or operator, other than internet sites operated by the person collecting such information.

c. By extracting from the hard drive of an owner's or an operator's computer, an owner's or an operator's social security number, tax identification number, driver's license number, passport number, any other government-issued identification number, account balances, or overdraft history.

3. Prevent, through intentionally deceptive means, an owner's or an operator's reasonable efforts to block the installation of, or to disable, computer software by causing computer software that the owner or operator has properly removed or disabled to automatically reinstall or reactivate on the computer.

4. Intentionally misrepresent that computer software will be uninstalled or disabled by an owner's or an operator's action.

5. Through intentionally deceptive means, remove, disable, or render inoperative security, antispyware, or antivirus computer software installed on an owner's or an operator's computer.

6. Take control of an owner's or an operator's computer by doing any of the following:

a. Accessing or using a modem or internet service for the purpose of causing damage to an owner's or an operator's computer or causing an owner or operator to incur financial charges for a service that the owner or operator did not authorize.

b. Opening multiple, sequential, stand-alone advertisements in an owner's or an operator's internet browser without the authorization of an owner or operator and which a reasonable computer user could not close without turning off the computer or closing the internet browser.

7. Modify any of the following settings related to an owner's or an operator's computer access to, or use of, the internet:

a. Settings that protect information about an owner or operator for the purpose of taking personally identifiable information of the owner or operator.

b. Security settings for the purpose of causing damage to a computer.

8. Prevent an owner's or an operator's reasonable efforts to block the installation of, or to disable, computer software by doing any of the following:

a. Presenting the owner or operator with an option to decline installation of computer software with knowledge that, when the option is selected by the authorized user, the installation nevertheless proceeds.

b. Falsely representing that computer software has been disabled.

2005 Acts, ch 94, §4; 2013 Acts, ch 90, §192, 257

Referred to in §715.6

715.5 Other prohibitions.

It is unlawful for a person who is not an owner or operator of a computer to do any of the following with regard to the computer:

1. Induce an owner or operator to install a computer software component onto the owner's or the operator's computer by intentionally misrepresenting that installing computer software is necessary for security or privacy reasons or in order to open, view, or play a particular type of content.

2. Using intentionally deceptive means to cause the execution of a computer software component with the intent of causing an owner or operator to use such component in a manner that violates any other provision of this subchapter.

2005 Acts, ch 94, §5; 2023 Acts, ch 77, §3

Referred to in §715.6

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715.6 Exceptions.

Sections 715.4 and 715.5 shall not apply to the following:

1. The monitoring of, or interaction with, an owner's or an operator's internet or other network connection, service, or computer, by a telecommunications carrier, cable operator, computer hardware or software provider, or provider of information service or interactive computer service for network or computer security purposes, diagnostics, technical support, maintenance, repair, authorized updates of computer software or system firmware, authorized remote system management, or detection, criminal investigation, or prevention of the use of or fraudulent or other illegal activities prohibited in this chapter in connection with a network, service, or computer software, including scanning for and removing computer software prescribed under this subchapter. Nothing in this subchapter shall limit the rights of providers of wire and electronic communications under 18 U.S.C. §2511.

2. The nonpayment or a violation of the terms of a legal contract with the owner or operator.

3. For complying with federal, state, and local law enforcement requests.

2005 Acts, ch 94, §6; 2007 Acts, ch 126, §108; 2007 Acts, ch 215, §257; 2023 Acts, ch 77, §4

715.7 Criminal penalties.

1. A person who commits an unlawful act under this subchapter is guilty of an aggravated misdemeanor.

2. A person who commits an unlawful act under this subchapter and who causes pecuniary losses exceeding one thousand dollars to a victim of the unlawful act is guilty of a class "D" felony.

2005 Acts, ch 94, §7; 2023 Acts, ch 77, §5

715.8 Venue for criminal violations.

For the purpose of determining proper venue, a violation of this subchapter shall be considered to have been committed in any county in which any of the following apply:

1. An act was performed in furtherance of the violation.

2. The owner or operator who is the victim of the violation has a place of business in this state.

3. The defendant has control or possession of any proceeds of the violation, or of any books, records, documents, property, financial instrument, computer software, computer program, computer data, or other material or objects used in furtherance of the violation.

4. The defendant unlawfully accessed a computer or computer network by wires, electromagnetic waves, microwaves, or any other means of communication.

5. The defendant resides.

6. A computer used as an object or an instrument in the commission of the violation was located at the time of the violation.

2005 Acts, ch 94, §8; 2023 Acts, ch 77, §6

SUBCHAPTER III

RANSOMWARE

715.9 Ransomware prohibition.

1. A person shall not intentionally, willfully, and without authorization do any of the following:

a. Access, attempt to access, cause to be accessed, or exceed the person's authorized access to all or a part of a computer network, computer control language, computer, computer software, computer system, or computer database.

b. Copy, attempt to copy, possess, or attempt to possess the contents of all or part of a computer database accessed in violation of paragraph "*a*".

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2. A person shall not commit an act prohibited in subsection 1 with the intent to do any of the following:

a. Cause the malfunction or interruption of the operation of all or any part of a computer, computer network, computer control language, computer software, computer system, computer service, or computer data.

b. Alter, damage, or destroy all or any part of data or a computer program stored, maintained, or produced by a computer, computer network, computer software, computer system, computer service, or computer database.

3. A person shall not intentionally, willfully, and without authorization do any of the following:

a. Possess, identify, or attempt to identify a valid computer access code.

b. Publicize or distribute a valid computer access code to an unauthorized person.

4. A person shall not commit an act prohibited under this section with the intent to interrupt or impair the functioning of any of the following:

a. The state.

b. A service, device, or system related to the production, transmission, delivery, or storage of electricity or natural gas in the state that is owned, operated, or controlled by a person other than a public utility as defined in chapter 476.

c. A service provided in the state by a public utility as defined in section 476.1, subsection 2.

d. A hospital or health care facility as defined in section 135C.1.

e. A public elementary or secondary school, community college, or area education agency under the supervision of the department of education.

f. A city, city utility, or city service.

g. An authority as defined in section 330A.2.

5. This section shall not apply to the use of ransomware for research purposes by a person who has a bona fide scientific, educational, governmental, testing, news, or other similar justification for possessing ransomware. However, a person shall not knowingly possess ransomware with the intent to use the ransomware for the purpose of introduction into the computer, computer network, or computer system of another person without the authorization of the other person.

6. A person who has suffered a specific and direct injury because of a violation of this section may bring a civil action in a court of competent jurisdiction.

a. In an action under this subsection, the court may award actual damages, reasonable attorney fees, and court costs.

b. A conviction for an offense under this section is not a prerequisite for the filing of a civil action.

2023 Acts, ch 77, §7

715.10 Criminal penalties.

1. A person who commits an unlawful act under this subchapter and who causes pecuniary losses involving less than ten thousand dollars to a victim of the unlawful act is guilty of an aggravated misdemeanor.

2. A person who commits an unlawful act under this subchapter and who causes pecuniary losses involving at least ten thousand dollars but less than fifty thousand dollars to a victim of the unlawful act is guilty of a class "D" felony.

3. A person who commits an unlawful act under this subchapter and who causes pecuniary losses involving at least fifty thousand dollars to a victim of the unlawful act is guilty of a class "C" felony.

2023 Acts, ch 77, §8

715.11 Venue.

For the purpose of determining proper venue, a violation of this subchapter shall be considered to have been committed in any county in which any of the following apply:

1. Where the defendant performed the unlawful act.

2. Where the defendant resides.

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3. Where the accessed computer is located.

2023 Acts, ch 77, §9

CHAPTER 715A

FORGERY AND RELATED FRAUDULENT CRIMINAL ACTS

Referred to in §203.11, 203C.36, 249A.50, 331.307, 364.22, 701.1

715A.1	Definitions.	715A.6B	Credit card fraud — minor involved.
715A.2	Forgery.	715A.7	Filing multiple counts in one information, indictment, or complaint.
715A.2A	Accommodation of forgery — penalty.	715A.8	Identity theft.
715A.3	Simulating objects of antiquity or rarity.	715A.9	Value for purposes of identity theft.
715A.4	Fraudulent destruction, removal, or concealment of recordable instruments.	715A.9A	Identity theft passport.
715A.5	Tampering with records.	715A.10	Illegal use of scanning device or encoding machine.
715A.6	Credit cards.	715A.11	Synthetic urine and urine additives — defrauding drug or alcohol test.
715A.6A	Prohibitions relating to false academic degrees, grades, or honors.		

715A.1 Definitions.

As used in this chapter:

1. *"Credit card"* means a writing purporting to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer and includes a debit card or access device used to engage in an electronic transfer of funds through a satellite terminal as defined in section 527.2, subsection 20.

2. *"Drug or alcohol test"* includes a drug or alcohol test given in a private-sector workplace pursuant to section 730.5 and a drug or alcohol test given by a public employer.

3. *"Public employer"* means the state, its boards, commissions, agencies, and departments, and its political subdivisions including school districts and other special purpose districts.

4. *"Synthetic urine"* means any substance that is designed to simulate the composition, chemical properties, physical appearance, or physical properties of human urine for the purpose of defrauding a drug or alcohol test.

5. *"Urine additive"* means any substance that is designed to be added to human urine for the purpose of defrauding a drug or alcohol test.

6. *"Writing"* includes printing or any other method of recording information, and includes money, coins, tokens, stamps, seals, credit cards, badges, trademarks, and other symbols of value, right, privilege, or identification.

87 Acts, ch 150, §1; 2014 Acts, ch 1092, §145; 2021 Acts, ch 17, §1

715A.2 Forgery.

1. A person is guilty of forgery if, with intent to defraud or injure anyone, or with knowledge that the person is facilitating a fraud or injury to be perpetrated by anyone, the person does any of the following:

a. Alters a writing of another without the other's permission.

b. Makes, completes, executes, authenticates, issues, or transfers a writing so that it purports to be the act of another who did not authorize that act, or so that it purports to have been executed at a time or place or in a numbered sequence other than was in fact the case, or so that it purports to be a copy of an original when no such original existed.

c. Utters a writing which the person knows to be forged in a manner specified in paragraph "*a*" or "*b*".

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d. Possesses a writing which the person knows to be forged in a manner specified in paragraph *"a"* or *"b"*.

2. *a.* Forgery is a class "D" felony if the writing is or purports to be any of the following:

(1) Part of an issue of money, securities, postage or revenue stamps, or other instruments issued by the government.

(2) Part of an issue of stock, bonds, credit-sale contracts as defined in section 203.1, or other instruments representing interests in or claims against any property or enterprise.

(3) A check, draft, or other writing which ostensibly evidences an obligation of the person who has purportedly executed it or authorized its execution.

(4) A document prescribed by statute, rule, or regulation for entry into or as evidence of authorized stay or employment in the United States.

(5) A driver's license, nonoperator's identification card, birth certificate, or occupational license or certificate in support of an occupational license issued by a department, agency, board, or commission in this state.

b. Forgery is an aggravated misdemeanor if the writing is or purports to be a will, deed, contract, release, commercial instrument, or any other writing or other document evidencing, creating, transferring, altering, terminating, or otherwise affecting legal relations.

87 Acts, ch 150, §2; 92 Acts, ch 1239, §80; 96 Acts, ch 1181, §2, 3; 2019 Acts, ch 140, §25
Referred to in §715A.2A

715A.2A Accommodation of forgery — penalty.

1. An employer is subject to the civil penalty in this section if the employer does either of the following:

a. Hires a person when the employer or an agent or employee of the employer knows that the document evidencing the person's authorized stay or employment in the United States is in violation of section 715A.2, subsection 2, paragraph *"a"*, subparagraph (4) or (5), or knows that the person is not authorized to be employed in the United States.

b. Continues to employ a person when the employer or an agent or employee of the employer knows that the document evidencing the person's authorized stay or employment in the United States is in violation of section 715A.2, subsection 2, paragraph *"a"*, subparagraph (4) or (5), or knows that the person is not authorized to be employed in the United States.

2. An employer who establishes that it has complied in good faith with the requirements of 8 U.S.C. §1324a(b) with respect to the hiring or continued employment of an alien in the United States has established an affirmative defense that the employer has not violated this section.

3. *a.* An employer who violates this section shall cease and desist from further violations and shall pay the following civil penalty:

(1) For a first violation, not less than two hundred and fifty dollars and not more than two thousand dollars for each unauthorized alien hired or employed.

(2) For a second violation, not less than two thousand dollars and not more than five thousand dollars for each unauthorized alien hired or employed.

(3) For a third or subsequent violation, not less than three thousand dollars and not more than ten thousand dollars for each unauthorized alien hired or employed.

b. In addition, an employer found to have violated this section shall be assessed the costs of the action to enforce the civil penalty, including the reasonable costs of investigation and attorney fees.

4. A civil action to enforce this provision shall be by equitable proceedings instituted by the attorney general or county attorney.

5. Penalties ordered pursuant to this section shall be paid to the treasurer of state for deposit in the general fund of the state.

96 Acts, ch 1181, §4; 2008 Acts, ch 1031, §69; 2019 Acts, ch 140, §26

715A.3 Simulating objects of antiquity or rarity.

A person commits a serious misdemeanor if, with intent to defraud anyone or with knowledge that the person is facilitating a fraud to be perpetrated by anyone, the person

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makes, alters, or utters any object so that it appears to have value because of antiquity, rarity, source, or authorship which it does not possess.

87 Acts, ch 150, §3

715A.4 Fraudulent destruction, removal, or concealment of recordable instruments.

A person commits an aggravated misdemeanor if, with the intent to deceive or injure anyone, the person destroys, removes, or conceals a will, deed, mortgage, security instrument, or other writing for which the law provides public recording.

87 Acts, ch 150, §4

715A.5 Tampering with records.

A person commits an aggravated misdemeanor if, knowing that the person has no privilege to do so, the person falsifies, destroys, removes, or conceals a writing or record, with the intent to deceive or injure anyone or to conceal any wrongdoing.

87 Acts, ch 150, §5

715A.6 Credit cards.

1. *a.* A person commits a public offense by using a credit card for the purpose of obtaining property or services with knowledge of any of the following:

(1) The credit card is stolen or forged.

(2) The credit card has been revoked or canceled.

(3) For any other reason the use of the credit card is unauthorized.

b. It is an affirmative defense to prosecution under paragraph "*a*", subparagraph (3), if the person proves by a preponderance of the evidence that the person had the intent and ability to meet all obligations to the issuer arising out of the use of the credit card.

2. *a.* An offense under this section is a class "C" felony if the value of the property or services secured or sought to be secured by means of the credit card is greater than ten thousand dollars.

b. If the value of the property or services secured or sought to be secured by means of the credit card is greater than one thousand five hundred dollars but not more than ten thousand dollars, an offense under this section is a class "D" felony.

c. If the value of the property or services secured or sought to be secured by means of the credit card is one thousand five hundred dollars or less, an offense under this section is an aggravated misdemeanor.

3. For purposes of this section, the value of the property or services is the highest value of the property or services determined by any reasonable standard at the time the violation occurred. Any reasonable standard includes but is not limited to market value within the community, actual value, or replacement value. If property or services are secured by two or more acts from the same person or location, or from different persons by two or more acts which occur in approximately the same location or time period so that the acts are attributable to a single scheme, plan, or conspiracy, the acts may be considered as a single act and the value may be the total value of all property or services involved.

87 Acts, ch 150, §6; 92 Acts, ch 1060, §7; 2003 Acts, ch 12, §1, 2; 2013 Acts, ch 30, §211; 2014 Acts, ch 1092, §146; 2019 Acts, ch 140, §17

Referred to in §715A.6B

715A.6A Prohibitions relating to false academic degrees, grades, or honors.

1. As used in this section, "*academic degree*" means a diploma, certificate, license, transcript, or other document which signifies or purports to signify completion of the academic requirements of a secondary, postsecondary, professional, or governmental program of study.

2. A person commits a serious misdemeanor if the person, knowingly and willingly, does any of the following:

a. Falsely makes or alters, procures to be falsely made or altered, or assists in falsely making or altering, an academic degree.

b. Uses, offers, or presents as genuine, a falsely made or altered academic degree.

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c. Sells, gives, purchases, or obtains, procures to be sold, given, purchased, or obtained, or assists in selling, giving, buying, or obtaining, a false academic degree.

d. Makes a false written representation relating to the person's academic grades, honors, or awards, or makes a false written representation that the person has received an academic degree from a specific secondary, postsecondary, professional institution, or governmental program of study, in an application for any of the following:

(1) Employment.

(2) Admission to an educational program.

(3) An award or other recognition.

(4) The issuance of an academic degree to the person.

96 Acts, ch 1039, §1

715A.6B Credit card fraud — minor involved.

1. For purposes of this section, "*minor*" means any person under the age of eighteen.

2. A person commits a public offense if the person applies for a credit card in the name of a minor, other than the person, without the consent of the minor's parent, guardian, or legal custodian. A person adding a minor as an authorized user of the person's credit card does not commit an offense under this subsection. An offense under this subsection is a class "D" felony.

3. *a.* A person commits a public offense if the person uses a credit card obtained in violation of subsection 2 to secure or seek to secure property or services. An offense under this subsection shall be as follows:

(1) A class "C" felony if the value of the property or services secured or sought to be secured by means of the credit card is greater than ten thousand dollars.

(2) A class "D" felony if the value of the property or services secured or sought to be secured by means of the credit card is ten thousand dollars or less.

b. For purposes of this subsection, the value of property or services shall be determined as provided in section 715A.6, subsection 3.

2016 Acts, ch 1041, §1

715A.7 Filing multiple counts in one information, indictment, or complaint.

A single information, indictment, or complaint charging a violation of a provision of this chapter may allege more than one such violation against a person. The multiple charges shall be set out in separate counts, and the accused person shall be acquitted or convicted upon each count by a separate verdict. A convicted person shall be sentenced upon each verdict of guilty. The court may consider separate verdicts of guilty returned at the same time as one offense for the purpose of sentencing.

87 Acts, ch 150, §7; 88 Acts, ch 1134, §114

715A.8 Identity theft.

1. *a.* For purposes of this section, "*identification information*" includes but is not limited to the name, address, date of birth, telephone number, driver's license number, nonoperator's identification card number, social security number, student identification number, military identification number, alien identification or citizenship status number, employer identification number, signature, electronic mail signature, electronic identifier or screen name, biometric identifier, genetic identification information, access device, logo, symbol, trademark, place of employment, employee identification number, parent's legal surname prior to marriage, demand deposit account number, savings or checking account number, or credit card number of a person.

b. For purposes of this section, "*financial institution*" means the same as defined in section 527.2, and includes an insurer organized under Title XIII, subtitle 1, of this Code, or under the laws of any other state or the United States.

2. A person commits the offense of identity theft if the person fraudulently uses or attempts to fraudulently use identification information of another person, with the intent to obtain credit, property, services, or other benefit.

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3. *a.* If the value of the credit, property, services, or other benefit exceeds ten thousand dollars, the person commits a class "C" felony.

b. If the value of the credit, property, services, or other benefit exceeds one thousand five hundred dollars but does not exceed ten thousand dollars, the person commits a class "D" felony.

c. If the value of the credit, property, services, or other benefit does not exceed one thousand five hundred dollars, the person commits an aggravated misdemeanor.

4. A violation of this section is an unlawful practice under section 714.16.

5. Violations of this section shall be prosecuted in any of the following venues:

a. In the county in which the violation occurred.

b. If the violation was committed in more than one county, or if the elements of the offense were committed in more than one county, then in any county where any violation occurred or where an element of the offense occurred.

c. In the county where the victim resides.

d. In the county where the property that was fraudulently used or attempted to be used was located at the time of the violation.

6. Any real or personal property obtained by a person as a result of a violation of this section, including but not limited to any money, interest, security, claim, contractual right, or financial instrument that is in the possession of the person, shall be subject to seizure and forfeiture pursuant to chapter 809A. A victim injured by a violation of this section, or a financial institution that has indemnified a victim injured by a violation of this section, may file a claim as an interest holder pursuant to section 809A.11 for payment of damages suffered by the victim including costs of recovery and reasonable attorney fees.

7. A financial institution may file a complaint regarding a violation of this section on behalf of a victim and shall have the same rights and privileges as the victim if the financial institution has indemnified the victim for such violations.

8. Upon the request of a victim, a peace officer in any jurisdiction described in subsection 5 shall take a report regarding an alleged violation of this section and shall provide a copy of the report to the victim. The report may also be provided to any other law enforcement agency in any of the jurisdictions described in subsection 5.

99 Acts, ch 47, §2; 2003 Acts, ch 49, §1; 2005 Acts, ch 18, §3, 4; 2016 Acts, ch 1005, §1; 2019 Acts, ch 140, §18

Referred to in §714.16B, 714G.1, 715C.1

715A.9 Value for purposes of identity theft.

1. The value of credit, property, services, or other benefit obtained is its highest value by any reasonable standard at the time the identity theft is committed. Any reasonable standard includes but is not limited to market value within the community, actual value, or replacement value.

2. If credit, property, services, or other benefit is obtained by two or more acts from the same person or location, or from different persons by two or more acts which occur in approximately the same location or time period so that the identity thefts are attributable to a single scheme, plan, or conspiracy, the acts may be considered as a single identity theft and the value may be the total value of all credit, property, services, and other benefit involved.

99 Acts, ch 47, §3; 2016 Acts, ch 1005, §2

715A.9A Identity theft passport.

1. The attorney general, in cooperation with any law enforcement agency, may issue an identity theft passport to a person who meets both of the following requirements:

a. Is a victim of identity theft in this state or resides in this state at the time the person is a victim of identity theft.

b. Has filed a police report with any law enforcement agency citing that the person is a victim of identity theft.

2. A victim who has filed a report of identity theft with a law enforcement agency may apply for an identity theft passport through the law enforcement agency. The law enforcement agency shall send a copy of the police report and the application to the attorney

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general, who shall process the application and supporting report and may issue the victim an identity theft passport in the form of a card or certificate.

3. A victim of identity theft issued an identity theft passport may present the passport to any of the following:

a. A law enforcement agency, to help prevent the victim's arrest or detention for an offense committed by someone other than the victim who is using the victim's identity.

b. A creditor of the victim, to aid in the creditor's investigation and establishment of whether fraudulent charges were made against accounts in the victim's name or whether accounts were opened using the victim's identity.

4. A law enforcement agency or creditor may accept an identity theft passport issued pursuant to this section and presented by a victim at the discretion of the law enforcement agency or creditor. A law enforcement agency or creditor may consider the surrounding circumstances and available information regarding the offense of identity theft pertaining to the victim.

5. An application made with the attorney general under subsection 2, including any supporting documentation, shall be confidential and shall not be a public record subject to disclosure under chapter 22.

6. The attorney general shall adopt rules necessary to implement this section, which shall include a procedure by which the attorney general shall assure that an identity theft passport applicant has an identity theft claim that is legitimate and adequately substantiated.

2006 Acts, ch 1067, §1; 2015 Acts, ch 138, §20, 161, 162

715A.10 Illegal use of scanning device or encoding machine.

1. A person commits a class "D" felony if the person does any of the following:

a. Directly or indirectly uses a scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on a payment card without the permission of the authorized user of the payment card, the issuer of the authorized user's payment card, or a merchant.

b. Directly or indirectly uses an encoding machine to place information encoded on a payment card onto a different payment card without the permission of the authorized user of the payment card from which the information was obtained, the issuer of the authorized user's payment card, or a merchant.

2. A person commits an aggravated misdemeanor if the person possesses a scanning device with the intent to use such device to obtain information encoded on a payment card without the permission of the authorized user of the payment card, the issuer of the authorized user's payment card, or a merchant, or possesses a scanning device with knowledge that a person other than the authorized user, the issuer of the authorized user's payment card, or a merchant intends to use the scanning device to obtain information encoded on a payment card without the permission of the authorized user, the issuer of the authorized user's payment card, or a merchant.

3. A second or subsequent violation of this section is a class "C" felony.

4. As used in this section:

a. "Encoding machine" means an electronic device that is used to encode information onto a payment card.

b. "Merchant" means an owner or operator of a retail mercantile establishment or an agent, employee, lessee, consignee, officer, director, franchisee, or independent contractor of such owner or operator. A *"merchant"* also includes an establishing financial institution referred to in section 527.5, or a person who receives from an authorized user of a payment card, or someone the person believes to be an authorized user, a payment card or information from a payment card, or what the person believes to be a payment card or information from a payment card, as the instrument for obtaining, purchasing, or receiving goods, services, money, or anything else of value from the person.

c. "Payment card" means a credit card, charge card, debit card, access device as defined in section 527.2, or any other card that is issued to an authorized card user and that allows the user to obtain, purchase, or receive goods, services, money, or anything else of value from a merchant.

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d. "Scanning device" means a scanner, reader, wireless access device, radio frequency identification scanner, an electronic device that utilizes near field communications technology, or any other electronic device that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on a payment card.

2003 Acts, ch 12, §3; 2018 Acts, ch 1011, §1; 2019 Acts, ch 59, §227
Referred to in §715C.1, 716.5

715A.11 Synthetic urine and urine additives — defrauding drug or alcohol test.

1. A person shall not manufacture, market, sell, distribute, use, or possess synthetic urine or a urine additive for the purpose of defrauding a drug or alcohol test.

2. A person shall not knowingly use the person's own urine expelled or withdrawn prior to the collection of a urine sample from the person for a drug or alcohol test for the purpose of defrauding a drug or alcohol test.

3. A person shall not knowingly use the urine of another person for the purpose of defrauding a drug or alcohol test.

4. This section shall not apply to the manufacture, marketing, sale, distribution, use, or possession of synthetic urine or a urine additive if the manufacture, marketing, sale, distribution, use, or possession is solely for educational or law enforcement purposes.

5. A person who violates this section is guilty of a simple misdemeanor for a first offense and a serious misdemeanor for each subsequent offense. The court may require a substance use disorder evaluation and treatment through a program licensed by the department of health and human services in lieu of or in addition to other penalties. Any substance use disorder evaluation required under this subsection shall be completed at the expense of the defendant.

6. Except as prohibited by law, a person who collects a urine sample from another person for a drug or alcohol test, having knowledge or a reasonable suspicion that the other person has used synthetic urine or a urine additive to defraud the test in violation of subsection 1, may report such information to law enforcement authorities.

7. Notwithstanding any other law to the contrary, the prosecution of a person for a violation of this section shall not preclude a prosecution of that person under other applicable law.

8. This section shall not be construed to encourage, conflict with, or otherwise interfere with the preemption of any federal, state, or local laws or regulations related to drug and alcohol testing procedures and confidentiality.

2021 Acts, ch 17, §2; 2022 Acts, ch 1021, §173; 2023 Acts, ch 19, §1305

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CHAPTER 715B

PROTECTION OF BUYERS OF FINE ART AND VISUAL ART MULTIPLES

Referred to in §331.307, 364.22, 701.1

715B.1 Definitions.
715B.2 Express warranties.
715B.3 Falsifying certificates of authenticity or false representation — penalty.
715B.4 Remedies to buyer.

715B.1 Definitions.

As used in this chapter:

1. *"Artist"* means the creator of a work of fine art or, in the case of multiples, the person who conceived or created the image which is contained in or which constitutes the master from which the individual print was made.

2. *"Art merchant"* means a person who is in the business of dealing, exclusively or nonexclusively, in works of fine art or multiples, or a person who by the person's occupation claims or impliedly claims to have knowledge or skill peculiar to such works, or to whom

such knowledge or skill may be attributed by the person's employment of an agent or other intermediary who by occupation claims or impliedly claims to have such knowledge or skill. The term *"art merchant"* includes an auctioneer who sells such works at public auction, and except for multiples, includes persons not otherwise defined or treated as art merchants in this chapter who are consignors or principals of auctioneers.

3. *"Author"* or *"authorship"* refers to the creator of a work of fine art or multiple or to the period, culture, source, or origin, as the case may be, with which the creation of the work is identified in the description of the work.

4. *"Counterfeit"* means a work of fine art or multiple made, altered, or copied, with or without intent to deceive, in such a manner that it appears or is claimed to have an authorship which it does not in fact possess.

5. *"Certificate of authenticity"* means a written statement by an art merchant confirming, approving, or attesting to the authorship of a work of fine art or multiple, which is capable of being used to the advantage or disadvantage of some person.

6. *"Fine art"* means a painting, sculpture, drawing, work of graphic art, or print, but not multiples.

7. *"Limited edition"* means works of art produced from a master, all of which are the same image and bear numbers or other markings to denote a limited production to a stated maximum number of multiples, or which are otherwise held out as limited to a maximum number of multiples.

8. *"Master"* includes a printing plate, stone, block, screen, photographic negative, or other like material which contains an image used to produce visual art objects in multiples.

9. *"Print"* means a multiple produced by, but not limited to, such processes as engraving, etching, woodcutting, lithography, and serigraphy, a multiple produced or developed from a photographic negative, or a multiple produced or developed by any combination of such processes.

10. *"Proof"* means a multiple which is the same as, and which is produced from the same master as the multiples in a limited edition, but which, whether so designated or not, is set aside from and is in addition to the limited edition to which it relates.

11. *"Signed"* means autographed by the artist's own hand, and not by mechanical means of reproduction, and if a multiple, after the multiple was produced, whether or not the master was signed.

12. *"Visual art multiple"* or *"multiple"* means a print, photograph, positive or negative, or similar art object produced in more than one copy and sold, offered for sale, or consigned in, into, or from this state for an amount in excess of one hundred dollars exclusive of any frame. The term includes a page or sheet taken from a book or magazine and offered for sale or sold as a visual art object, but excludes a book or magazine.

13. *"Written instrument"* means a written or printed agreement, bill of sale, invoice, certificate of authenticity, catalogue, or any other written or printed note, memorandum, or label describing the work of fine art or multiple which is to be sold, exchanged, or consigned by an art merchant.

87 Acts, ch 49, §1

715B.2 Express warranties.

1. If an art merchant sells or exchanges a work of fine art or multiple and furnishes to a buyer of the work who is not an art merchant a certificate of authenticity or any similar written instrument presumed to be part of the basis of the bargain, the art merchant creates an express warranty for the material facts stated as of the date of the sale or exchange.

2. Except as provided in subsection 4, an express warranty shall not be negated or limited; however, in construing the degree of warranty, due regard shall be given the terminology used and the meaning accorded the terminology by the customs and usage of the trade at the time and in the locality where the sale or exchange took place.

3. Language used in a certificate of authenticity or similar written instrument, stating that:

a. The work is by a named author or has a named authorship, without any limiting words, means unequivocally, that the work is by such named author or has such named authorship.

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b. The work is *"attributed to a named author"* means a work of the period of the author, attributed to the author, but not with certainty by the author.

c. The work is of the *"school of a named author"* means a work of the period of the author, by a pupil or close follower of the author, but not by the author.

4. An express warranty and any disclaimer intended to negate or limit the warranty shall be construed wherever reasonable as consistent with each other but subject to the provisions of section 554.2202 on parol and extrinsic evidence. However, the negation or limitation is inoperative to the extent that the negation or limitation is unreasonable or that such construction is unreasonable. A negation or limitation is unreasonable if:

a. The disclaimer is not conspicuous, written, and apart from the warranty, in words which clearly and specifically inform the buyer that the seller assumes no risk, liability, or responsibility for the material facts stated concerning the work of fine art. Words of general disclaimer are not sufficient to negate or limit an express warranty.

b. The work of fine art is proved to be a counterfeit and this was not clearly indicated in the description of the work.

c. The information provided is proved to be, as of the date of sale or exchange, false, mistaken, or erroneous.

5. This section shall apply to an art merchant selling or exchanging a multiple who furnishes the buyer with the name of the artist and any other information including, but not limited to, whether the multiple is a limited edition, a proof, or signed. The warranty provided under this subsection shall include sales to buyers who are art merchants.

87 Acts, ch 49, §2

715B.3 Falsifying certificates of authenticity or false representation — penalty.

A person who makes, alters, or issues a certificate of authenticity or any similar written instrument for a work of fine art or multiple attesting to material facts about the work which are not true, or who makes representations regarding a work of fine art or a multiple attesting to material facts about the work which are not true, with intent to defraud, deceive, or injure another is guilty, upon conviction, of an aggravated misdemeanor.

87 Acts, ch 49, §3

715B.4 Remedies to buyer.

1. An art merchant who sells a work of fine art or a multiple to a buyer under a warranty attesting to facts about the work which are not true is liable to the buyer to whom the work was sold.

a. If the warranty was untrue through no fault of the art merchant, the merchant's liability is the consideration paid by the buyer upon return of the work in substantially the same condition in which it was received by the buyer.

b. If the warranty is untrue and the buyer is able to establish that the art merchant failed to make reasonable inquiries according to the custom and the usage of the trade to confirm the warranted facts about the work, or that the warranted facts would have been found to be untrue if reasonable inquiries had been made, the merchant's liability is the consideration paid by the buyer with interest from the time of the payment at the rate prescribed by section 535.3 upon the return of the work in substantially the same condition in which it was received by the buyer.

c. (1) If the warranty is untrue and the buyer is able to establish that the art merchant knowingly provided false information on the warranty or willfully and falsely disclaimed knowledge of information relating to the warranty, the merchant is liable to the buyer in an amount equal to three times the amount provided in paragraph *"b"*.

(2) This remedy shall not bar or be deemed inconsistent with a claim for damages or with the exercise of additional remedies otherwise available to the buyer.

2. In an action to enforce this section, the court may allow a prevailing buyer the costs of the action together with reasonable attorneys' and expert witnesses' fees. If the court determines that an action to enforce this section was brought in bad faith, the court may allow those expenses to the art merchant that it deems appropriate.

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3. An action to enforce any liability under this section shall be brought within the time period prescribed for such actions under section 614.1.

87 Acts, ch 49, §4; 2013 Acts, ch 90, §233

CHAPTER 715C

PERSONAL INFORMATION SECURITY BREACH PROTECTION

Referred to in §49.75, 331.307, 364.22, 533.331, 701.1

715C.1 Definitions.
715C.2 Security breach — notification requirements — remedies.

715C.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Breach of security"* means unauthorized acquisition of personal information maintained in computerized form by a person that compromises the security, confidentiality, or integrity of the personal information. *"Breach of security"* also means unauthorized acquisition of personal information maintained by a person in any medium, including on paper, that was transferred by the person to that medium from computerized form and that compromises the security, confidentiality, or integrity of the personal information. Good faith acquisition of personal information by a person or that person's employee or agent for a legitimate purpose of that person is not a breach of security, provided that the personal information is not used in violation of applicable law or in a manner that harms or poses an actual threat to the security, confidentiality, or integrity of the personal information.

2. *"Consumer"* means an individual who is a resident of this state.

3. *"Consumer reporting agency"* means the same as defined by the federal Fair Credit Reporting Act, 15 U.S.C. §1681a.

4. *"Debt"* means the same as provided in section 537.7102.

5. *"Encryption"* means the use of an algorithmic process pursuant to accepted industry standards to transform data into a form in which the data is rendered unreadable or unusable without the use of a confidential process or key.

6. *"Extension of credit"* means the right to defer payment of debt or to incur debt and defer its payment offered or granted primarily for personal, family, or household purposes.

7. *"Financial institution"* means the same as defined in section 536C.2, subsection 6.

8. *"Identity theft"* means the same as provided in section 715A.8.

9. *"Payment card"* means the same as defined in section 715A.10, subsection 4, paragraph *"c"*.

10. *"Person"* means an individual; corporation; business trust; estate; trust; partnership; limited liability company; association; joint venture; government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.

11. *a. "Personal information"* means an individual's first name or first initial and last name in combination with any one or more of the following data elements that relate to the individual if any of the data elements are not encrypted, redacted, or otherwise altered by any method or technology in such a manner that the name or data elements are unreadable or are encrypted, redacted, or otherwise altered by any method or technology but the keys to unencrypt, unredact, or otherwise read the data elements have been obtained through the breach of security:

(1) Social security number.

(2) Driver's license number or other unique identification number created or collected by a government body.

(3) Financial account number, credit card number, or debit card number in combination with any required expiration date, security code, access code, or password that would permit access to an individual's financial account.

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(4) Unique electronic identifier or routing code, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

(5) Unique biometric data, such as a fingerprint, retina or iris image, or other unique physical representation or digital representation of biometric data.

b. *"Personal information"* does not include information that is lawfully obtained from publicly available sources, or from federal, state, or local government records lawfully made available to the general public.

12. *"Redacted"* means altered or truncated so that no more than five digits of a social security number or the last four digits of other numbers designated in section 715A.8, subsection 1, paragraph *"a"*, are accessible as part of the data.

2008 Acts, ch 1154, §1; 2014 Acts, ch 1026, §135; 2014 Acts, ch 1062, §1 – 3; 2018 Acts, ch 1091, §8

Referred to in §715D.3

715C.2 Security breach — notification requirements — remedies.

1. Any person who owns or licenses computerized data that includes a consumer's personal information that is used in the course of the person's business, vocation, occupation, or volunteer activities and that was subject to a breach of security shall give notice of the breach of security following discovery of such breach of security, or receipt of notification under subsection 2, to any consumer whose personal information was included in the information that was breached. The consumer notification shall be made in the most expeditious manner possible and without unreasonable delay, consistent with the legitimate needs of law enforcement as provided in subsection 3, and consistent with any measures necessary to sufficiently determine contact information for the affected consumers, determine the scope of the breach, and restore the reasonable integrity, security, and confidentiality of the data.

2. Any person who maintains or otherwise possesses personal information on behalf of another person shall notify the owner or licensor of the information of any breach of security immediately following discovery of such breach of security if a consumer's personal information was included in the information that was breached.

3. The consumer notification requirements of this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation and the agency has made a written request that the notification be delayed. The notification required by this section shall be made after the law enforcement agency determines that the notification will not compromise the investigation and notifies the person required to give notice in writing.

4. For purposes of this section, notification to the consumer may be provided by one of the following methods:

a. Written notice to the last available address the person has in the person's records.

b. Electronic notice if the person's customary method of communication with the consumer is by electronic means or is consistent with the provisions regarding electronic records and signatures set forth in chapter 554D and the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §7001.

c. Substitute notice, if the person demonstrates that the cost of providing notice would exceed two hundred fifty thousand dollars, that the affected class of consumers to be notified exceeds three hundred fifty thousand persons, or if the person does not have sufficient contact information to provide notice. Substitute notice shall consist of the following:

(1) Electronic mail notice when the person has an electronic mail address for the affected consumers.

(2) Conspicuous posting of the notice or a link to the notice on the internet site of the person if the person maintains an internet site.

(3) Notification to major statewide media.

5. Notice pursuant to this section shall include, at a minimum, all of the following:

a. A description of the breach of security.

b. The approximate date of the breach of security.

c. The type of personal information obtained as a result of the breach of security.

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d. Contact information for consumer reporting agencies.

e. Advice to the consumer to report suspected incidents of identity theft to local law enforcement or the attorney general.

6. Notwithstanding subsection 1, notification is not required if, after an appropriate investigation or after consultation with the relevant federal, state, or local agencies responsible for law enforcement, the person determined that no reasonable likelihood of financial harm to the consumers whose personal information has been acquired has resulted or will result from the breach. Such a determination must be documented in writing and the documentation must be maintained for five years.

7. This section does not apply to any of the following:

a. A person who complies with notification requirements or breach of security procedures that provide greater protection to personal information and at least as thorough disclosure requirements than that provided by this section pursuant to the rules, regulations, procedures, guidance, or guidelines established by the person's primary or functional federal regulator.

b. A person who complies with a state or federal law that provides greater protection to personal information and at least as thorough disclosure requirements for breach of security or personal information than that provided by this section.

c. A person who is subject to and complies with regulations promulgated pursuant to Tit. V of the federal Gramm-Leach-Bliley Act of 1999, 15 U.S.C. §6801 – 6809.

d. A person who is subject to and complies with regulations promulgated pursuant to Tit. II, subtit. F of the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. §1320d – 1320d-9, and Tit. XIII, subtit. D of the federal Health Information Technology for Economic and Clinical Health Act of 2009, 42 U.S.C. §17921 – 17954.

8. Any person who owns or licenses computerized data that includes a consumer's personal information that is used in the course of the person's business, vocation, occupation, or volunteer activities and that was subject to a breach of security requiring notification to more than five hundred residents of this state pursuant to this section shall give written notice of the breach of security to the director of the consumer protection division of the office of the attorney general within five business days after giving notice of the breach of security to any consumer pursuant to this section.

9. *a.* A violation of this chapter is an unlawful practice pursuant to section 714.16 and, in addition to the remedies provided to the attorney general pursuant to section 714.16, subsection 7, the attorney general may seek and obtain an order that a party held to violate this section pay damages to the attorney general on behalf of a person injured by the violation.

b. The rights and remedies available under this section are cumulative to each other and to any other rights and remedies available under the law.

2008 Acts, ch 1154, §2; 2013 Acts, ch 90, §257; 2014 Acts, ch 1062, §4; 2018 Acts, ch 1091, §9

Referred to in §507F.8, 507F.10, 715D.5
Identity theft — civil cause of action, see §714.16B
Identity theft passport, see §715A.9A

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CHAPTER 715D

CONSUMER DATA PROTECTIONS

Referred to in §331.307, 364.22, 701.1

715D.1	Definitions.	715D.6	Processing data — exemptions.
715D.2	Scope and exemptions.	715D.7	Limitations.
715D.3	Consumer data rights.	715D.8	Enforcement — penalties.
715D.4	Data controller duties.	715D.9	Preemption.
715D.5	Processor duties.		

715D.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Affiliate"* means a legal entity that controls, is controlled by, or is under common control with another legal entity or shares common branding with another legal entity. For the purposes of this definition, *"control"* or *"controlled"* means:

a. Ownership of, or the power to vote, more than fifty percent of the outstanding shares of any class of voting security of a company.

b. Control in any manner over the election of a majority of the directors or of individuals exercising similar functions.

c. The power to exercise controlling influence over the management of a company.

2. *"Aggregate data"* means information that relates to a group or category of consumers, from which individual consumer identities have been removed, that is not linked or reasonably linkable to any consumer.

3. *"Authenticate"* means verifying through reasonable means that a consumer, entitled to exercise their consumer rights in section 715D.3, is the same consumer exercising such consumer rights with respect to the personal data at issue.

4. *"Biometric data"* means data generated by automatic measurements of an individual's biological characteristics, such as a fingerprint, voiceprint, eye retinas, irises, or other unique biological patterns or characteristics that is used to identify a specific individual. *"Biometric data"* does not include a physical or digital photograph, a video or audio recording or data generated therefrom, or information collected, used, or stored for health care treatment, payment, or operations under HIPAA.

5. *"Child"* means any natural person younger than thirteen years of age.

6. *"Consent"* means a clear affirmative act signifying a consumer's freely given, specific, informed, and unambiguous agreement to process personal data relating to the consumer. *"Consent"* may include a written statement, including a statement written by electronic means, or any other unambiguous affirmative action.

7. *"Consumer"* means a natural person who is a resident of the state acting only in an individual or household context and excluding a natural person acting in a commercial or employment context.

8. *"Controller"* means a person that, alone or jointly with others, determines the purpose and means of processing personal data.

9. *"Covered entity"* means the same as *"covered entity"* defined by HIPAA.

10. *"De-identified data"* means data that cannot reasonably be linked to an identified or identifiable natural person.

11. *"Fund"* means the consumer education and litigation fund established pursuant to section 714.16C.

12. *"Health care provider"* means any of the following:

a. A general hospital, ambulatory surgical or treatment center, skilled nursing center, or assisted living center licensed or certified by the state.

b. A psychiatric hospital licensed by the state.

c. A hospital operated by the state.

d. A hospital operated by the state board of regents.

e. A person licensed to practice medicine or osteopathy in the state.

f. A person licensed to furnish health care policies or plans in the state.

g. A person licensed to practice dentistry in the state.

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h. *"Health care provider"* does not include a continuing care retirement community or any nursing facility of a religious body which depends upon prayer alone for healing.

13. *"Health Insurance Portability and Accountability Act"* or *"HIPAA"* means the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, including amendments thereto and regulations promulgated thereunder.

14. *"Health record"* means any written, printed, or electronically recorded material maintained by a health care provider in the course of providing health services to an individual concerning the individual and the services provided, including related health information provided in confidence to a health care provider.

15. *"Identified or identifiable natural person"* means a person who can be readily identified, directly or indirectly.

16. *"Institution of higher education"* means nonprofit private institutions of higher education and proprietary private institutions of higher education in the state, community colleges, and each associate-degree-granting and baccalaureate public institutions of higher education in the state.

17. *"Nonprofit organization"* means any corporation organized under chapter 504, any organization exempt from taxation under sections 501(c)(3), 501(c)(6), or 501(c)(12) of the Internal Revenue Code, any organization exempt from taxation under section 501(c)(4) of the Internal Revenue Code that is established to detect or prevent insurance-related crime or fraud, and any subsidiaries and affiliates of entities organized pursuant to chapter 499.

18. *"Personal data"* means any information that is linked or reasonably linkable to an identified or identifiable natural person. *"Personal data"* does not include de-identified or aggregate data or publicly available information.

19. *"Precise geolocation data"* means information derived from technology, including but not limited to global positioning system level latitude and longitude coordinates or other mechanisms, that identifies the specific location of a natural person with precision and accuracy within a radius of one thousand seven hundred fifty feet. *"Precise geolocation data"* does not include the content of communications, or any data generated by or connected to utility metering infrastructure systems or equipment for use by a utility.

20. *"Process"* or *"processing"* means any operation or set of operations performed, whether by manual or automated means, on personal data or on sets of personal data, such as the collection, use, storage, disclosure, analysis, deletion, or modification of personal data.

21. *"Processor"* means a person that processes personal data on behalf of a controller.

22. *"Protected health information"* means the same as protected health information established by HIPAA.

23. *"Pseudonymous data"* means personal data that cannot be attributed to a specific natural person without the use of additional information, provided that such additional information is kept separately and is subject to appropriate technical and organizational measures to ensure that the personal data is not attributed to an identified or identifiable natural person.

24. *"Publicly available information"* means information that is lawfully made available through federal, state, or local government records, or information that a business has reasonable basis to believe is lawfully made available to the general public through widely distributed media, by the consumer, or by a person to whom the consumer has disclosed the information, unless the consumer has restricted the information to a specific audience.

25. *"Sale of personal data"* means the exchange of personal data for monetary consideration by the controller to a third party. *"Sale of personal data"* does not include:

a. The disclosure of personal data to a processor that processes the personal data on behalf of the controller.

b. The disclosure of personal data to a third party for purposes of providing a product or service requested by the consumer or a parent of a child.

c. The disclosure or transfer of personal data to an affiliate of the controller.

d. The disclosure of information that the consumer intentionally made available to the general public via a channel of mass media and did not restrict to a specific audience.

e. The disclosure or transfer of personal data when a consumer uses or directs a controller to intentionally disclose personal data or intentionally interact with one or more third parties.

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f. The disclosure or transfer of personal data to a third party as an asset that is part of a proposed or actual merger, acquisition, bankruptcy, or other transaction in which the third party assumes control of all or part of the controller's assets.

26. *"Sensitive data"* means a category of personal data that includes the following:

a. Racial or ethnic origin, religious beliefs, mental or physical health diagnosis, sexual orientation, or citizenship or immigration status, except to the extent such data is used in order to avoid discrimination on the basis of a protected class that would violate a federal or state anti-discrimination law.

b. Genetic or biometric data that is processed for the purpose of uniquely identifying a natural person.

c. The personal data collected from a known child.

d. Precise geolocation data.

27. *"State agency"* means the same as defined in 129 IAC 10.2(8B).

28. *"Targeted advertising"* means displaying advertisements to a consumer where the advertisement is selected based on personal data obtained from that consumer's activities over time and across nonaffiliated websites or online applications to predict such consumer's preferences or interests. *"Targeted advertising"* does not include the following:

a. Advertisements based on activities within a controller's own or affiliated websites or online applications.

b. Advertisements based on the context of a consumer's current search query, visit to a website, or online application.

c. Advertisements directed to a consumer in response to the consumer's request for information or feedback.

d. Processing personal data solely for measuring or reporting advertising performance, reach, or frequency.

29. *"Third party"* means a natural or legal person, public authority, agency, or body other than the consumer, controller, processor, or an affiliate of the processor or the controller.

30. *"Trade secret"* means information, including but not limited to a formula, pattern, compilation, program, device, method, technique, or process, that consists of the following:

a. Information that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.

b. Information that is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

2023 Acts, ch 17, §1, 10

715D.2 Scope and exemptions.

1. This chapter applies to a person conducting business in the state or producing products or services that are targeted to consumers who are residents of the state and that during a calendar year does either of the following:

a. Controls or processes personal data of at least one hundred thousand consumers.

b. Controls or processes personal data of at least twenty-five thousand consumers and derives over fifty percent of gross revenue from the sale of personal data.

2. This chapter shall not apply to the state or any political subdivision of the state; financial institutions, affiliates of financial institutions, or data subject to Tit. V of the federal Gramm-Leach-Bliley Act of 1999, 15 U.S.C. §6801 et seq.; persons who are subject to and comply with regulations promulgated pursuant to Tit. II, subtit. F, of the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, and Tit. XIII, subtit. D, of the federal Health Information Technology for Economic and Clinical Health Act of 2009, 42 U.S.C. §17921 – 17954; nonprofit organizations; or institutions of higher education.

3. The following information and data is exempt from this chapter:

a. Protected health information under HIPAA.

b. Health records.

c. Patient identifying information for purposes of 42 U.S.C. §290dd-2.

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d. Identifiable private information for purposes of the federal policy for the protection of human subjects under 45 C.F.R. pt. 46.

e. Identifiable private information that is otherwise information collected as part of human subjects research pursuant to the good clinical practice guidelines issued by the international council for harmonization of technical requirements for pharmaceuticals for human use.

f. The protection of human subjects under 21 C.F.R. pts. 6, 50, and 56.

g. Personal data used or shared in research conducted in accordance with the requirements set forth in this chapter, or other research conducted in accordance with applicable law.

h. Information and documents created for purposes of the federal Health Care Quality Improvement Act of 1986, 42 U.S.C. §11101 et seq.

i. Patient safety work product for purposes of the federal Patient Safety and Quality Improvement Act, 42 U.S.C. §299b-21 et seq.

j. Information derived from any of the health care-related information listed in this subsection that is de-identified in accordance with the requirements for de-identification pursuant to HIPAA.

k. Information originating from, and intermingled to be indistinguishable with, or information treated in the same manner as information exempt under this subsection that is maintained by a covered entity or business associate as defined by HIPAA or a program or a qualified service organization as defined by 42 U.S.C. §290dd-2.

l. Information used only for public health activities and purposes as authorized by HIPAA.

m. The collection, maintenance, disclosure, sale, communication, or use of any personal information bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living by a consumer reporting agency or furnisher that provides information for use in a consumer report, and by a user of a consumer report, but only to the extent that such activity is regulated by and authorized under the federal Fair Credit Reporting Act, 15 U.S.C. §1681 et seq.

n. Personal data collected, processed, sold, or disclosed in compliance with the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. §2721 et seq.

o. Personal data regulated by the federal Family Educational Rights and Privacy Act, 20 U.S.C. §1232 et seq.

p. Personal data collected, processed, sold, or disclosed in compliance with the federal Farm Credit Act, 12 U.S.C. §2001 et seq.

q. Data processed or maintained as follows:

(1) In the course of an individual applying to, employed by, or acting as an agent or independent contractor of a controller, processor, or third party, to the extent that the data is collected and used within the context of that role.

(2) As the emergency contact information of an individual under this chapter used for emergency contact purposes.

(3) That is necessary to retain to administer benefits for another individual relating to the individual under subparagraph (1) and used for the purposes of administering those benefits.

r. Personal data used in accordance with the federal Children's Online Privacy Protection Act, 15 U.S.C. §6501 – 6506, and its rules, regulations, and exceptions thereto.

2023 Acts, ch 17, §2, 10

715D.3 Consumer data rights.

1. A consumer may invoke the consumer rights authorized pursuant to this section at any time by submitting a request to the controller, through the means specified by the controller pursuant to section 715D.4, subsection 6, specifying the consumer rights the consumer wishes to invoke. A known child's parent or legal guardian may invoke such consumer rights on behalf of the known child regarding processing personal data belonging to the child. A controller shall comply with an authenticated consumer request to exercise all of the following:

a. To confirm whether a controller is processing the consumer's personal data and to access such personal data.

b. To delete personal data provided by the consumer.

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c. To obtain a copy of the consumer's personal data, except as to personal data that is defined as "*personal information*" pursuant to section 715C.1 that is subject to security breach protection, that the consumer previously provided to the controller in a portable and, to the extent technically practicable, readily usable format that allows the consumer to transmit the data to another controller without hindrance, where the processing is carried out by automated means.

d. To opt out of the sale of personal data.

2. Except as otherwise provided in this chapter, a controller shall comply with a request by a consumer to exercise the consumer rights authorized pursuant to this section as follows:

a. A controller shall respond to the consumer without undue delay, but in all cases within ninety days of receipt of a request submitted pursuant to the methods described in this section. The response period may be extended once by forty-five additional days when reasonably necessary upon considering the complexity and number of the consumer's requests by informing the consumer of any such extension within the initial ninety-day response period, together with the reason for the extension.

b. If a controller declines to take action regarding the consumer's request, the controller shall inform the consumer without undue delay of the justification for declining to take action, except in the case of a suspected fraudulent request, in which case the controller may state that the controller was unable to authenticate the request. The controller shall also provide instructions for appealing the decision pursuant to subsection 3.

c. Information provided in response to a consumer request shall be provided by a controller free of charge, up to twice annually per consumer. If a request from a consumer is manifestly unfounded, excessive, repetitive, technically unfeasible, or the controller reasonably believes that the primary purpose of the request is not to exercise a consumer right, the controller may charge the consumer a reasonable fee to cover the administrative costs of complying with the request or decline to act on the request. The controller bears the burden of demonstrating the manifestly unfounded, excessive, repetitive, or technically unfeasible nature of the request.

d. If a controller is unable to authenticate a request using commercially reasonable efforts, the controller shall not be required to comply with a request to initiate an action under this section and may request that the consumer provide additional information reasonably necessary to authenticate the consumer and the consumer's request.

3. A controller shall establish a process for a consumer to appeal the controller's refusal to take action on a request within a reasonable period of time after the consumer's receipt of the decision pursuant to this section. The appeal process shall be conspicuously available and similar to the process for submitting requests to initiate action pursuant to this section. Within sixty days of receipt of an appeal, a controller shall inform the consumer in writing of any action taken or not taken in response to the appeal, including a written explanation of the reasons for the decision. If the appeal is denied, the controller shall also provide the consumer with an online mechanism through which the consumer may contact the attorney general to submit a complaint.

2023 Acts, ch 17, §3, 10
Referred to in §715D.1, 715D.4, 715D.5, 715D.6

715D.4 Data controller duties.

1. A controller shall adopt and implement reasonable administrative, technical, and physical data security practices to protect the confidentiality, integrity, and accessibility of personal data. Such data security practices shall be appropriate to the volume and nature of the personal data at issue.

2. A controller shall not process sensitive data collected from a consumer for a nonexempt purpose without the consumer having been presented with clear notice and an opportunity to opt out of such processing, or, in the case of the processing of sensitive data concerning a known child, without processing such data in accordance with the federal Children's Online Privacy Protection Act, 15 U.S.C. §6501 et seq.

3. A controller shall not process personal data in violation of state and federal laws that prohibit unlawful discrimination against a consumer. A controller shall not discriminate

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against a consumer for exercising any of the consumer rights contained in this chapter, including denying goods or services, charging different prices or rates for goods or services, or providing a different level of quality of goods and services to the consumer. However, nothing in this chapter shall be construed to require a controller to provide a product or service that requires the personal data of a consumer that the controller does not collect or maintain or to prohibit a controller from offering a different price, rate, level, quality, or selection of goods or services to a consumer, including offering goods or services for no fee, if the consumer has exercised the consumer's right to opt out pursuant to section 715D.3 or the offer is related to a consumer's voluntary participation in a bona fide loyalty, rewards, premium features, discounts, or club card program.

4. Any provision of a contract or agreement that purports to waive or limit in any way consumer rights pursuant to section 715D.3 shall be deemed contrary to public policy and shall be void and unenforceable.

5. A controller shall provide consumers with a reasonably accessible, clear, and meaningful privacy notice that includes the following:

a. The categories of personal data processed by the controller.

b. The purpose for processing personal data.

c. How consumers may exercise their consumer rights pursuant to section 715D.3, including how a consumer may appeal a controller's decision with regard to the consumer's request.

d. The categories of personal data that the controller shares with third parties, if any.

e. The categories of third parties, if any, with whom the controller shares personal data.

6. If a controller sells a consumer's personal data to third parties or engages in targeted advertising, the controller shall clearly and conspicuously disclose such activity, as well as the manner in which a consumer may exercise the right to opt out of such activity.

7. A controller shall establish, and shall describe in a privacy notice, secure and reliable means for consumers to submit a request to exercise their consumer rights under this chapter. Such means shall consider the ways in which consumers normally interact with the controller, the need for secure and reliable communication of such requests, and the ability of the controller to authenticate the identity of the consumer making the request. A controller shall not require a consumer to create a new account in order to exercise consumer rights pursuant to section 715D.3, but may require a consumer to use an existing account.

2023 Acts, ch 17, §4, 10
Referred to in §715D.3, 715D.6

715D.5 Processor duties.

1. A processor shall assist a controller in duties required under this chapter, taking into account the nature of processing and the information available to the processor by appropriate technical and organizational measures, insofar as is reasonably practicable, as follows:

a. To fulfill the controller's obligation to respond to consumer rights requests pursuant to section 715D.3.

b. To meet the controller's obligations in relation to the security of processing the personal data and in relation to the notification of a security breach of the processor pursuant to section 715C.2.

2. A contract between a controller and a processor shall govern the processor's data processing procedures with respect to processing performed on behalf of the controller. The contract shall clearly set forth instructions for processing personal data, the nature and purpose of processing, the type of data subject to processing, the duration of processing, and the rights and duties of both parties. The contract shall also include requirements that the processor shall do all of the following:

a. Ensure that each person processing personal data is subject to a duty of confidentiality with respect to the data.

b. At the controller's direction, delete or return all personal data to the controller as requested at the end of the provision of services, unless retention of the personal data is required by law.

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c. Upon the reasonable request of the controller, make available to the controller all information in the processor's possession necessary to demonstrate the processor's compliance with the obligations in this chapter.

d. Engage any subcontractor or agent pursuant to a written contract in accordance with this section that requires the subcontractor to meet the duties of the processor with respect to the personal data.

3. Nothing in this section shall be construed to relieve a controller or a processor from imposed liabilities by virtue of the controller or processor's role in the processing relationship as defined by this chapter.

4. Determining whether a person is acting as a controller or processor with respect to a specific processing of data is a fact-based determination that depends upon the context in which personal data is to be processed. A processor that continues to adhere to a controller's instructions with respect to a specific processing of personal data remains a processor.

2023 Acts, ch 17, §5, 10

715D.6 Processing data — exemptions.

1. Nothing in this chapter shall be construed to require the following:

a. A controller or processor to re-identify de-identified data or pseudonymous data.

b. Maintaining data in identifiable form.

c. Collecting, obtaining, retaining, or accessing any data or technology, in order to be capable of associating an authenticated consumer request with personal data.

2. Nothing in this chapter shall be construed to require a controller or processor to comply with an authenticated consumer rights request, pursuant to section 715D.3, if all of the following apply:

a. The controller is not reasonably capable of associating the request with the personal data or it would be unreasonably burdensome for the controller to associate the request with the personal data.

b. The controller does not use the personal data to recognize or respond to the specific consumer who is the subject of the personal data, or associate the personal data with other personal data about the same specific consumer.

c. The controller does not sell the personal data to any third party or otherwise voluntarily disclose the personal data to any third party other than a processor, except as otherwise permitted in this chapter.

3. Consumer rights contained in sections 715D.3 and 715D.4 shall not apply to pseudonymous data in cases where the controller is able to demonstrate any information necessary to identify the consumer is kept separately and is subject to appropriate technical and organizational measures to ensure that the personal data is not attributed to an identified or identifiable natural person.

4. Controllers that disclose pseudonymous data or de-identified data shall exercise reasonable oversight to monitor compliance with any contractual commitments to which the pseudonymous data or de-identified data is subject and shall take appropriate steps to address any breaches of those contractual commitments.

2023 Acts, ch 17, §6, 10

715D.7 Limitations.

1. Nothing in this chapter shall be construed to restrict a controller's or processor's ability to do the following:

a. Comply with federal, state, or local laws, rules, or regulations.

b. Comply with a civil, criminal, or regulatory inquiry, investigation, subpoena, or summons by federal, state, local, or other governmental authorities.

c. Cooperate with law enforcement agencies concerning conduct or activity that the controller or processor reasonably and in good faith believes may violate federal, state, or local laws, rules, or regulations.

d. Investigate, establish, exercise, prepare for, or defend legal claims.

e. Provide a product or service specifically requested by a consumer or parent or guardian of a child, perform a contract to which the consumer or parent or guardian of a child is a

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party, including fulfilling the terms of a written warranty, or take steps at the request of the consumer or parent or guardian of a child prior to entering into a contract.

f. Take immediate steps to protect an interest that is essential for the life or physical safety of the consumer or of another natural person, and where the processing cannot be manifestly based on another legal basis.

g. Prevent, detect, protect against, or respond to security incidents, identity theft, fraud, harassment, malicious or deceptive activities, or any illegal activity.

h. Preserve the integrity or security of systems.

i. Investigate, report, or prosecute those responsible for any such action.

j. Engage in public or peer-reviewed scientific or statistical research in the public interest that adheres to all other applicable ethics and privacy laws and is approved, monitored, and governed by an institutional review board, or similar independent oversight entities that determine the following:

(1) If the deletion of the information is likely to provide substantial benefits that do not exclusively accrue to the controller.

(2) The expected benefits of the research outweigh the privacy risks.

(3) If the controller has implemented reasonable safeguards to mitigate privacy risks associated with research, including any risks associated with re-identification.

k. Assist another controller, processor, or third party with any of the obligations under this subsection.

2. The obligations imposed on a controller or processor under this chapter shall not restrict a controller's or processor's ability to collect, use, or retain data as follows:

a. To conduct internal research to develop, improve, or repair products, services, or technology.

b. To effectuate a product recall.

c. To identify and repair technical errors that impair existing or intended functionality.

d. To perform internal operations that are reasonably aligned with the expectations of the consumer or reasonably anticipated based on the consumer's existing relationship with the controller or are otherwise compatible with processing data in furtherance of the provision of a product or service specifically requested by a consumer or parent or guardian of a child or the performance of a contract to which the consumer or parent or guardian of a child is a party.

3. The obligations imposed on controllers or processors under this chapter shall not apply where compliance by the controller or processor with this chapter would violate an evidentiary privilege under the laws of the state. Nothing in this chapter shall be construed to prevent a controller or processor from providing personal data concerning a consumer to a person covered by an evidentiary privilege under the laws of the state as part of a privileged communication.

4. A controller or processor that discloses personal data to a third-party controller or processor, in compliance with the requirements of this chapter, is not in violation of this chapter if the third-party controller or processor that receives and processes such personal data is in violation of this chapter, provided that, at the time of disclosing the personal data, the disclosing controller or processor did not have actual knowledge that the recipient intended to commit a violation. A third-party controller or processor receiving personal data from a controller or processor in compliance with the requirements of this chapter is likewise not in violation of this chapter for the offenses of the controller or processor from which it receives such personal data.

5. Nothing in this chapter shall be construed as an obligation imposed on a controller or a processor that adversely affects the privacy or other rights or freedoms of any persons, such as exercising the right of free speech pursuant to the first amendment to the United States Constitution, or applies to personal data by a person in the course of a purely personal or household activity.

6. Personal data processed by a controller pursuant to this section shall not be processed for any purpose other than those expressly listed in this section unless otherwise allowed by this chapter. Personal data processed by a controller pursuant to this section may be processed to the extent that such processing is as follows:

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a. Reasonably necessary and proportionate to the purposes listed in this section.

b. Adequate, relevant, and limited to what is necessary in relation to the specific purposes listed in this section. Personal data collected, used, or retained pursuant to this section shall, where applicable, take into account the nature and purpose or purposes of such collection, use, or retention. Such data shall be subject to reasonable administrative, technical, and physical measures to protect the confidentiality, integrity, and accessibility of the personal data.

7. If a controller processes personal data pursuant to an exemption in this section, the controller bears the burden of demonstrating that such processing qualifies for the exemption and complies with the requirements in subsection 6.

8. Processing personal data for the purposes expressly identified in subsection 1 shall not in and of itself make an entity a controller with respect to such processing.

9. This chapter shall not require a controller, processor, third party, or consumer to disclose trade secrets.

2023 Acts, ch 17, §7, 10

715D.8 Enforcement — penalties.

1. The attorney general shall have exclusive authority to enforce the provisions of this chapter. Whenever the attorney general has reasonable cause to believe that any person has engaged in, is engaging in, or is about to engage in any violation of this chapter, the attorney general is empowered to issue a civil investigative demand. The provisions of section 685.6 shall apply to civil investigative demands issued under this chapter.

2. Prior to initiating any action under this chapter, the attorney general shall provide a controller or processor ninety days' written notice identifying the specific provisions of this chapter the attorney general alleges have been or are being violated. If within the ninety-day period, the controller or processor cures the noticed violation and provides the attorney general an express written statement that the alleged violations have been cured and that no further such violations shall occur, no action shall be initiated against the controller or processor.

3. If a controller or processor continues to violate this chapter following the cure period in subsection 2 or breaches an express written statement provided to the attorney general under that subsection, the attorney general may initiate an action in the name of the state and may seek an injunction to restrain any violations of this chapter and civil penalties of up to seven thousand five hundred dollars for each violation under this chapter. Any moneys collected under this section including civil penalties, costs, attorney fees, or amounts which are specifically directed shall be paid into the consumer education and litigation fund established under section 714.16C.

4. Nothing in this chapter shall be construed as providing the basis for, or be subject to, a private right of action for violations of this chapter or under any other law.

2023 Acts, ch 17, §8, 10

715D.9 Preemption.

1. This chapter supersedes and preempts all rules, regulations, codes, ordinances, and other laws adopted by a city, county, municipality, or local agency regarding the processing of personal data by controllers or processors.

2. Any reference to federal, state, or local law or statute in this chapter shall be deemed to include any accompanying rules or regulations or exemptions thereto, or in the case of a federal agency, guidance issued by such agency thereto.

2023 Acts, ch 17, §9, 10

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CHAPTER 715E

REMOTELY PILOTED AIRCRAFT

Referred to in §331.307, 364.22, 701.1

Regulation of unmanned aerial vehicles, see §321.492B, 719.9, 808.15

715E.1 Definitions.
715E.2 Distance measurements.
715E.3 Intrusion by use of remotely piloted aircraft — offense.
715E.4 Surveillance by use of remotely piloted aircraft — offense.
715E.5 Injunctive relief — harassment due to use of remotely piloted aircraft.
715E.6 Exceptions — intrusion or surveillance by use of remotely piloted aircraft.

715E.1 Definitions.

As used in this chapter:

1. *a.* *"Convicted"* means the entry of a judgment of conviction under chapter 901 or adjudicated delinquent for an act which is an indictable offense in this state or in another state under chapter 232.

b. *"Convicted"* does not mean a plea, sentence, adjudication, deferred sentence, or deferred judgment which has been reversed or otherwise set aside.

2. *"Farm animal"* means an animal belonging to the bovine, caprine, ovine, or porcine species; farm deer as defined in section 170.1; ostriches, rheas, or emus; turkeys, geese, chickens, or other domestic poultry; or a horse, pony, mule, jenny, donkey, or hinny.

3. *"Farm commodity"* means a farm animal, farm crop, or honey.

4. *a.* *"Farm crop"* means a plant used for food, animal feed, fiber, or oil, including a forage or cereal plant.

b. *"Farm crop"* includes but is not limited to alfalfa, barley, buckwheat, corn, flax, forage, millet, oats, popcorn, rye, sorghum, soybeans, sunflowers, wheat, and grasses used for forage or silage.

5. *a.* *"Farm equipment"* means a device or an attachment to a device designed and manufactured to be principally used for farming, including the production, care, or harvesting of a farm commodity.

b. *"Farm equipment"* includes but is not limited to tractors; trailers; combines; tillage, planting, and cultivating implements; balers; irrigation implements; injection and application devices; manure haulers and spreaders; and all-terrain vehicles.

6. *a.* *"Farm structure"* means a building or other structure used in farming, including the production of farm commodities.

b. *"Farm structure"* includes but is not limited to the principal residence of a farmer, a formed or unformed structure that is part of an animal feeding operation as defined in section 459.102 and related pipes and manure stockpiles, a barn, a stable, a storage crib, a structure used to store seeds or grain, an outbuilding, and a shed.

7. *"Farmer"* means the person who is actively engaged in farming as defined in section 9H.1.

8. *a.* *"Farmstead"* means real property to which all of the following apply:

(1) The real property is owned or leased by a farmer.

(2) The real property is used by the farmer for farming, including the production of a farm commodity.

(3) At least fifteen thousand dollars was generated from the sale of farm commodities produced on the real property in the last calendar year.

b. *"Farmstead"* includes but is not limited to a crop field or pastureland.

c. *"Farmstead"* does not include any real property located within the corporate limits of a city.

9. *"Homestead"* means real property that includes the principal residence of a person, and up to four hundred feet of surrounding land with any improvements, if all such real property is both owned or leased by that person and not located within the corporate limits of a city.

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10. *"Principal residence"* means the place where a person habitually lives for more days per year than another place in this state, if the place is not within the corporate limits of a city.

11. *"Railroad company"* means a business entity organized under the laws of this state or doing business in this state as a carrier by rail and regulated by the federal railroad administration.

12. *"Remotely piloted aircraft"* means a self-propelled vehicle used for navigation and flight, that is controlled by the use of an electronic system and is not designed to carry a human.

13. *"Surveillance device"* means a camera or electronic equipment that transmits or records an image, sound, or data if the transmission or recording is capable of reasonably identifying any of the following:

a. The physical appearance, conduct, or voice of an individual.

b. The species of a farm animal.

c. The type or use of farm equipment.

d. The type or use of a farm structure.

e. The unique physical characteristics of land or an improvement to land.

2024 Acts, ch 1131, §1; 2025 Acts, ch 56, §1 – 3

715E.2 Distance measurements.

In measuring the distance from an object to a remotely piloted aircraft in flight under this chapter, it shall be presumed as a matter of law that the remotely piloted aircraft is flying parallel to the object. The distance between the object and remotely piloted aircraft shall be measured from their closest possible points.

2024 Acts, ch 1131, §2

715E.3 Intrusion by use of remotely piloted aircraft — offense.

1. A person commits intrusion by the use of a remotely piloted aircraft if the person knowingly does any of the following:

a. Controls the flight of a remotely piloted aircraft over a homestead, if the homestead is not owned or leased by the person, and the remotely piloted aircraft remains over the homestead.

b. Controls the flight of remotely piloted aircraft over a secure farmstead, if the farmstead is not owned or leased by the person, and the remotely piloted aircraft remains within a secured area of four hundred feet surrounding a farm animal, farm equipment, or a farm structure located on the farmstead. However, the secured area shall not include any space that is in the corporate limits of a city.

2. *a.* A person who commits intrusion by the use of a remotely piloted aircraft is guilty of a simple misdemeanor.

b. Notwithstanding paragraph *"a"*, a person who commits intrusion by the use of a remotely piloted aircraft is guilty of a serious misdemeanor if the person has previously been convicted of any of the following:

(1) Intrusion by the use of a remotely piloted aircraft as provided in this section.

(2) Surveillance by the use of a remotely piloted aircraft as provided in section 715E.4.

2024 Acts, ch 1131, §3; 2024 Acts, ch 1154, §21; 2025 Acts, ch 56, §4

Referred to in §715E.4, 715E.5, 715E.6

715E.4 Surveillance by use of remotely piloted aircraft — offense.

1. A person commits surveillance by the use of a remotely piloted aircraft if the person knowingly does any of the following:

a. Controls the flight of a remotely piloted aircraft equipped with a surveillance device over a homestead, if the homestead is not owned or leased by the person, and the remotely piloted aircraft remains over the homestead.

b. Controls the flight of a remotely piloted aircraft equipped with a surveillance device over a farmstead, if the farmstead is not owned or leased by the person, and the remotely piloted aircraft remains within a secured area of four hundred feet surrounding a farm animal,

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farm equipment, or a farm structure located on the farmstead. However, the secured area shall not include any space that is in the corporate limits of a city.

2. *a.* A person who commits surveillance by the use of a remotely piloted aircraft is guilty of a serious misdemeanor.

b. Notwithstanding paragraph *"a"*, a person who commits surveillance by the use of a remotely piloted aircraft is guilty of an aggravated misdemeanor if the person has previously been convicted of any of the following:

(1) Intrusion by the use of a remotely piloted aircraft as provided in section 715E.3.

(2) Surveillance by the use of a remotely piloted aircraft as provided in this section.

2024 Acts, ch 1131, §4; 2024 Acts, ch 1154, §22; 2025 Acts, ch 56, §5

Referred to in §715E.3, 715E.5, 715E.6

715E.5 Injunctive relief — harassment due to use of remotely piloted aircraft.

1. A person who is the owner or lessee of a homestead or farmstead may petition the district court to obtain an order for a temporary injunction to prevent the respondent from using any remotely piloted aircraft equipped with a surveillance device, if a preponderance of evidence indicates that the respondent is harassing the petitioner by controlling the flight of the remotely piloted aircraft over the person's homestead or farmstead in violation of section 715E.3 or 715E.4. The court shall grant the temporary injunction for not more than two years. The court may continue the injunction upon a petition filed by the petitioner with the court prior to the order's expiration.

2. If a court grants an order for a temporary injunction under subsection 1, the court may award the petitioner court costs, reasonable attorney fees, and expenses related to the petitioner's investigation and adjudication of the case, which shall be taxed as part of the costs of the action.

3. *a.* Except as provided in paragraph *"b"*, a court shall order that any person holding a retrievable image, sound, or data recorded in violation of this section destroy the image, sound, or data, including any copy of such image, sound, or data.

b. (1) A person may claim an ownership interest in a retrievable image, sound, or data recorded in violation of this section, to the extent that any of the following apply:

(a) The person is an individual who may be identified in the recording. A parent or guardian of the individual may claim the ownership interest on behalf of the individual.

(b) The person is the owner of a farm animal, farm equipment, or a farm structure that may be identified in the recording.

(c) The person is an owner of the land or an improvement to land having unique physical characteristics that may be identified in the recording.

(2) A person cannot claim an ownership interest in a retrievable image, sound, or data that includes an image, sound, or data that may identify another individual, a farm animal, farm equipment, or a farm structure owned by another person, or land or an improvement owned by another person, unless that other individual or person consents.

2024 Acts, ch 1131, §5; 2025 Acts, ch 56, §6 – 8

715E.6 Exceptions — intrusion or surveillance by use of remotely piloted aircraft.

Sections 715E.3 and 715E.4 do not prohibit a person from controlling a remotely piloted aircraft flying over a person's homestead or farmstead if the person controlling the remotely piloted aircraft is any of the following:

1. A person who acts with the consent of the owner of the homestead or farmstead.

2. A person who operates a remotely piloted aircraft for a commercial or agricultural use in compliance with federal aviation administration regulations, authorizations, or exemptions.

3. A department, division, or other unit of state government of this state or any other state, city, county, township, or other governmental subdivision, or any other public corporation or agency created under the laws of this state, any other state, the United States, or any department or agency thereof, or any agency, commission, or authority established pursuant to an interstate compact or agreement or combination thereof.

4. A public utility as defined in section 476.1.

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5. A railroad company.
6. A person who controls the flight of a remotely piloted aircraft more than four hundred feet from the earth's surface.
7. A person who controls the flight of a remotely piloted aircraft for the exclusive purpose of collecting information regarding weather or climate conditions.
8. The state or a governmental subdivision exercising rights to a public road right-of-way as defined in section 306.3.
9. The owner or lessee of the homestead or farmstead.

2024 Acts, ch 1131, §6; 2025 Acts, ch 56, §9, 10

CHAPTER 716

DAMAGE AND TRESPASS TO PROPERTY

Referred to in §331.307, 364.22, 562A.17, 622.51A, 701.1

716.1 Criminal mischief defined.
716.2 Multiple acts.
716.3 Criminal mischief in the first degree.
716.4 Criminal mischief in the second degree.
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716.6 Criminal mischief in the fourth and fifth degrees.
716.6A Criminal mischief in violation of individual rights.
716.6B Unauthorized computer access — penalties — civil cause of action.
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716.12 Critical infrastructure sabotage — penalties.
716.13 Interference with transportation of agricultural animals.
716.14 Unauthorized sampling.

716.1 Criminal mischief defined.

Any damage, defacing, alteration, or destruction of property is criminal mischief when done intentionally by one who has no right to so act.

[C51, §2679, 2681 – 2683, 2686 – 2688, 2690, 2715, 2753; R60, §1766, 4319, 4321 – 4323, 4326 – 4328, 4330 – 4332, 4357, 4403; C73, §1564, 3897 – 3899, 3978, 3980 – 3982, 3985 – 3987, 3989 – 3992, 4021, 4082; C97, §588, 2466, 4800 – 4806, 4808, 4809, 4812, 4822 – 4828, 5054; S13, §1989-a15, 4808, 4822, 4823, 4830-a, -b, -c; SS15, §2900-e; C24, 27, 31, 35, 39, §**13080, 13082, 13083, 13085, 13088 – 13091, 13093 – 13099, 13102, 13107, 13112 – 13117, 13122, 13124;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §714.1, 714.3 – 714.5, 714.8 – 714.11, 714.14 – 714.20, 714.23, 714.28, 716.1 – 716.6, 716.9, 716.12; C79, 81, §716.1]

2002 Acts, ch 1049, §1

Referred to in §717A.3

716.2 Multiple acts.

Whenever criminal mischief is committed upon more than one item of property at approximately the same location or time period, so that all of these acts of mischief can be attributed to a single scheme, plan or conspiracy, such acts shall be considered as a single act of criminal mischief.

[C79, 81, §716.2]

716.3 Criminal mischief in the first degree.

1. Criminal mischief is criminal mischief in the first degree if either of the following apply:

a. The cost of replacing, repairing, or restoring the property that is damaged, defaced, altered, or destroyed is more than ten thousand dollars.

b. The acts are intended to or do in fact cause a substantial interruption or impairment of

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service rendered to the public by a gas, electric, steam or waterworks corporation, telephone or telegraph corporation, common carrier, or a public utility operated by a municipality.

2. Criminal mischief in the first degree is a class "C" felony.

[C51, §2680; R60, §4320; C73, §3979; C97, §4807; S13, §4807; C24, 27, 31, 35, 39, §**13120;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §716.7; C79, 81, §716.3]

92 Acts, ch 1060, §8; 2013 Acts, ch 90, §193

Referred to in §717A.3, 911.5

716.4 Criminal mischief in the second degree.

1. Criminal mischief is criminal mischief in the second degree if any of the following apply:

a. The cost of replacing, repairing, or restoring the property that is damaged, defaced, altered, or destroyed exceeds one thousand five hundred dollars but does not exceed ten thousand dollars.

b. The acts damaged, defaced, altered, or destroyed any publicly owned property, including a monument or statue. In addition to any sentence imposed for a violation of this paragraph, the court shall include an order of restitution for any property damage or loss incurred as a result of the offense.

2. Criminal mischief in the second degree is a class "D" felony.

[C79, 81, §716.4]

92 Acts, ch 1060, §9; 2013 Acts, ch 90, §194; 2019 Acts, ch 140, §19; 2021 Acts, ch 183, §42, 43

Referred to in §717A.3, 911.5

716.5 Criminal mischief in the third degree.

1. Criminal mischief is criminal mischief in the third degree if any of the following apply:

a. The cost of replacing, repairing, or restoring the property that is damaged, defaced, altered, or destroyed exceeds seven hundred fifty dollars, but does not exceed one thousand five hundred dollars.

b. The property is a deed, will, commercial paper or any civil or criminal process or other instrument having legal effect.

c. The act consists of rendering substantially less effective than before any light, signal, obstruction, barricade, or guard which has been placed or erected for the purpose of enclosing any unsafe or dangerous place or of alerting persons to an unsafe or dangerous condition.

d. The person intentionally disinters human remains from a burial site without lawful authority.

e. The person intentionally disinters human remains that have state and national significance from an historical or scientific standpoint for the inspiration and benefit of the United States without the permission of the state archaeologist.

f. The act is committed upon property that consists of a device that has the ability to process a payment card as defined in section 715A.10.

2. Criminal mischief in the third degree is an aggravated misdemeanor.

[C51, §2638, 2714, 2746; R60, §4265, 4356, 4396; C73, §3929, 4017, 4075; C97, §4865, 4945, 5043; C24, 27, 31, 35, 39, §**13050, 13100, 13148;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §713.5, 714.21, 718.10; C79, 81, §716.5]

83 Acts, ch 99, §1; 92 Acts, ch 1060, §10; 2009 Acts, ch 41, §169; 2018 Acts, ch 1011, §2; 2019 Acts, ch 140, §20

Referred to in §523I.316, 716.6A, 717A.3, 911.5

716.6 Criminal mischief in the fourth and fifth degrees.

1. *a.* Criminal mischief is criminal mischief in the fourth degree if any of the following apply:

(1) The cost of replacing, repairing, or restoring the property that is damaged, defaced, altered, or destroyed exceeds three hundred dollars, but does not exceed seven hundred fifty dollars.

(2) The person intentionally injures, destroys, disturbs, or removes any monument, as defined in section 355.1, placed on any tract of land, street, or highway, designating any point, course, or line on the boundary of the tract of land, street, or highway, if the monument was

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placed at such location by a land surveyor licensed under chapter 542B, or by any person directed by a licensed land surveyor. A governmental entity and employees of such an entity are exempt from prosecution under this subparagraph for projects performed pursuant to section 314.8. A licensed land surveyor and persons under the direction of a licensed land surveyor are also exempt from prosecution under this subparagraph for removing an existing monument in order to place an upgraded or more suitable monument in the same location.

(3) The person intentionally injures, destroys, disturbs, or removes any monument that has been established by the national geodetic survey, Iowa geodetic survey, or any county geographic information system for use in the determination of spatial location relative to the specified Iowa state plane coordinate system or precise elevation datum. A governmental entity and employees of such an entity are exempt from prosecution under this subparagraph for projects performed pursuant to section 314.8.

b. Criminal mischief in the fourth degree is a serious misdemeanor.

2. All criminal mischief which is not criminal mischief in the first degree, second degree, third degree, or fourth degree is criminal mischief in the fifth degree. Criminal mischief in the fifth degree is a simple misdemeanor.

[C79, 81, §716.6]

83 Acts, ch 99, §2; 92 Acts, ch 1060, §11; 99 Acts, ch 153, §14; 2009 Acts, ch 41, §260; 2010 Acts, ch 1130, §1; 2013 Acts, ch 90, §195; 2019 Acts, ch 140, §21

Referred to in §123.138, 716.6A, 717A.3

716.6A Criminal mischief in violation of individual rights.

A violation of sections 716.5 and 716.6, which is also a hate crime as defined in section 729A.2, shall be classified and punished as an offense one degree higher than the underlying offense.

92 Acts, ch 1157, §5

Referred to in §729A.2

716.6B Unauthorized computer access — penalties — civil cause of action.

1. A person who knowingly and without authorization accesses a computer, computer system, or computer network commits the following:

a. An aggravated misdemeanor if computer data is accessed that contains a confidential record, as defined in section 22.7, operational or support data of a public utility, as defined in section 476.1, operational or support data of a rural water district incorporated pursuant to chapter 357A or 504, operational or support data of a municipal utility organized pursuant to chapter 388 or 389, operational or support data of a public airport, or a trade secret, as defined in section 550.2.

b. A serious misdemeanor if computer data is copied, altered, or deleted.

c. A simple misdemeanor for any access which is not an aggravated or serious misdemeanor.

2. The prosecuting attorney or an aggrieved person may institute civil proceedings against any person in district court seeking relief from conduct constituting a violation of this section or to prevent, restrain, or remedy such a violation.

2000 Acts, ch 1201, §11; 2002 Acts, ch 1049, §2; 2003 Acts, ch 75, §1; 2004 Acts, ch 1049, §191; 2004 Acts, ch 1175, §394

Referred to in §638.15, 702.1A

Computer terminology, see §702.1A

716.7 Trespass defined.

1. For purposes of this section:

a. *"Property"* shall include any land, dwelling, building, conveyance, vehicle, or other temporary or permanent structure whether publicly or privately owned.

b. *"Public utility"* is a public utility as defined in section 476.1 or an electric transmission line as provided in chapter 478.

c. *"Public utility property"* means any land, dwelling, building, conveyance, vehicle, or other temporary or permanent structure owned, leased, or operated by a public utility and that is completely enclosed by a physical barrier of any kind.

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d. "Railway corporation" means a corporation, company, or person owning, leasing, or operating any railroad in whole or in part within this state.

e. "Railway property" means all tangible real and personal property owned, leased, or operated by a railway corporation with the exception of any administrative building or offices of the railway corporation.

f. "Reasonable expectation of privacy" means circumstances in which a reasonable person would believe that the person could disrobe or partially disrobe in privacy, without being concerned that the person disrobing or partially disrobing was being viewed, photographed, or filmed when doing so.

2. *a. "Trespass"* shall mean one or more of the following acts:

(1) Entering upon or in property without the express permission of the owner, lessee, or person in lawful possession with the intent to commit a public offense, to use, remove therefrom, alter, damage, harass, or place thereon or therein anything animate or inanimate, or to hunt, fish or trap on or in the property, including the act of taking or attempting to take a deer, other than a farm deer as defined in section 170.1 or preserve whitetail as defined in section 484C.1, which is on or in the property by a person who is outside the property. This subparagraph does not prohibit the unarmed pursuit of game or fur-bearing animals by a person who lawfully injured or killed the game or fur-bearing animal which comes to rest on or escapes to the property of another.

(2) Entering or remaining upon or in property without justification after being notified or requested to abstain from entering or to remove or vacate therefrom by the owner, lessee, or person in lawful possession, or the agent or employee of the owner, lessee, or person in lawful possession, or by any peace officer, magistrate, or public employee whose duty it is to supervise the use or maintenance of the property. A person has been notified or requested to abstain from entering or remaining upon or in property within the meaning of this subparagraph (2) if any of the following is applicable:

(a) The person has been notified to abstain from entering or remaining upon or in property personally, either orally or in writing, including by a valid court order under chapter 236.

(b) A printed or written notice forbidding such entry has been conspicuously posted or exhibited at the main entrance to the property or the forbidden part of the property.

(3) Entering upon or in property for the purpose or with the effect of unduly interfering with the lawful use of the property by others.

(4) Being upon or in property and wrongfully using, removing therefrom, altering, damaging, harassing, or placing thereon or therein anything animate or inanimate, without the implied or actual permission of the owner, lessee, or person in lawful possession.

(5) Entering or remaining upon or in railway property without lawful authority or without the consent of the railway corporation which owns, leases, or operates the railway property. This subparagraph does not apply to passage over a railroad right-of-way, other than a track, railroad roadbed, viaduct, bridge, trestle, or railroad yard, by an unarmed person if the person has not been notified or requested to abstain from entering onto the right-of-way or to vacate the right-of-way and the passage over the right-of-way does not interfere with the operation of the railroad.

(6) Entering or remaining upon or in public utility property without lawful authority or without the consent of the public utility that owns, leases, or operates the public utility property. This subparagraph does not apply to passage over public utility right-of-way by a person if the person has not been notified or requested by posted signage or other means to abstain from entering onto the right-of-way or to vacate the right-of-way.

(7) Intentionally viewing, photographing, or filming another person through the window or any other aperture of a dwelling, without legitimate purpose, while present on the real property upon which the dwelling is located, or while placing on or retrieving from such property equipment to view, photograph, or film another person, if the person being viewed, photographed, or filmed has a reasonable expectation of privacy, and if the person being viewed, photographed, or filmed does not consent or cannot consent to being viewed, photographed, or filmed.

b. "Trespass" shall not mean either of the following:

(1) Entering upon the property of another for the sole purpose of retrieving personal

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property which has accidentally or inadvertently been thrown, fallen, strayed, or blown onto the property of another, provided that the person retrieving the property takes the most direct and accessible route to and from the property to be retrieved, quits the property as quickly as is possible, and does not unduly interfere with the lawful use of the property. This subparagraph does not apply to public utility property where the person has been notified or requested by posted signage or other means to abstain from entering.

(2) Entering upon the right-of-way of a public road or highway.

3. This section shall not apply to the following persons:

a. Representatives of the state department of transportation, the federal railroad administration, or the national transportation safety board who enter or remain upon or in railway property while engaged in the performance of official duties.

b. Employees of a railway corporation who enter or remain upon or in railway property while acting in the course of employment.

c. Any person who is engaged in the operation of a lawful business on railway station grounds or in the railway depot.

d. Representatives of the Iowa utilities commission, the federal energy regulatory commission, or the federal communications commission who enter or remain upon or in public utility property while engaged in the performance of official duties.

e. Employees of a public utility who enter or remain upon or in public utility property while acting in the course of employment.

[C51, §2684; R60, §4324; C73, §3983; C97, §4793, 4829; C24, 27, 31, 35, 39, §**13086, 13374;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §714.6, 729.1; C79, 81, §716.7; 81 Acts, ch 205, §1]

88 Acts, ch 1212, §1; 98 Acts, ch 1067, §1, 2; 2007 Acts, ch 28, §20; 2011 Acts, ch 51, §2 – 5; 2013 Acts, ch 90, §234; 2013 Acts, ch 140, §77; 2016 Acts, ch 1082, §3, 4; 2017 Acts, ch 140, §1; 2018 Acts, ch 1026, §174; 2019 Acts, ch 59, §228; 2024 Acts, ch 1170, §369

Referred to in §232.2, 309.57, 481A.134, 481A.135, 716.8, 727.8A

716.7A Food operation trespass.

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

a. *"Apiary"* and *"bee"* mean the same as defined in section 160.1A.

b. *"Food animal"* means an animal belonging to the bovine, caprine, ovine, or porcine species; farm deer as defined in section 170.1; turkeys, chickens, or other poultry; fish or other aquatic organisms confined in private waters for human consumption; or bees.

c. *"Food establishment"*, *"food processing plant"*, and *"farmers market"* mean the same as defined in section 137F.1.

d. (1) *"Food operation"* means any of the following:

(a) A location where a food animal is produced, maintained, or otherwise housed or kept, or processed in any manner.

(b) A location other than as described in subparagraph division (a) where a food animal is kept, including an apiary, livestock market, vehicle or trailer attached to a vehicle, fair, exhibition, or a business operated by a person licensed to practice veterinary medicine pursuant to chapter 169.

(c) A location where a meat food product, poultry product, milk or milk product, eggs or an egg product, aquatic product, or honey is prepared for human consumption, including a food processing plant, a slaughtering establishment operating under the provisions of 21 U.S.C. §451 et seq. or 21 U.S.C. §601 et seq.; or a slaughtering establishment subject to state inspection as provided in chapter 189A.

(2) *"Food operation"* does not include a food establishment or farmers market.

e. *"Meat food product"*, *"poultry product"*, and *"prepared"* mean the same as defined in section 189A.2.

2. A person commits food operation trespass by entering or remaining on the property of a food operation without the consent of a person who has real or apparent authority to allow the person to enter or remain on the property.

3. Subsection 2 does not apply to any of the following:

a. A person entering a right-of-way, if the person has not been notified or requested by

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posted signage or other means to abstain from entering onto the right-of-way or to vacate the right-of-way.

b. A person having lawful authority to enter onto the property of the food operation, including but not limited to a federal, state, or local government official.

c. A person who is given express permission by the owner of the food operation to enter onto or remain on the property of the food operation.

d. A person employed by a food operation while acting in the course of employment.

2020 Acts, ch 1036, §17, 19; 2020 Acts, ch 1118, §144 – 146
Referred to in §716.8

716.8 Penalties.

1. Any person who knowingly trespasses upon the property of another commits a simple misdemeanor punishable as a scheduled violation under section 805.8C, subsection 12. A peace officer shall consider arresting and may arrest the person under section 805.9, subsection 3, paragraph "*c*", if the person refuses to leave the property after receiving a citation or immediately returns to the property after receiving a citation, or may arrest the person as otherwise provided under law.

2. Any person committing a trespass as defined in section 716.7, other than a trespass as defined in section 716.7, subsection 2, paragraph "*a*", subparagraph (6), which results in injury to any person or damage in an amount more than three hundred dollars to anything, animate or inanimate, located thereon or therein commits a serious misdemeanor.

3. A person who knowingly trespasses on the property of another with the intent to commit a hate crime, as defined in section 729A.2, commits a serious misdemeanor.

4. A person committing a trespass as defined in section 716.7 with the intent to commit a hate crime which results in injury to any person or damage in an amount more than three hundred dollars to anything, animate or inanimate, located thereon or therein commits an aggravated misdemeanor.

5. A person who commits a trespass while hunting, other than hunting a farm deer as defined in section 170.1 or preserve whitetail as defined in section 484C.1, commits a simple misdemeanor punishable as a scheduled violation under section 805.8C, subsection 12. A peace officer shall consider arresting and may arrest the person under section 805.9, subsection 3, paragraph "c", if the person refuses to leave the property after receiving a citation or immediately returns to the property after receiving a citation, or may arrest the person as otherwise provided under law. The person shall also be subject to civil penalties as provided in sections 481A.130 and 481A.131. Any wildlife taken by a person while committing such a trespass shall be subject to seizure as provided in section 481A.12.

6. Any person who commits a trespass as defined in section 716.7, subsection 2, paragraph "*a*", subparagraph (6), commits a class "D" felony.

7. Any person who commits a trespass as defined in section 716.7, subsection 2, paragraph "*a*", subparagraph (7), commits a serious misdemeanor.

8. *a.* For a first offense, a person who commits food operation trespass as provided in section 716.7A is guilty of an aggravated misdemeanor.

b. For a second or subsequent offense, a person who commits food operation trespass as provided in section 716.7A is guilty of a class "D" felony.

[C73, 75, 77, §729.2, 729.3; C79, 81, §716.8]

92 Acts, ch 1157, §6; 99 Acts, ch 153, §15, 16; 2007 Acts, ch 28, §21; 2008 Acts, ch 1161, §21; 2011 Acts, ch 51, §6, 7; 2013 Acts, ch 90, §253; 2016 Acts, ch 1082, §5; 2017 Acts, ch 140, §2, 3; 2018 Acts, ch 1026, §175; 2019 Acts, ch 140, §22; 2020 Acts, ch 1036, §18, 19; 2024 Acts, ch 1070, §1
Referred to in §29A.42, 232.2, 648.1A, 729A.2, 805.8C(12), 901C.3

716.9 Stowing away.

A person commits the simple misdemeanor offense of stowing away when, without lawful authority or the consent of a railway corporation, the person does either of the following:

1. Rides on the outside of a train or train component.

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2. Rides on the inside of a train or train component which is not a passenger car.

98 Acts, ch 1067, §3

716.10 Railroad vandalism.

1. A person commits railroad vandalism when the person does any of the following:

a. Shoots, fires, or otherwise discharges a firearm or other device at a train or train component.

b. Launches, releases, propels, casts, or directs a projectile, missile, or other device at a train or train component.

c. Intentionally throws or drops an object on or onto a train or train component.

d. Intentionally places or drops an object on or onto a railroad track.

e. Without the consent of the railway corporation, takes, removes, defaces, alters, or obscures any of the following:

(1) A railroad signal.
(2) A train control system.
(3) A train dispatching system.
(4) A warning signal.
(5) A highway-railroad grade crossing signal or gate.
(6) A railroad sign, placard, or marker.

f. Without the consent of the railway corporation, removes parts or appurtenances from, damages, impairs, disables, interferes with the operation of, or renders inoperable any of the following:

(1) A railroad signal.
(2) A train control system.
(3) A train dispatching system.
(4) A warning signal.
(5) A highway-railroad grade crossing signal or gate.
(6) A railroad sign, placard, or marker.

g. Without the consent of the railway corporation, taking, removing, disabling, tampering, changing, or altering a part or component of any operating mechanism or safety device of any train or train component.

h. Without the consent of the railway corporation, takes, removes, tampers, changes, alters, or interferes with any of the following:

(1) A railroad roadbed.
(2) A railroad rail.
(3) A railroad tie.
(4) A railroad frog.
(5) A railroad sleeper.
(6) A railroad switch.
(7) A railroad viaduct.
(8) A railroad bridge.
(9) A railroad trestle.
(10) A railroad culvert.
(11) A railroad embankment.
(12) Any other structure or appliance which pertains or is appurtenant to a railroad.

2. *a.* A person commits railroad vandalism in the first degree if the person intentionally commits railroad vandalism which results in the death of any person. Railroad vandalism in the first degree is a class "B" felony. However, notwithstanding section 902.9, subsection 1, paragraph "*b*", the maximum sentence for a person convicted under this section shall be a period of confinement of not more than fifty years.

b. A person commits railroad vandalism in the second degree if the person intentionally commits railroad vandalism which results in serious injury to any person. Railroad vandalism in the second degree is a class "B" felony.

c. A person commits railroad vandalism in the third degree if the person intentionally commits railroad vandalism which results in bodily injury to any person or results in property

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damage which costs more than ten thousand dollars to replace, repair, or restore. Railroad vandalism in the third degree is a class "C" felony.

d. A person commits railroad vandalism in the fourth degree if the person intentionally commits railroad vandalism which results in property damage which costs ten thousand dollars or less but more than one thousand five hundred dollars to replace, repair, or restore. Railroad vandalism in the fourth degree is a class "D" felony.

e. A person commits railroad vandalism in the fifth degree if the person intentionally commits railroad vandalism which results in property damage which costs more than seven hundred fifty dollars but does not exceed one thousand five hundred dollars to replace, repair, or restore. Railroad vandalism in the fifth degree is an aggravated misdemeanor.

f. A person commits railroad vandalism in the sixth degree if the person intentionally commits railroad vandalism which results in property damage which costs more than three hundred dollars but does not exceed seven hundred fifty dollars to replace, repair, or restore. Railroad vandalism in the sixth degree is a serious misdemeanor.

g. A person commits railroad vandalism in the seventh degree if the person intentionally commits railroad vandalism which results in property damage which costs three hundred dollars or less to replace, repair, or restore. Railroad vandalism in the seventh degree is a simple misdemeanor.

3. For purposes of this section:

a. "*Railway corporation*" means a corporation, company, or person owning, leasing, or operating any railroad in whole or in part within the state.

b. "*Train*" means a series of two or more train components which are coupled together in a line.

c. "*Train component*" means any locomotive, engine, tender, railroad car, passenger car, freight car, box car, tank car, hopper car, flatbed, container, work equipment, rail-mounted equipment, or any other railroad rolling stock.

98 Acts, ch 1067, §4; 2013 Acts, ch 30, §251; 2013 Acts, ch 90, §196; 2019 Acts, ch 140, §23

716.11 Critical infrastructure sabotage — definitions.

Solely for purposes of this section and section 716.12, unless the context otherwise requires:

1. "*Critical infrastructure*" means any of the following:

a. An electrical power generating, transmission, or delivery system.

b. A gas, oil, petroleum, refined petroleum product, renewable fuel, or chemical critical generation, storage, transportation, or delivery system.

c. A telecommunications service, information service, or cable service as defined in 47 U.S.C. §153, a wireless service as defined in section 8C.2, or a broadband generation, transmission, or delivery system.

d. A wastewater treatment, collection, or delivery system.

e. A water supply treatment, collection, storage, or delivery system.

f. Any land, building, conveyance, or other temporary or permanent structure whether publicly or privately owned, that contains, houses, supports, or is appurtenant to any critical infrastructure as described in paragraphs "*a*" through "*e*" of this subsection.

2. *a.* "*Critical infrastructure sabotage*" means an unauthorized and overt act intended to cause and having the means to cause, and in substantial furtherance of causing, a substantial and widespread interruption or impairment of a fundamental service rendered by the critical infrastructure.

b. "*Critical infrastructure sabotage*" does not include an accidental interruption or impairment of service to the critical infrastructure caused by a person in the performance of the person's work duties or caused by a person's lawful activity. In addition, "*critical infrastructure sabotage*" does not include any condition or activity related to the production of farm products as defined in section 554.9102, including but not limited to the discharge of agricultural stormwater; the construction or use of soil or water quality conservation practices or structures; the preparation of agricultural land and the raising, harvesting, drying, or storage of agricultural crops; the application of a fertilizer or beneficial substance as defined in section 200.3, a pesticide as defined in section 206.2, or manure as defined in section 459.102; the installation and use of agricultural drainage tile and systems; the

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construction, operation, or management of an animal feeding operation as defined in section 459.102; and the care, feeding, or watering of livestock.

3. *"System"* means a set of connected or interdependent real, physical, personal, or electronic or computer-based property that operates as a whole to provide a service. *"System"* also includes any real, physical, electronic, or computer implement that may control or monitor any component of the system.

2018 Acts, ch 1120, §1; 2018 Acts, ch 1172, §36; 2025 Acts, ch 42, §1; 2025 Acts, ch 134, §27
Referred to in §716.12

716.12 Critical infrastructure sabotage — penalties.

A person who commits critical infrastructure sabotage as defined in section 716.11 is guilty of a class "B" felony, and in addition to the provisions of section 902.9, subsection 1, paragraph *"b"*, shall be punished by a fine of not less than eighty-five thousand dollars nor more than one hundred thousand dollars.

2018 Acts, ch 1120, §2; 2019 Acts, ch 24, §91
Referred to in §716.11

716.13 Interference with transportation of agricultural animals.

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

a. "Agricultural animal" means an animal belonging to the bovine, caprine, equine, ovine, or porcine species; farm deer as defined in section 170.1; ostriches, rheas, and emus; turkeys, chickens, domestic geese or ducks, or other domestic fowl; fish or other aquatic organisms confined in private waters for human consumption; or honey bees.

b. (1) *"Convicted"* means the entry of a judgment of conviction under chapter 901 or adjudicated delinquent for an act which is an indictable offense in this state or in another state under chapter 232.

(2) *"Convicted"* does not mean a plea, sentence, adjudication, deferred sentence, or deferred judgment which has been reversed or otherwise set aside.

c. "Motor vehicle" means any self-propelled vehicle subject to registration under chapter 321, and includes an item attached to the vehicle.

2. A person commits interference with the transportation of an agricultural animal if the person knowingly does any of the following:

a. Stops, hinders, impedes, boards, obstructs, or otherwise interferes with a motor vehicle transporting an agricultural animal, regardless of whether the motor vehicle is moving.

b. Provokes, disturbs, or otherwise interacts with an agricultural animal when the agricultural animal is confined in a motor vehicle, regardless of whether the motor vehicle is moving.

3. In a prosecution alleging that a defendant committed interference with the transportation of an agricultural animal under subsection 2, the defendant may assert an affirmative defense of consent. The defendant must prove by a preponderance of the evidence that the defendant was acting with the consent of any of the following:

a. A person having real or apparent authority to transport the agricultural animal. This requirement is met if the person is a shipper or transporter acting in compliance with chapter 172B.

b. The owner of the agricultural animal or any other person having real or apparent authority to possess or control the agricultural animal.

4. *a.* A person who commits interference with the transportation of an agricultural animal, as provided in subsection 2, paragraph *"a"*, is guilty of an aggravated misdemeanor.

b. A person who commits interference with the transportation of an agricultural animal, as provided in subsection 2, paragraph *"b"*, is guilty of an aggravated misdemeanor.

5. Notwithstanding subsection 4, a person who commits interference with the transportation of an agricultural animal under subsection 2, paragraph *"a"* or *"b"*, is guilty of a class "D" felony if the person has previously been convicted of committing interference with the transportation of an agricultural animal under either of those paragraphs.

2021 Acts, ch 46, §1

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716.14 Unauthorized sampling.

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

a. "Agricultural animal" means an animal belonging to the bovine, caprine, equine, ovine, or porcine species; farm deer as defined in section 170.1; ostriches, rheas, and emus; turkeys, chickens, domestic geese or ducks, or other domestic fowl; fish or other aquatic organisms confined in private waters for human consumption; or honey bees.

b. "Agricultural crop" means a plant produced for food, animal feed, fiber, oil, or fuel if the plant is classified as a forage or cereal plant, including but not limited to alfalfa, barley, buckwheat, corn, flax, forage, hemp as defined in section 204A.2, millet, oats, popcorn, rye, sorghum, soybeans, sunflowers, wheat, and grasses used for forage or silage. A plant which is a noxious weed pursuant to section 317.1A shall not be considered an agricultural crop unless the plant is produced as a research crop.

c. (1) *"Convicted"* means the entry of a judgment of conviction under chapter 901 or adjudicated delinquent for an act which is an indictable offense in this state or in another state under chapter 232.

(2) *"Convicted"* does not mean a plea, sentence, adjudication, deferred sentence, or deferred judgment which has been reversed or otherwise set aside.

2. A person commits unauthorized sampling if the person knowingly enters private property, without consent of the owner or any other person having real or apparent authority to grant consent, and obtains samples of any of the following:

a. Bodily fluids or substances from an agricultural animal.

b. Any product from an agricultural animal.

c. Soil, air, surface water, or ground water from land or structures used for the production of an agricultural animal or the production of an agricultural crop.

3. A person who commits unauthorized sampling as provided in subsection 2 is guilty of an aggravated misdemeanor.

4. Notwithstanding subsection 3, a person who commits unauthorized sampling as provided in subsection 2 is guilty of a class "D" felony if the person has previously been convicted of committing unauthorized sampling under subsection 2.

2021 Acts, ch 83, §1; 2022 Acts, ch 1032, §103; 2024 Acts, ch 1177, §54, 55

CHAPTER 716A

ELECTRONIC MAIL

Referred to in §331.307, 364.22, 701.1

716A.1 Definitions.
716A.2 Transmission of unsolicited bulk electronic mail — criminal penalties.
716A.3 Sale or offer for direct sale of prescription drugs — criminal penalties.
716A.4 Use of encryption — criminal penalty.
716A.5 Venue for criminal violations.
716A.6 Civil relief — damages.
716A.7 Forfeitures for violations of chapter.

716A.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Computer"* means the same as defined in section 702.1A.

2. *"Computer data"* means the same as defined in section 702.1A.

3. *"Computer network"* means the same as defined in section 702.1A.

4. *"Computer operation"* means arithmetic, logical, monitoring, storage, or retrieval functions, or any combination thereof, and includes, but is not limited to, communication with, storage of data to, or retrieval of data from any device or human hand manipulation of electronic or magnetic impulses. *"Computer operation"* for a particular computer may also mean any function for which the computer was generally designed.

5. *"Computer program"* means an ordered set of data representing coded instructions or

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statements that, when executed by a computer, causes the computer to perform one or more computer operations.

6. *"Computer services"* means computer time or services, including data processing services, internet services, electronic mail services, electronic message services, or information or data stored in connection therewith.

7. *"Computer software"* means a set of computer programs, procedures, and associated documentation concerned with computer data or with computer operation, a computer program, or a computer network.

8. *"Electronic mail service provider"* means a person who does either of the following:

a. Is an intermediary in sending or receiving electronic mail.

b. Provides to end users of electronic mail services the ability to send or receive electronic mail.

9. *"Encryption"* means the enciphering of intelligible data into unintelligible form or the deciphering of unintelligible data into intelligible form.

10. *"Owner"* means an owner or lessee of a computer or a computer network or an owner, lessee, or licensee of computer data, a computer program, or computer software.

11. *"Person"* means the same as defined in section 4.1.

12. *"Property"* means all of the following:

a. Real property.

b. Computers, computer equipment, computer networks, and computer services.

c. Financial instruments, computer data, computer programs, computer software, and all other personal property regardless of whether they are any of the following:

(1) Tangible or intangible.

(2) In a format readable by humans or by a computer.

(3) In transit between computers or within a computer network or between any devices which comprise a computer.

(4) Located on any paper or in any device on which it is stored by a computer or by a person.

13. *"Uses"* means, when referring to a computer or computer network, causing or attempting to cause any of the following:

a. A computer or computer network to perform or to stop performing computer operations.

b. The withholding or denial of the use of a computer, computer network, computer program, computer data, or computer software to another user.

c. A person to put false information into a computer.

2005 Acts, ch 123, §1

716A.2 Transmission of unsolicited bulk electronic mail — criminal penalties.

1. A person who does any of the following is guilty of an aggravated misdemeanor:

a. Uses a computer or computer network with the intent to falsify or forge electronic mail transmission information or other routing information in any manner in connection with the transmission of unsolicited bulk electronic mail through or into the computer network of an electronic mail service provider or its subscribers.

b. Knowingly sells, gives, or otherwise distributes or possesses with the intent to sell, give, or otherwise distribute computer software that does any of the following:

(1) Is primarily designed or produced for the purpose of facilitating or enabling the falsification of electronic mail transmission information or other routing information.

(2) Has only limited commercially significant purpose or use other than to facilitate or enable the falsification of electronic mail transmission information or other routing information.

(3) Is marketed by that person acting alone or with another for use in facilitating or enabling the falsification of electronic mail transmission information or other routing information.

2. A person is guilty of a class "D" felony for committing a violation of subsection 1 when either of the following apply:

a. The volume of unsolicited bulk electronic mail transmitted exceeds ten thousand

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attempted recipients in any twenty-four-hour period, one hundred thousand attempted recipients in any thirty-day time period, or one million attempted recipients in any twelve-month time period.

b. The revenue generated from a specific unsolicited bulk electronic mail transmission exceeds one thousand five hundred dollars or the total revenue generated from all unsolicited bulk electronic mail transmitted to any electronic mail service provider by the person exceeds fifty thousand dollars.

3. A person is guilty of a class "D" felony if the person knowingly hires, employs, uses, or permits a person less than eighteen years of age to assist in the transmission of unsolicited bulk electronic mail in violation of subsection 2.

4. Transmission of electronic mail from an organization to a member of the organization shall not be a violation of this section.

2005 Acts, ch 123, §2; 2019 Acts, ch 140, §24

716A.3 Sale or offer for direct sale of prescription drugs — criminal penalties.

1. The retail sale or offer of direct retail sale of a prescription drug, as defined in section 155A.3, through the use of electronic mail or the internet by a person other than a licensed pharmacist, physician, dentist, optometrist, podiatric physician, or veterinarian is prohibited. A person who violates this subsection is guilty of a simple misdemeanor.

2. *a.* A person who knowingly sells an adulterated or misbranded drug through the use of electronic mail or the internet is guilty of a class "D" felony.

b. If the death of a person occurs as the result of consuming a drug, as defined in section 155A.3, sold in violation of this subsection, the violation is a class "B" felony.

2005 Acts, ch 123, §3; 2013 Acts, ch 90, §197

716A.4 Use of encryption — criminal penalty.

A person who willfully uses encryption to further a violation of this chapter is guilty of an offense which is separate and distinct from the predicate criminal activity and punishable as an aggravated misdemeanor.

2005 Acts, ch 123, §4

716A.5 Venue for criminal violations.

For the purpose of venue, a violation of this chapter shall be considered to have been committed in any county in which any of the following apply:

1. An act was performed in furtherance of any course of conduct which violated this chapter.

2. The owner has a place of business in the state.

3. An offender has control or possession of any proceeds of the violation, or of any books, records, documents, property, financial instrument, computer software, computer program, computer data, or other material or objects used in furtherance of the violation.

4. Access to a computer or computer network was made by wires, electromagnetic waves, microwaves, or any other means of communication.

5. The offender resides.

6. A computer which is an object or an instrument of the violation is located at the time of the alleged offense.

2005 Acts, ch 123, §5

716A.6 Civil relief — damages.

1. A person who is injured by a violation of this chapter may bring a civil action seeking relief from a person whose conduct violated this chapter and recover any damages incurred including loss of profits, attorney fees, and court costs.

2. A person who is injured by the transmission of unsolicited bulk electronic mail in violation of this chapter may elect, in lieu of actual damages, to recover either of the following:

a. The lesser of ten dollars for each unsolicited bulk electronic mail message transmitted

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in violation of this chapter, or twenty-five thousand dollars per day the messages are transmitted by the violator.

b. One dollar for each intended recipient of an unsolicited bulk electronic mail message where the intended recipient is an end user of the electronic mail service provider, or twenty-five thousand dollars for each day an attempt is made to transmit an unsolicited bulk electronic mail message to an end user of the electronic mail service provider.

3. *a.* A violation of this chapter is a violation of section 714.16, subsection 2, paragraph *"a"*. All the powers conferred upon the attorney general to accomplish the objectives and carry out the duties prescribed pursuant to section 714.16 are also conferred upon the attorney general to enforce this chapter, including, but not limited to, the power to issue subpoenas, adopt rules which shall have the force of law, and seek injunctive relief and civil penalties.

b. In seeking reimbursement pursuant to section 714.16, subsection 7, from a person who has committed a violation of this chapter, the attorney general may seek an order from the court that the person pay to the attorney general on behalf of consumers the amounts for which the person would be liable under subsection 1 or 2, for each consumer who has a cause of action pursuant to this section. Section 714.16, as it relates to consumer reimbursement, shall apply to consumer reimbursement pursuant to this section.

4. At the request of any party to an action brought pursuant to this section, the court may, in its discretion, conduct all legal proceedings in such a way as to protect the secrecy and security of the computer, computer network, computer data, computer program, and computer software involved in order to prevent possible recurrence of the same or a similar act by another person, and to protect any trade secrets of any party and in such a way as to protect the privacy of nonparties who complain about violations pursuant to this section.

5. This section shall not be construed to limit a person's right to pursue any additional civil remedy otherwise allowed by law.

6. An action brought pursuant to this section shall be commenced before the earlier of five years after the last act in the course of conduct constituting a violation of this chapter or two years after the injured person discovers or reasonably should have discovered the last act in the course of conduct constituting a violation of this chapter.

7. Personal jurisdiction may be exercised over any person who engages in any conduct in this state governed by this chapter.

8. The injured person shall not have a cause of action against the electronic mail service provider that merely transmits the unsolicited bulk electronic mail over its computer network.

2005 Acts, ch 123, §6

716A.7 Forfeitures for violations of chapter.

All property, including all income or proceeds earned but not yet received from a third party as a result of a violation of this chapter, used in connection with a violation of this chapter, known by the owner thereof to have been used in violation of this chapter, shall be subject to seizure and forfeiture pursuant to chapter 809A.

2005 Acts, ch 123, §7

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CHAPTER 716B

HAZARDOUS WASTE OFFENSES

Referred to in §81.1, 331.307, 364.22, 701.1

716B.1 Definitions.
716B.2 Unlawful disposal of hazardous waste — penalties.
716B.3 Unlawful transportation of hazardous waste — penalties.
716B.4 Unlawful treatment or storage of hazardous waste — penalties.
716B.5 Enforcement.

716B.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Department"* means the department of natural resources.
2. *"Disposal"* or *"dispose"* means disposal as defined in section 455B.411, subsection 1.
3. *"Hazardous waste"* means a hazardous waste as defined in section 455B.411, subsection 3, or a hazardous substance as defined in 42 U.S.C. §9601, or a hazardous substance as designated by regulations adopted by the administrator of the United States environmental protection agency pursuant to 42 U.S.C. §9602.
4. *"Person"* means an agency of the state or federal government, a municipality, governmental subdivision, interstate body, public or private corporation, individual, partnership, or other entity, and includes an officer, or governing or managing body of a municipality, governmental subdivision, interstate body, or public or private corporation.
5. *"Storage"* or *"store"* means the containment of a hazardous waste, either on a temporary basis or for a period of years, in a manner that does not constitute disposal of the hazardous waste.
6. *"Treatment"* or *"treat"* means a method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of a hazardous waste so as to neutralize the waste or to render the waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or to reduce the waste in volume. *"Treatment"* includes any activity or processing designed to change the physical form or chemical composition of hazardous waste to render the waste nonhazardous.

88 Acts, ch 1080, §3; 2011 Acts, ch 9, §9

716B.2 Unlawful disposal of hazardous waste — penalties.

1. A person commits the offense of unlawful disposal of hazardous waste when the person knowingly or with reason to know, disposes of hazardous waste or arranges for or allows the disposal of hazardous waste at any location other than one authorized by the department or the United States environmental protection agency, or in violation of any material term or condition of a hazardous waste facility permit.

2. *a.* A person who commits the offense of unlawful disposal of hazardous waste is guilty of an aggravated misdemeanor and upon conviction shall be punished by a fine of not more than twenty-five thousand dollars for each day of violation or imprisonment for not more than two years, or both.

b. If the conviction is for a violation committed after a first conviction under this section, the person is guilty of a class "D" felony and shall be punished by a fine of not more than fifty thousand dollars for each day of violation or imprisonment for not more than five years, or both.

88 Acts, ch 1080, §4; 2013 Acts, ch 90, §198
Referred to in §29C.8A

716B.3 Unlawful transportation of hazardous waste — penalties.

1. A person commits the offense of unlawful transportation of hazardous waste when the person knowingly or with reason to know, transports or causes to be transported any hazardous waste to any location other than a facility that is authorized to receive, treat, store, or dispose of the hazardous waste under rules adopted pursuant to the federal Resource Conservation and Recovery Act, 42 U.S.C. §6901 – 6992.

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2. *a.* A person who commits the offense of unlawful transportation of hazardous waste is guilty of an aggravated misdemeanor and upon conviction shall be punished by a fine of not more than twenty-five thousand dollars for each day of violation or imprisonment for not more than two years, or both.

b. If the conviction is for a violation committed after a first conviction under this section, the person is guilty of a class "D" felony and shall be punished by a fine of not more than fifty thousand dollars for each day of violation or imprisonment for not more than five years, or both.

88 Acts, ch 1080, §5; 95 Acts, ch 49, §24; 2013 Acts, ch 90, §199
Referred to in §29C.8A

716B.4 Unlawful treatment or storage of hazardous waste — penalties.

1. A person commits the offense of unlawful treatment or storage of hazardous waste when the person knowingly or with reason to know, treats or stores hazardous waste without a permit issued pursuant to 42 U.S.C. §6925 or §6926.

2. *a.* A person who commits the offense of unlawful treatment or storage of hazardous waste is guilty of an aggravated misdemeanor and upon conviction shall be punished by a fine of not more than twenty-five thousand dollars for each day of violation or imprisonment for not more than two years, or both.

b. If the conviction is for a violation committed after a first conviction under this section, the person is guilty of a class "D" felony and shall be punished by a fine of not more than fifty thousand dollars for each day of violation or imprisonment for not more than five years, or both.

88 Acts, ch 1080, §6; 2013 Acts, ch 90, §200
Referred to in §29C.8A

716B.5 Enforcement.

The attorney general or the county attorney for the county in which a violation occurs is responsible for enforcement of this chapter.

88 Acts, ch 1080, §7

CHAPTER 717

INJURY TO LIVESTOCK

Referred to in §169C.1, 169C.5, 331.307, 331.308, 364.22, 364.22A, 459.501, 701.1, 717F.4

Mistreatment of animals, see chapter 717B

717.1	Definitions.	717.4	Livestock in immediate need of sustenance — lien.
717.1A	Livestock abuse.	717.4A	Livestock in immediate need of sustenance — livestock remediation fund.
717.2	Livestock neglect.	717.5	Disposition of neglected livestock.
717.2A	Rescue of neglected livestock.	717.6	Rulemaking.
717.3	Livestock in immediate need of sustenance — court order.		

717.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Department"* means the department of agriculture and land stewardship.

2. *"Electronic mail"* means any message transmitted through the internet including but not limited to messages transmitted from or to any address affiliated with an internet site.

3. *"Law enforcement officer"* means a regularly employed member of a police force of a city or county, including a sheriff, who is responsible for the prevention and detection of crime and the enforcement of the criminal laws of this state.

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4. *"Livestock"* means an animal belonging to the bovine, caprine, equine, ovine, or porcine species, ostriches, rheas, emus; farm deer as defined in section 170.1; or poultry.

5. *"Livestock care provider"* means a person designated by a local authority to provide care to livestock which is rescued by the local authority pursuant to section 717.2A.

6. *"Local authority"* means a city as defined in section 362.2 or a county as provided in chapter 331.

7. *"Maintenance"* means to provide on-site or off-site care to neglected livestock.

8. *"Sustenance"* means food, water, or a nutritional formulation customarily used in the production of livestock.

[C51, §2678; R60, §4318; C73, §3977; C97, §4818; C24, 27, 31, 35, 39, §**13132;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §717.1]

94 Acts, ch 1103, §7; 95 Acts, ch 43, §14; 95 Acts, ch 134, §6; 2003 Acts, ch 149, §21, 23; 2011 Acts, ch 81, §5

Referred to in §15E.202, 159.5, 162.1, 169.3, 172E.1, 236.3, 236.4, 236.5, 267.1, 422.7(13)(a), 422.7(14)(f), 484B.1, 501A.102, 562.1A, 717B.1, 717D.1, 911.5

717.1A Livestock abuse.

A person is guilty of livestock abuse if the person intentionally injures or destroys livestock owned by another person, in any manner, including, but not limited to, intentionally doing any of the following: administering drugs or poisons to the livestock, or disabling the livestock by using a firearm or trap. A person guilty of livestock abuse commits an aggravated misdemeanor. This section shall not apply to any of the following:

1. A person acting with the consent of the person owning the livestock, unless the action constitutes livestock neglect as provided in section 717.2.

2. A person acting to carry out an order issued by a court.

3. A licensed veterinarian practicing veterinary medicine as provided in chapter 169.

4. A person acting in order to carry out another provision of law which allows the conduct.

5. A person reasonably acting to protect the person's property from damage caused by estray livestock.

6. A person reasonably acting to protect a person from injury or death caused by estray livestock.

7. A research facility, as defined in section 162.2, provided that the research facility performs functions within the scope of accepted practices and disciplines associated with the research facility.

94 Acts, ch 1103, §8; 2008 Acts, ch 1058, §17

717.2 Livestock neglect.

1. A person who impounds or confines livestock, in any place, and does any of the following commits the offense of livestock neglect:

a. Fails to provide livestock with care consistent with customary animal husbandry practices.

b. Deprives livestock of necessary sustenance.

c. Injures or destroys livestock by any means which causes pain or suffering in a manner inconsistent with customary animal husbandry practices.

2. A person who commits the offense of livestock neglect is guilty of a simple misdemeanor. A person who intentionally commits the offense of livestock neglect which results in serious injury to or the death of livestock is guilty of a serious misdemeanor. However, a person shall not be guilty of more than one offense of livestock neglect punishable as a serious misdemeanor, when care or sustenance is not provided to multiple head of livestock during any period of uninterrupted neglect.

3. This section does not apply to a research facility, as defined in section 162.2, provided that the research facility performs functions within the scope of accepted practices and disciplines associated with the research facility.

[C51, §2716; R60, §4358; C73, §4031, 4034; C97, §4969, 4972; S13, §4969; C24, 27, 31, 35, 39, §**13133, 13134;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §717.2, 717.3; C79, 81, §717.2]

86 Acts, ch 1121, §3; 87 Acts, ch 179, §1; 94 Acts, ch 1103, §9; 2008 Acts, ch 1058, §18

Referred to in §717.1A, 717.2A, 717.5

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717.2A Rescue of neglected livestock.

1. *a.* A law enforcement officer may rescue livestock neglected as provided in section 717.2 on public or private property, as provided in this subsection.

b. The officer may enter onto property of a person to rescue neglected livestock if the officer obtains a search warrant issued by a court, or enters onto the premises in a manner consistent with the laws of this state and the United States, including Article I, section 8, of the Constitution of the State of Iowa, or the fourth amendment to the Constitution of the United States.

c. Livestock neglected as provided in section 717.2 may be rescued pursuant to the following conditions:

(1) If a criminal proceeding has not been commenced against the person owning or caring for the livestock, the following shall apply:

(a) The local authority shall receive a written statement from a veterinarian licensed pursuant to chapter 169, providing that, in the veterinarian's opinion, the livestock is neglected.

(b) The local authority shall provide written notice to the person owning or caring for the livestock by delivery at the last known address of the person. The local authority shall deliver the notice by certified mail or make a good faith effort to personally deliver the notice to the person owning or caring for the livestock. The notice shall include all of the following:

(i) The name and address of the local authority.

(ii) A description of the livestock subject to rescue.

(iii) A statement informing the person that the livestock may be rescued pursuant to this chapter within one day following receipt of the notice by the person. The statement must specify a date, time, and a location for delivery of the response designated by the local authority, as provided in this subsection.

(iv) A statement informing the person that in order to avoid rescue of the livestock, the person must respond to the notice in writing signed by a veterinarian licensed pursuant to chapter 169. The veterinarian must state that, in the opinion of the veterinarian, the livestock is not neglected, or the person is taking immediate measures required to rehabilitate the livestock.

(c) A law enforcement officer may rescue the livestock, if the local authority fails to receive a written response by the person owning or caring for the livestock by the end of normal office hours of the next day that the local authority is available to receive the response at the offices of the local authority. However, if the local authority is not available to receive a response at its offices, the local authority may designate another location in the county to receive the response.

(2) If a criminal proceeding has been commenced against the person owning or caring for the livestock, the local authority must receive a written statement from a veterinarian licensed pursuant to chapter 169, providing that, in the veterinarian's opinion, the livestock is neglected.

(3) Regardless of whether a criminal proceeding has commenced, the local authority may immediately rescue livestock without providing notice as otherwise required in this section. However, the local authority must receive a written statement from a veterinarian licensed pursuant to chapter 169, providing that in the veterinarian's opinion, the livestock is neglected. In order to rescue the livestock, the local authority must determine that the livestock has been abandoned or that no person is able or willing to care for the livestock, and the livestock is permanently distressed by disease or injury to a degree that would result in severe and prolonged suffering.

2. If livestock is rescued pursuant to this section, the local authority shall post a notice in a conspicuous place at the location where the livestock was rescued. The notice shall state that the livestock has been rescued by the local authority pursuant to this section. The local authority shall provide for the maintenance of the neglected livestock. The local authority may contract with a livestock care provider for the maintenance of the neglected livestock. The local authority shall pay the livestock care provider for the livestock's maintenance regardless of proceeds received from the sale of the livestock or any reimbursement ordered by a court, pursuant to section 717.5.

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3. The livestock shall be subject to disposition pursuant to section 717.5.

94 Acts, ch 1103, §10
Referred to in §670.4, 717.1, 717.5

717.3 Livestock in immediate need of sustenance — court order.

1. This section applies only to livestock which are cattle, sheep, swine, or poultry.

2. For purposes of this section, "*interested person*" means all of the following:

a. An owner of the livestock.

b. A person caring for the livestock, if different from the owner of the livestock.

c. A person holding a perfected agricultural lien or security interest in the livestock under chapter 554.

3. The department may determine that some or all of the livestock kept by a person are in immediate need of sustenance. Upon making the determination the department may file a petition with a district court in a county where some or all of the livestock are kept requesting the court to issue an order to provide sustenance of the livestock. The petition may be made separately or with a petition filed pursuant to section 717.5. The petition must at least include all of the following:

a. A statement signed by a veterinarian licensed pursuant to chapter 169 stating that the livestock are in immediate need of sustenance.

b. The address of each location where the livestock are kept.

c. A brief description of the livestock.

d. The name and address of each interested person, if known.

e. The name and address of each qualified person appointed by the department to provide sustenance to the livestock.

4. Upon receiving the petition, the court may do any of the following:

a. Notify any interested person that the petition has been filed with the court. The notification must be made in writing and may be delivered by ordinary, certified, or restricted certified mail by United States postal service; delivered by a common carrier; or transmitted by electronic mail.

b. Hold a hearing to determine whether the livestock are in immediate need of sustenance.

5. If the court determines that the livestock are in immediate need of sustenance, the court shall issue an order which at least declares all of the following:

a. That the livestock are in immediate need of sustenance.

b. That the department shall assume supervision of and provide for the sustenance of the livestock as provided in section 717.4.

c. That a lien is created attaching to the livestock and associated proceeds and products as provided in section 717.4.

6. The department shall assume supervision of the livestock as provided in the court order. The department may directly provide for the sustenance of the livestock or appoint a qualified person to provide for such sustenance.

2011 Acts, ch 81, §6; 2011 Acts, ch 131, §74, 158
Referred to in §717.4, 717.4A, 717.5, 717.6

717.4 Livestock in immediate need of sustenance — lien.

1. This section applies to a lien created by a court order entered pursuant to section 717.3 or 717.5. The court-ordered lien is an agricultural lien subject to chapter 554 except as otherwise provided in this section.

2. The court-ordered lien shall be for the benefit of the department. The amount of the lien shall not be more than for expenses incurred in providing sustenance to the livestock pursuant to section 717.3 and providing for the disposition of the livestock pursuant to section 717.5.

3. The court-ordered lien shall attach to the livestock, identifiable proceeds from the disposition of the livestock, and products from the livestock in the products' unmanufactured states.

4. The court-ordered lien becomes effective on the date that the court order is entered. To perfect the lien, the department must file a financing statement in the office of the secretary

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of state as provided in sections 554.9308 and 554.9310 on or after but not later than twenty days after the effective date of the lien. For purposes of chapter 554, article 9, the department is a secured party; the owner of the livestock is a debtor; and the livestock and associated proceeds and products as provided in subsection 3 are the collateral.

5. The court-ordered lien that is perfected under this section is superior to and shall have priority over a conflicting lien or security interest in the livestock and associated proceeds and products as provided in subsection 3, including a lien or security interest that was perfected prior to the perfection of the court-ordered lien.

2011 Acts, ch 81, §7; 2011 Acts, ch 131, §75, 158
Referred to in §579A.2, 579B.4, 581.2, 717.3, 717.4A, 717.5, 717.6

717.4A Livestock in immediate need of sustenance — livestock remediation fund.

The department may utilize the moneys deposited into the livestock remediation fund pursuant to section 459.501 to pay for any expenses associated with providing sustenance to or the disposition of the livestock pursuant to a court order entered pursuant to section 717.3 or 717.5. The department shall utilize moneys from the fund only to the extent that the department determines that expenses cannot be timely paid by utilizing the available provisions of sections 717.4 and 717.5. The department shall deposit any unexpended and unobligated moneys in the fund. If there are proceeds remaining after the disposition of the livestock or associated products and satisfaction of the department's expenses, and the department has utilized moneys from the livestock remediation fund, the department shall repay the fund from the proceeds.

2011 Acts, ch 81, §8; 2011 Acts, ch 131, §76, 158; 2025 Acts, ch 134, §36
Referred to in §717.6

717.5 Disposition of neglected livestock.

1. *a.* A court shall order the disposition of livestock neglected as provided in section 717.2 or livestock in immediate need of sustenance and associated products as provided in sections 717.3 and 717.4 in accordance with this section.

(1) A petition may be filed by a local authority or a person owning or caring for the livestock pursuant to section 717.2.

(2) A petition may be filed by the department. The court shall notify interested persons in the same manner as provided in section 717.3. The petition may be filed separately or with a petition filed pursuant to section 717.3.

b. The matter shall be heard by the court within ten days from the filing of the petition.

(1) For livestock alleged to be neglected under section 717.2, the court may continue the hearing for up to forty days upon petition by the person. However, the person shall post a bond or other security with the local authority in an amount determined by the court, which shall not be more than the amount sufficient to provide for the maintenance of the livestock for forty days. The court may grant a subsequent continuance by the person for the same length of time if the person submits a new bond or security.

(2) For livestock alleged to be in immediate need of sustenance under section 717.3, the court may continue the hearing for up to forty days upon petition by the department. The department may file and the court may grant one or more subsequent continuances each for up to forty days. The department is not required to post a bond or other security.

c. Notwithstanding paragraph *"b"*, the court shall order the immediate disposition of livestock if the livestock is permanently distressed by disease or injury to a degree that would result in severe or prolonged suffering.

d. If the court orders the disposition of the livestock that involves the livestock's sale or transfer, the order shall be deemed as occurring by a receiver appointed pursuant to section 680.4.

2. The hearing to determine if livestock has been neglected under section 717.2 for purposes of disposition shall be a civil proceeding. If the case is related to a criminal proceeding under section 717.2, the disposition shall not be part of that proceeding and shall not be considered a criminal penalty imposed on a person found in violation of section 717.2.

3. A court may order a person owning the livestock neglected under section 717.2 or in

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immediate need of sustenance under section 717.3 to pay an amount associated with expenses associated with the livestock as follows:

a. (1) For livestock neglected under section 717.2, the amount shall not be more than for expenses incurred by the local authority in maintaining and disposing of the neglected livestock rescued pursuant to section 717.2A, and reasonable attorney fees and expenses related to the investigation of the case. The remaining amount of a bond or other security posted pursuant to subsection 1 shall be used to reimburse the local authority.

(2) For livestock in immediate need of sustenance under section 717.3, the amount shall not be more than for expenses incurred by the department in providing sustenance to and disposing of the neglected livestock as provided in section 717.3 and this section. The amount paid to the department shall be sufficient to allow the department to repay the livestock remediation fund as provided in section 459.501.

b. If more than one person has a divisible ownership interest in the livestock, the amount required to be paid shall be prorated based on the percentage of interest in the livestock owned by each person. The moneys shall be paid to the local authority or department incurring the expense as provided in paragraph "*a*". The amount shall be subtracted from proceeds owed to the owner or owners of the livestock, which are received from the sale of the livestock ordered by the court.

c. (1) Moneys owed to the local authority from the sale of neglected livestock that have been rescued by a local authority pursuant to section 717.2A shall be paid to the local authority before satisfying indebtedness secured by any security interest in or lien on the livestock. Moneys owed to the department from the sale of livestock in immediate need of sustenance and associated products shall be paid to the department according to its priority status as a lienholder as provided in section 717.4.

(2) If an owner of the livestock is a landowner, the local authority may submit an amount of the moneys owed to the clerk of the county board of supervisors who shall report the amount to the county treasurer. The amount shall equal the balance remaining after the sale of the livestock. If the livestock owner owns a percentage of the livestock, the reported amount shall equal the remaining balance owed by all landowners who own a percentage of the livestock. That amount shall be prorated among the landowners based on the percentage of interest in the livestock attributable to each landowner. The amount shall be placed upon the tax books, and collected with interest and penalties after due, in the same manner as other unpaid property taxes. The county shall reimburse a city within thirty days from the collection of the property taxes.

d. If any moneys remain after satisfying the costs of the local authority or department, such moneys shall be distributed pursuant to the process and priorities contained in chapter 680.

4. Neglected livestock ordered to be destroyed shall be destroyed only by a humane method, including euthanasia as defined in section 162.2.

86 Acts, ch 1121, §4; 94 Acts, ch 1103, §11; 2011 Acts, ch 81, §9; 2012 Acts, ch 1023, §86; 2025 Acts, ch 134, §37, 38

Referred to in §602.6405, 717.2A, 717.3, 717.4, 717.4A, 717.6, 717D.5

717.6 Rulemaking.

The department may adopt rules pursuant to chapter 17A as required to implement and administer sections 717.3 through 717.5.

2011 Acts, ch 81, §10

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CHAPTER 717A

OFFENSES RELATING TO AGRICULTURAL PRODUCTION

Referred to in §81.1, 99B.61, 162.1, 331.307, 364.22, 701.1, 709A.1

717A.1 Definitions.
717A.2 Animal facilities — civil action — criminal penalties.
717A.3 Crops or crop operation property damage — civil action — criminal penalties.
717A.3A Agricultural production facility fraud.
717A.3B Agricultural production facility trespass.
717A.4 Use of pathogens to threaten animals and crops — penalty.

717A.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Agricultural animal"* means any of the following:

a. An animal that is maintained for its parts or products having commercial value, including but not limited to its muscle tissue, organs, fat, blood, manure, bones, milk, wool, hide, pelt, feathers, eggs, semen, embryos, or honey.

b. An animal belonging to the equine species, including horse, pony, mule, jenny, donkey, or hinny.

2. *"Agricultural production"* means any activity related to maintaining an agricultural animal at an animal facility or a crop on crop operation property.

3. *"Agricultural production facility"* means an animal facility as defined in subsection 5, paragraph *"a"*, or a crop operation property.

4. *"Animal"* means a warm-blooded or cold-blooded animal, including but not limited to an animal belonging to the bovine, canine, feline, equine, ovine, or porcine species; farm deer as defined in section 189A.2; ostriches, rheas, or emus; an animal which belongs to a species of poultry or fish; mink or other pelt-bearing mammals; any invertebrate; or honey bees.

5. *"Animal facility"* means any of the following:

a. A location where an agricultural animal is maintained for agricultural production purposes, including but not limited to a location dedicated to farming as defined in section 9H.1, a livestock market, exhibition, or a vehicle used to transport the animal.

b. A location where an animal is maintained for educational or scientific purposes, including a research facility as defined in section 162.2, an exhibition, or a vehicle used to transport the animal.

c. A location operated by a person licensed to practice veterinary medicine pursuant to chapter 169.

d. A pound as defined in section 162.2.

e. An animal shelter as defined in section 162.2.

f. A pet shop as defined in section 162.2.

g. A boarding kennel as defined in section 162.2.

h. A commercial kennel as defined in section 162.2.

6. *"Consent"* means express or apparent assent by a person authorized to provide such assent.

7. *a.* *"Crop"* means any plant maintained for its parts or products having commercial value, including but not limited to stalks, trunks and branches, cuttings, grafts, scions, leaves, buds, fruit, vegetables, roots, bulbs, or seeds, if the plant is any of the following:

(1) A plant produced from an agricultural seed or vegetable seed as defined in section 199.1, including any plant producing a commodity listed in section 210.10.

(2) A plant which is a tree, shrub, vine, berry plant, greenhouse plant, or flower.

b. A plant produced from a noxious weed seed as defined in section 199.1 is not a crop unless the plant is produced as a research crop.

8. *"Crop operation"* means a commercial enterprise where a crop is maintained on the property of the commercial enterprise.

9. *"Crop operation property"* means any of the following:

a. Real property that is a crop field, orchard, nursery, greenhouse, garden, elevator, seedhouse, barn, warehouse, any other associated land or structures located on the land,

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and personal property located on the land including machinery or equipment, that is part of a crop operation.

b. A vehicle used to transport a crop that was maintained on the crop operation property.

10. *"Deprive"* means to do any of the following:

a. For an animal maintained at an animal facility or property belonging to an animal facility, *"deprive"* means to do any of the following:

(1) Withhold the animal or property for a period of time sufficient to significantly reduce the value or enjoyment of the animal or property.

(2) Withhold the animal or property for ransom or upon condition to restore the animal or property in return for compensation.

(3) Dispose of the animal or property in a manner that makes recovery of the animal or property by its owner unlikely.

b. For crops maintained on crop operation property or for crop operation property, *"deprive"* means to do any of the following:

(1) Occupy any part of a crop operation property for a period of time sufficient to prevent access to the crop or crop operation property.

(2) Dispose of a crop maintained on the crop operation property or belonging to the crop operation in a manner that makes recovery of the crop or crop operation property by its owner unlikely.

11. *"Maintain"* means to do any of the following:

a. Keep and provide for the care and feeding of any animal, including any activity relating to confining, handling, breeding, transporting, or exhibiting the animal.

b. Keep and preserve any crop by planting, nurturing, harvesting, and storing the crop; or storing, planting, or nurturing the crop's seed.

12. *"Owner"* means any of the following:

a. A person, including a public or private entity, who has a legal interest in an animal or property belonging to an animal facility or who is authorized by the holder of the legal interest to act on the holder's behalf in maintaining the animal.

b. A person, including a public or private entity, who has a legal interest in a crop or crop operation property or who is authorized by the holder of the legal interest to act on the holder's behalf in maintaining the crop.

13. *"Research crop"* means a crop, including the crop's seed, that is maintained for purposes of scientific research regarding the study or alteration of the genetic characteristics of a plant or associated seed, including its deoxyribonucleic acid, which is accomplished by breeding or by using biotechnological systems or techniques.

2001 Acts, ch 120, §1; 2008 Acts, ch 1058, §19; 2012 Acts, ch 1005, §1, 3
Referred to in §8.76, 163.3, 455B.171, 717F.1, 911.5

717A.2 Animal facilities — civil action — criminal penalties.

1. A person shall not, without the consent of the owner, do any of the following:

a. Willfully destroy property of an animal facility, or kill or injure an animal maintained at an animal facility, including by an act of violence or the transmission of a disease including but not limited to any disease designated by the department of agriculture and land stewardship pursuant to section 163.2.

b. Exercise control over an animal facility including property of the animal facility, or an animal maintained at an animal facility, with intent to deprive the animal facility of an animal or property.

c. (1) Enter onto or into an animal facility, or remain on or in an animal facility, if the person has notice that the facility is not open to the public, if the person has an intent to do one of the following:

(a) Disrupt operations conducted at the animal facility, if the operations directly relate to agricultural production, animal maintenance, educational or scientific purposes, or veterinary care.

(b) Kill or injure an animal maintained at the animal facility.

(2) A person has notice that an animal facility is not open to the public if the person is provided notice before entering onto or into the facility, or the person refuses to immediately

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depart from the facility after being informed to leave. The notice may be in the form of a written or verbal communication by the owner, a fence or other enclosure designed to exclude intruders or contain animals, or a sign posted which is reasonably likely to come to the attention of an intruder and which indicates that entry is forbidden.

2. A person suffering damages resulting from an action which is in violation of subsection 1 may bring an action in the district court against the person causing the damage to recover all of the following:

a. An amount equaling three times all actual and consequential damages.

b. Court costs and reasonable attorney fees.

3. A person violating this section is guilty of the following:

a. A person who violates subsection 1, paragraph *"a"*, is guilty of a class "C" felony if the injury to or death of an animal or damage to property exceeds ten thousand dollars, a class "D" felony if the injury to or death of an animal or damage to property exceeds one thousand dollars but does not exceed ten thousand dollars, an aggravated misdemeanor if the injury to or death of an animal or damage to property exceeds one hundred dollars but does not exceed one thousand dollars, a serious misdemeanor if the injury to or death of an animal or damage to property exceeds fifty dollars but does not exceed one hundred dollars, or a simple misdemeanor if the injury to or death of an animal or damage to property does not exceed fifty dollars.

b. A person who violates subsection 1, paragraph *"b"*, is guilty of a class "D" felony.

c. A person who violates subsection 1, paragraph *"c"*, is guilty of an aggravated misdemeanor.

4. *a.* This section does not prohibit any conduct of a person holding a legal interest in an animal or property which is superior to the interest held by a person suffering from damages resulting from the conduct.

b. This section does not apply to a governmental agency that is taking lawful action against an animal or animal facility.

c. This section does not apply to a licensed veterinarian practicing veterinary medicine as provided in chapter 169 and according to customary standards of care.

91 Acts, ch 227, §1
CS91, §717A.1
95 Acts, ch 43, §15; 2001 Acts, ch 120, §2 – 5
CS2001, §717A.2
2003 Acts, ch 44, §106; 2004 Acts, ch 1142, §1; 2005 Acts, ch 3, §110; 2013 Acts, ch 30, §212

717A.3 Crops or crop operation property damage — civil action — criminal penalties.

1. A person shall not, without the consent of the owner, do any of the following:

a. Willfully destroy or damage a crop maintained on crop operation property or crop operation property.

b. Exercise control over a crop maintained on crop operation property or crop operation property with an intent to deprive the owner of the crop or crop operation property.

c. (1) Enter onto or remain on crop operation property if the person has notice that the property is not open to the public, and the person has an intent to do one of the following:

(a) Disrupt agricultural production conducted on the crop operation property if the agricultural production directly relates to the maintenance of crops. A person is presumed to intend disruption if the person moves, removes, or defaces any sign posted on the crop operation property or label used by the owner and the sign or label identifies a crop maintained on the crop operation property.

(b) Destroy or damage a crop or any portion of a crop maintained on the crop operation property.

(2) A person has notice that a crop operation property is not open to the public if the person is provided notice prohibiting entry before the person enters onto the crop operation property, or the person refuses to immediately depart from the crop operation property after being notified to leave. The notice may be in the form of a written or verbal communication by the owner, a fence or other enclosure designed to exclude intruders, or a sign posted which

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is reasonably likely to come to the attention of an intruder and which indicates that entry is prohibited.

2. *a.* A person suffering damages resulting from an act which is in violation of this section may bring an action in the district court against the person causing the damage to recover all of the following:

(1) For damages that are not to a research crop, an amount equaling three times all actual and consequential losses.

(2) For damages to a research crop, all of the following:

(a) Twice the amount of damages directly incurred by market losses, based on the lost market value of the research crop due to the damage, assuming that the research crop would have matured undamaged and been sold in normal commercial channels. If the research crop has no market value, the damages shall be twice the amount of actual damages incurred in producing, harvesting, and storing the damaged research crop.

(b) Twice the amount of damages directly incurred by developmental losses, based on the losses associated with the research crop's expected scientific value. The research crop's scientific value shall be determined by calculating the amount expended in developing the research crop, including costs associated with researching, testing, breeding, or engineering. However, such damages shall not be awarded to the extent that the losses are mitigated by undamaged research crops that have been identically developed.

b. A prevailing plaintiff in an action brought under this section shall be awarded court costs and reasonable attorney fees, which shall be taxed as part of the costs of the action.

3. A person who violates this section as it applies to a research crop or crop operation property where a research crop is maintained is guilty of the following:

a. For a violation of subsection 1, paragraph *"a"*, the person is guilty of criminal mischief as provided in section 716.1, and commits the same class of offense as provided in sections 716.3 through 716.6 based on the amount of damage to the research crop or crop operation property where the research crop is maintained.

b. For a violation of subsection 1, paragraph *"b"*, the person is guilty of a class "D" felony.

c. For a violation of subsection 1, paragraph *"c"*, the person is guilty of an aggravated misdemeanor.

4. A person who violates this section as it applies to a crop other than a research crop or crop operation property where a research crop is not maintained is guilty of the following:

a. For a violation of subsection 1, paragraph *"a"*, the person is guilty of criminal mischief as provided in section 716.1, and commits the same class of offense as provided in sections 716.3 through 716.6 based on the amount of damage to the crop or crop operation property where the crop is maintained.

b. For a violation of subsection 1, paragraph *"b"*, the person is guilty of an aggravated misdemeanor.

c. For a violation of subsection 1, paragraph *"c"*, the person is guilty of a serious misdemeanor.

5. *a.* This section does not prohibit any conduct of a person holding a legal interest in a crop operation that is superior to the interest held by a person suffering from damages resulting from the conduct.

b. This section does not apply to a governmental agency that is taking lawful action against a crop or crop operation property.

2001 Acts, ch 120, §6; 2013 Acts, ch 30, §213

717A.3A Agricultural production facility fraud.

1. A person is guilty of agricultural production facility fraud if the person willfully does any of the following:

a. Obtains access to an agricultural production facility by false pretenses.

b. Makes a false statement or representation as part of an application or agreement to be employed at an agricultural production facility, if the person knows the statement to be false, and makes the statement with an intent to commit an act not authorized by the owner of the agricultural production facility, knowing that the act is not authorized.

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2. A person who commits agricultural production facility fraud under subsection 1 is guilty of the following:

a. For the first conviction, a serious misdemeanor.

b. For a second or subsequent conviction, an aggravated misdemeanor.

3. *a.* A person who conspires to commit agricultural production facility fraud under subsection 1 is subject to the provisions of chapter 706. A person who aids and abets in the commission of agricultural production facility fraud under subsection 1 is subject to the provisions of chapter 703. When two or more persons, acting in concert, knowingly participate in committing agricultural production facility fraud under subsection 1, each person is responsible for the acts of the other person as provided in section 703.2. A person who has knowledge that agricultural production facility fraud under subsection 1 has been committed and that a certain person committed it, and who does not stand in the relation of husband or wife to the person committing the agricultural production facility fraud under subsection 1, and who harbors, aids, or conceals the person committing the agricultural production facility fraud under subsection 1, with the intent to prevent the apprehension of the person committing the agricultural production facility fraud under subsection 1, is subject to section 703.3.

b. A trial information or an indictment relating to agricultural production facility fraud under subsection 1 need not contain allegations of vicarious liability as provided in chapter 703.

2012 Acts, ch 1005, §2, 3

717A.3B Agricultural production facility trespass.

1. A person commits agricultural production facility trespass if the person does any of the following:

a. Uses deception as described in section 702.9, subsection 1 or 2, on a matter that would reasonably result in a denial of access to an agricultural production facility that is not open to the public, and, through such deception, gains access to the agricultural production facility, with the intent to cause physical or economic harm or other injury to the agricultural production facility's operations, agricultural animals, crop, owner, personnel, equipment, building, premises, business interest, or customer.

b. Uses deception as described in section 702.9, subsection 1 or 2, on a matter that would reasonably result in a denial of an opportunity to be employed at an agricultural production facility that is not open to the public, and, through such deception, is so employed, with the intent to cause physical or economic harm or other injury to the agricultural production facility's operations, agricultural animals, crop, owner, personnel, equipment, building, premises, business interest, or customer.

2. A person who commits agricultural production facility trespass is guilty of a serious misdemeanor for a first offense and an aggravated misdemeanor for a second or subsequent offense.

3. A person who conspires with another, as described in section 706.1, to commit agricultural production facility trespass is guilty of a serious misdemeanor for a first offense and an aggravated misdemeanor for a second or subsequent offense. For purposes of this subsection, a person commits conspiracy to commit agricultural production facility trespass, without regard to the limitation of criminal liability for conspiracy otherwise applicable under section 706.1, subsection 1.

2019 Acts, ch 3, §1, 2

717A.4 Use of pathogens to threaten animals and crops — penalty.

1. Except as provided in subsection 2, a person shall not willfully possess, transport, or transfer a pathogen with an intent to threaten the health of an animal or crop.

a. For animals, a pathogen restricted under this section shall be limited to a biological agent or toxin listed in 9 C.F.R. §121.2(b), as that list exists on January 1, 2004.

b. For crops, a pathogen restricted under this section shall be limited to a biological agent or toxin listed in 7 C.F.R. §331.3, as that list exists on January 1, 2004.

2. This section does not apply to a person who possesses, transports, or distributes a

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pathogen in compliance with federal law, including but not limited to as provided in 9 C.F.R. pt. 121 or 7 C.F.R. pt. 331.

3. A person who violates this section is guilty of a class "B" felony.

2004 Acts, ch 1142, §2

CHAPTER 717B

MISTREATMENT OF ANIMALS

Referred to in §162.10D, 165B.2, 331.307, 331.308, 364.22, 364.22A, 670.4, 701.1, 717F.4, 717F.5

Injury to livestock, see chapter 717

717B.1	Definitions.	717B.6	Destruction and disposition of wild animals.
717B.2	Animal abuse — penalties.	717B.7	Repealed by 2002 Acts, ch 1130, §10.
717B.3	Animal neglect — penalties.	717B.8	Abandonment of cats and dogs — penalties.
717B.3A	Animal torture — penalties.	717B.9	Injury or interference with a police service dog.
717B.3B	Animal mistreatment — court order — evaluation and treatment.		
717B.4	Dispositional proceedings.		
717B.5	Rescue of threatened animals.		

717B.1 Definitions.

As used in this chapter:

1. *"Animal"* means a nonhuman vertebrate. However, *"animal"* does not include any of the following:

a. Livestock, as defined in section 717.1.

b. Preserve whitetail as defined in section 484C.1.

c. Any game, fur-bearing animal, fish, reptile, or amphibian, as defined in section 481A.1, unless a person owns, confines, or controls the game, fur-bearing animal, fish, reptile, or amphibian.

d. Any nongame species declared to be a nuisance pursuant to section 481A.42.

2. *"Animal care provider"* means a person designated by a local authority to provide care to an animal which is rescued by the local authority pursuant to section 717B.5.

3. *"Animal mistreatment"* means an act described as animal abuse as provided in section 717B.2, animal neglect as provided in section 717B.3, animal torture as provided in section 717B.3A, abandonment of a cat or dog as provided in section 717B.8, or injury to or interference with a police service dog as provided in section 717B.9.

4. Unless the context otherwise requires, *"book"*, *"list"*, *"record"*, or *"schedule"* kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in section 445.1.

5. *"Commercial establishment"* means a commercial establishment as defined in section 162.2 that is operating under a valid authorization issued or renewed under section 162.2A.

6. *a. "Convicted"* means the entry of a judgment of conviction under chapter 901 or adjudicated delinquent for an act which is an indictable offense in this state or in another state under chapter 232.

b. "Convicted" does not mean a plea, sentence, adjudication, deferred sentence, or deferred judgment which has been reversed or otherwise set aside.

7. *"Department"* means the department of agriculture and land stewardship.

8. *"Dispositional expenses"* means expenses incurred by a local authority in rescuing an animal as provided in section 717B.5, maintaining the animal until the conclusion of a dispositional proceeding as provided in section 717B.4, or disposing of the animal as provided in section 717B.4.

9. *"Euthanasia"* means the same as defined in section 162.2.

10. *"Injury"* means an animal's disfigurement; the impairment of an animal's health; or

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an impairment to the functioning of an animal's limb or organ, including physical damage or harm to an animal's muscle, tissue, organs, bones, hide, or skin.

11. *"Law enforcement officer"* means a regularly employed member of a police force of a city or county, including a sheriff, who is responsible for the prevention and detection of crime and the enforcement of the criminal laws of this state.

12. *"Local authority"* means a city as defined in section 362.2 or a county as provided in chapter 331.

13. *"Maintenance"* means to provide on-site or off-site care to neglected animals.

14. *"Responsible party"* means a person who owns or maintains an animal.

15. *"Serious injury"* means an injury that constitutes an animal's protracted or permanent disfigurement, the protracted or permanent impairment of an animal's health, the protracted or permanent impairment of the functioning of an animal's limb or organ, or the loss of an animal's limb or organ.

16. *"Threatened animal"* means an animal that is abused as provided in section 717B.2, neglected as provided in section 717B.3, or tortured as provided in section 717B.3A.

17. *"Veterinarian"* means a veterinarian licensed pursuant to chapter 169 who practices veterinary medicine in this state.

94 Acts, ch 1103, §12; 2000 Acts, ch 1148, §1; 2002 Acts, ch 1119, §200, 201; 2002 Acts, ch 1130, §2; 2013 Acts, ch 90, §201; 2020 Acts, ch 1111, §3, 4

Referred to in §717D.1, 717F.7, 717F.10

717B.2 Animal abuse — penalties.

1. A person commits animal abuse when the person intentionally, knowingly, or recklessly acts to inflict injury, serious injury, or death on an animal by force, violence, or poisoning.

2. This section shall not apply to any of the following:

a. An owner of the animal, or a person acting with the consent of the owner, who euthanizes an animal in a reasonable manner, if at the time of the euthanasia, the animal is in a state of permanent pain or suffering.

b. A person acting to carry out an order issued by a court.

c. A veterinarian practicing veterinary medicine as provided in chapter 169.

d. A person acting in order to carry out another provision of law which allows the conduct.

e. A person taking, hunting, trapping, or fishing for a wild animal as provided in chapter 481A.

f. A person acting to protect the person's property from a wild animal as defined in section 481A.1.

g. A person acting to protect a person from injury or death caused by a wild animal as defined in section 481A.1.

h. A person reasonably acting to protect the person's property from damage caused by an unconfined animal.

i. A person reasonably acting to protect a person from injury or death caused by an unconfined animal.

j. A local authority reasonably acting to destroy an animal, if at the time of the destruction, the owner of the animal is absent or unable to care for the animal, and the animal is permanently distressed by disease or injury to a degree that would result in severe and prolonged suffering.

k. A research facility, as defined in section 162.2, if the research facility has been issued or renewed a valid authorization by the department pursuant to chapter 162, and performs functions within the scope of accepted practices and disciplines associated with the research facility.

l. An act required to be carried out by a commercial establishment to care for an animal in its possession or under its control as described in section 162.10A, subsection 1, provided that the commercial establishment complies with applicable standard of care requirements pursuant to subsections 1 and 2 of that section.

3. A person who commits animal abuse that causes injury, other than serious injury or death, to an animal is guilty of a serious misdemeanor.

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4. A person who commits animal abuse that causes serious injury or death to an animal is guilty of an aggravated misdemeanor.

5. Notwithstanding subsection 4, a person who commits animal abuse that causes serious injury or death to an animal is guilty of a class "D" felony if the person has previously been convicted of committing animal abuse pursuant to this section, animal neglect punishable as a serious misdemeanor or aggravated misdemeanor pursuant to section 717B.3, animal torture pursuant to section 717B.3A, injury to or interference with a police service dog pursuant to section 717B.9, bestiality pursuant to section 717C.1, or an act involving a contest event prohibited in section 717D.2.

94 Acts, ch 1103, §13; 2008 Acts, ch 1058, §20; 2020 Acts, ch 1111, §5
Referred to in §162.10A, 717B.1, 717B.3, 717B.3A, 717B.3B, 717C.1

717B.3 Animal neglect — penalties.

1. A person commits animal neglect when the person owns or has custody of an animal, confines that animal, and fails to provide the animal with any of the following conditions for the animal's welfare:

a. Access to food in an amount and quality reasonably sufficient to satisfy the animal's basic nutrition level to the extent that the animal's health or life is endangered.

b. Access to a supply of potable water in an amount reasonably sufficient to satisfy the animal's basic hydration level to the extent that the animal's health or life is endangered. Access to snow or ice does not satisfy this requirement.

c. Sanitary conditions free from excessive animal waste or the overcrowding of animals to the extent that the animal's health or life is endangered.

d. Ventilated shelter reasonably sufficient to provide adequate protection from the elements and weather conditions suitable for the age, species, and physical condition of the animal so as to maintain the animal in a state of good health to the extent that the animal's health or life is endangered. The shelter must protect the animal from wind, rain, snow, or sun and have adequate bedding to provide reasonable protection against cold and dampness. A shelter may include a residence, garage, barn, shed, or doghouse.

e. Grooming, to the extent it is reasonably necessary to prevent adverse health effects or suffering.

f. Veterinary care deemed necessary by a reasonably prudent person to relieve an animal's distress from any of the following:

(1) A condition caused by failing to provide for the animal's welfare as described in this subsection.

(2) An injury or illness suffered by the animal causing the animal to suffer prolonged pain and suffering.

2. This section does not apply to any of the following:

a. A person issued or renewed an authorization to operate a commercial establishment, or a person acting under the direction or supervision of that person, if all of the following apply:

(1) The animal, as described in subsection 1, was maintained as part of the commercial establishment's operation.

(2) In providing conditions for the welfare of the animal, as described in subsection 1, the person complied with the standard of care requirements provided in section 162.10A, subsection 1, including any applicable rules adopted by the department applying to any of the following:

(a) A state licensee or registrant operating pursuant to section 162.10A, subsection 2, paragraph *"a"*.

(b) A permittee operating pursuant to section 162.10A, subsection 2, paragraph *"b"*.

b. A research facility, as defined in section 162.2, if the research facility has been issued or renewed a valid authorization by the department pursuant to chapter 162, and performs functions within the scope of accepted practices and disciplines associated with the research facility.

3. A person who commits animal neglect that does not cause injury, serious injury, or death to an animal is guilty of a simple misdemeanor.

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4. A person who commits animal neglect that causes injury, other than serious injury or death, to an animal is guilty of a serious misdemeanor.

5. A person who commits animal neglect that causes serious injury or death to an animal is guilty of an aggravated misdemeanor.

6. Notwithstanding subsection 5, a person who commits animal neglect that causes serious injury or death to an animal is guilty of a class "D" felony if the person has been previously convicted of animal abuse pursuant to section 717B.2, animal neglect punishable as a serious misdemeanor or aggravated misdemeanor pursuant to this section, animal torture pursuant to section 717B.3A, injury to or interference with a police service dog pursuant to section 717B.9, bestiality pursuant to section 717C.1, or an act involving a contest event prohibited in section 717D.2.

94 Acts, ch 1103, §14; 95 Acts, ch 49, §25; 2008 Acts, ch 1058, §21; 2014 Acts, ch 1092, §147; 2020 Acts, ch 1111, §6; 2024 Acts, ch 1177, §20

Referred to in §162.10A, 717B.1, 717B.2, 717B.3A, 717B.3B, 717C.1

717B.3A Animal torture — penalties.

1. A person is guilty of animal torture if the person intentionally or knowingly inflicts on an animal severe and prolonged or repeated physical pain that causes the animal's serious injury or death.

2. A person is guilty of animal torture if the person intentionally, willfully, and maliciously mutilates, burns, poisons, drowns, starves, or causes intensive or prolonged pain or death to a companion animal, or causes, directs, or provides anything of value to another person to do the same.

3. This section shall not apply to any of the following:

a. A person acting to carry out an order issued by a court.

b. A veterinarian practicing veterinary medicine as provided in chapter 169.

c. A person acting in order to carry out another provision of law which allows the conduct.

d. A person taking, hunting, trapping, or fishing for a wild animal as provided in chapter 481A.

e. A person acting to protect the person's property from a wild animal as defined in section 481A.1.

f. A person acting to protect a person from bodily harm or death caused by a wild animal as defined in section 481A.1.

g. A person acting reasonably to protect the person's property from damage caused by an unconfined animal.

h. A person acting reasonably to protect a person from bodily harm or death caused by an unconfined animal.

i. A local authority acting reasonably to euthanize an animal, if at the time of the euthanasia, the owner of the animal is absent or unable to care for the animal, and the animal is permanently distressed by disease or injury to a degree that would result in severe and prolonged suffering.

j. A research facility, as defined in section 162.2, if the research facility has been issued or renewed a valid authorization by the department pursuant to chapter 162, and the research facility performs functions within the scope of accepted practices and disciplines associated with the research facility.

k. An act required to be carried out by a commercial establishment to care for an animal in its possession or under its control as described in section 162.10A, subsection 1, provided that the commercial establishment complies with applicable standard of care requirements pursuant to subsections 1 and 2 of that section.

4. The juvenile court shall have exclusive original jurisdiction in a proceeding concerning a child who is alleged to have committed animal torture, in the manner provided in section 232.8. The juvenile court shall not waive jurisdiction in a proceeding concerning such an offense alleged to have been committed by a child under the age of seventeen.

5. A person who commits animal torture in violation of subsection 1 is guilty of an aggravated misdemeanor. A person who commits animal torture in violation of subsection 2 is guilty of a class "D" felony.

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6. Notwithstanding subsection 5, a person who commits animal torture shall be guilty of an offense one degree higher than the underlying offense if the person has previously been convicted of committing animal abuse pursuant to section 717B.2, animal neglect punishable as a serious misdemeanor or aggravated misdemeanor pursuant to section 717B.3, animal torture pursuant to this section, injury to or interference with a police service dog pursuant to section 717B.9, bestiality pursuant to section 717C.1, or an act involving a contest event prohibited in section 717D.2.

2000 Acts, ch 1152, §3; 2008 Acts, ch 1058, §22; 2020 Acts, ch 1111, §7; 2026 Acts, ch 1085, §1, 2

Referred to in §162.10A, 232.8, 717B.1, 717B.2, 717B.3, 717B.3B, 717C.1
NEW subsection 2 and former subsections 2 and 3 renumbered as 3 and 4
Former subsections 4 and 5 amended and renumbered as 5 and 6

717B.3B Animal mistreatment — court order — evaluation and treatment.

1. At the time of a person's conviction for committing a public offense constituting animal mistreatment, a court may enter an order requiring the person to undergo a psychological or psychiatric evaluation and to undergo any treatment that the court determines to be appropriate after due consideration of the evaluation.

2. Notwithstanding subsection 1, the court shall enter an order described in that subsection, if the convicted person is any of the following:

a. A juvenile.

b. An adult convicted of animal abuse punishable as an aggravated misdemeanor or class "D" felony pursuant to section 717B.2, animal neglect punishable as an aggravated misdemeanor or class "D" felony pursuant to section 717B.3, or animal torture pursuant to section 717B.3A.

3. The costs of undergoing a psychological or psychiatric evaluation and undergoing any treatment ordered by the court shall be borne by the convicted person, unless the person is a juvenile.

4. An order made under this section is in addition to any other order or sentence of the court.

5. Any violation of the court order shall be punished as contempt of court pursuant to chapter 665.

2020 Acts, ch 1111, §8
Referred to in §717C.1

717B.4 Dispositional proceedings.

1. Upon a petition brought by a local authority, a court in the county where an animal is maintained by a responsible party or a local authority shall determine if the animal is a threatened animal and order its disposition after a hearing.

a. The matter shall be heard within ten days from the filing of the petition for disposition by the local authority.

b. If the animal has been rescued, the court may order that the animal be placed under the custody of the local authority and maintained in the same manner as a rescued animal under section 717B.5.

c. The court may continue the hearing for up to thirty days upon petition by the responsible party. However, the court shall not grant a continuance unless the animal is maintained by the local authority. The responsible party must post a bond or other security with the local authority as a condition of the continuance. The amount of the bond or other security shall be determined by the court, which shall not be more than the amount sufficient to provide maintenance of the animal for thirty days. The court may grant a subsequent continuance upon petition by the responsible party. The continuance shall be for not more than thirty days. The responsible party must post a new bond or security as a condition of the subsequent continuance in the same manner as the original bond or security or as otherwise ordered by the court. However, the court shall order the immediate disposition of the animal if the animal is permanently distressed by disease or injury to a degree that would result in severe or prolonged suffering.

2. The hearing to determine if the animal is a threatened animal for purposes of

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disposition shall be a civil proceeding. If the case is related to a criminal proceeding, the disposition shall not be part of that proceeding and shall not be considered a criminal penalty imposed on a person found in violation of this chapter.

3. If the court determines that an animal is not a threatened animal, the court shall order that the animal be returned to the custody of the responsible party. If the court determines that an animal is a threatened animal, the court shall order the local authority to dispose of the threatened animal in any manner deemed appropriate for the welfare of the animal. In addition, all of the following apply:

a. The court may order the responsible party to pay an amount which shall not be more than the dispositional expenses incurred by the local authority. The court may also award the local authority court costs, reasonable attorney fees and expenses related to the investigation and prosecution of the case, which shall be taxed as part of the costs of the action.

b. If a bond or other security was posted as a condition for a continuance of a disposition hearing as provided in this section, the local authority may use the posted amount to offset the local authority's dispositional expenses.

c. If any moneys are realized from the disposition of a threatened animal, the moneys shall be used to offset the local authority's dispositional expenses before satisfying indebtedness secured by any security interest in or lien on the threatened animal.

d. If the threatened animal is owned by more than one responsible party, the amount required to offset the local authority's dispositional expenses shall be prorated among the responsible parties based on the percentage of interest owned in the threatened animal attributable to the responsible parties as the threatened animal's titleholders. For purposes of this paragraph, a responsible party who does not own an interest in the threatened animal shall be deemed to be an owner holding a percentage interest in the animal equal to the largest percentage interest held by a landowner who is attributed an interest as the threatened animal's titleholder. If the responsible party is a landowner, the local authority may submit the amount to reimburse the local authority for its dispositional expenses to the clerk of the county board of supervisors who shall report the amount to the county treasurer. If the threatened animal is owned by more than one landowner, the amount shall be prorated among the landowners based on the percentage of interest owned in the threatened animal attributable to each landowner as the animal's titleholders. The amount shall be placed upon the tax books, and collected with interest and penalties after due, in the same manner as other unpaid property taxes. The county shall reimburse a city within thirty days from the collection of the property taxes.

4. A threatened animal that is ordered by a court to be destroyed under this section shall be destroyed only by euthanasia as defined in section 162.2.

94 Acts, ch 1103, §15; 2002 Acts, ch 1130, §3
Referred to in §602.6405, 717B.1, 717B.5, 717D.5, 717F.5

717B.5 Rescue of threatened animals.

A local authority may provide for the rescue of an animal as follows:

1. The rescue must be made by a law enforcement officer having cause to believe that the animal is a threatened animal after consulting with a veterinarian licensed pursuant to chapter 169. The law enforcement officer may rescue the animal by entering on public or private property, as provided in this subsection. The officer may enter onto property of a person to rescue the animal if the officer obtains a search warrant issued by a court, or enters onto the premises in a manner consistent with the laws of this state and the United States, including Article I, section 8, of the Constitution of the State of Iowa, or the fourth amendment to the Constitution of the United States.

2. *a.* If an animal is rescued pursuant to this section, the local authority shall provide for the maintenance of the animal. The local authority may contract with an animal care provider for the maintenance of the animal. The local authority shall provide the responsible party for the animal with notice of the rescue. The notice may be accomplished by doing any of the following:

(1) Delivering written notice to the responsible party's last known address by the United States postal service or personal service.

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(2) Posting a notice in a conspicuous place at the location where the animal was rescued.

b. The notice shall state that the animal has been rescued by the local authority pursuant to this section.

3. Within ten days after the date that an animal is rescued, the local authority shall initiate a dispositional proceeding pursuant to section 717B.4.

4. The local authority shall pay the animal care provider for the animal's maintenance regardless of proceeds received from the disposition of the animal or any reimbursement ordered by a court, pursuant to section 717B.4.

94 Acts, ch 1103, §16; 2002 Acts, ch 1130, §4; 2013 Acts, ch 30, §261
Referred to in §717B.1, 717B.4

717B.6 Destruction and disposition of wild animals.

A person may humanely destroy a wild animal as defined in section 481A.1, if the wild animal is permanently distressed by injury or disease to a degree that results in severe and prolonged suffering. The destroyed animal shall be subject to disposition as provided by rules adopted by the natural resource commission pursuant to chapter 17A.

94 Acts, ch 1103, §17

717B.7 Repealed by 2002 Acts, ch 1130, §10. See chapter 717D.

717B.8 Abandonment of cats and dogs — penalties.

1. A person commits animal abandonment if the person owns or has custody of a cat or dog and relinquishes all rights in and duties to care for the cat or dog.

2. This section does not apply to any of the following:

a. The delivery of a cat or dog to another person who will accept ownership and custody of the cat or dog.

b. The delivery of a cat or dog to an animal shelter or pound as defined in section 162.2 that has been issued or renewed a valid authorization by the department under chapter 162.

c. A person who relinquishes custody of a cat at a location in which the person does not hold a legal or equitable interest, if previously the person had taken custody of the cat at the same location and provided for the cat's sterilization by a veterinarian.

3. *a.* A person who commits animal abandonment that does not cause injury or death to an animal is guilty of a simple misdemeanor.

b. A person who commits animal abandonment that causes injury other than serious injury or death to an animal is guilty of a serious misdemeanor.

c. A person who commits animal abandonment that causes serious injury or death to an animal is guilty of an aggravated misdemeanor.

94 Acts, ch 1103, §19; 2020 Acts, ch 1111, §9
Referred to in §717B.1

717B.9 Injury or interference with a police service dog.

1. A person who knowingly, and willfully or maliciously torments, strikes, administers a nonpoisonous desensitizing substance to, or otherwise interferes with a police service dog, without inflicting serious injury on the dog, commits a serious misdemeanor.

2. A person who knowingly, and willfully or maliciously does any of the following commits a class "D" felony:

a. Tortures a police service dog.

b. Injures, so as to disfigure or disable, a police service dog.

c. Sets a booby trap device for purposes of injuring, so as to disfigure or disable, or killing a police service dog.

d. Pays or agrees to pay a bounty for purposes of injury, so as to disfigure or disable, or killing a police service dog.

e. Kills a police service dog.

f. Administers poison to a police service dog.

3. As used in this section, "*police service dog*" means a dog used by a peace officer or correctional officer in the performance of the officer's duties, whether or not the dog is on duty.

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4. This section does not apply to a peace officer or veterinarian who terminates the life of such a dog for the purpose of relieving the dog of undue pain or suffering, or to a person who justifiably acts in defense of self or another.

94 Acts, ch 1103, §20; 95 Acts, ch 107, §1
Referred to in §717B.1, 717B.2, 717B.3, 717B.3A

CHAPTER 717C

BESTIALITY

Referred to in §331.307, 364.22, 701.1, 717F.4, 901C.3

717C.1 Bestiality.

717C.1 Bestiality.

1. For purposes of this section:

a. "Animal" means any nonhuman vertebrate, either dead or alive.

b. "Sex act" means any of the following conduct that is not the practice of veterinary medicine under section 169.3, subsection 13, an accepted animal husbandry livestock management practice under section 169.3, subsection 1, an accepted practice related to the insemination of animals for the purpose of procreation, or an accepted practice related to conformation judging:

(1) An act between a person and an animal involving physical contact between the sex organ, genitals, or anus of one and the mouth, sex organ, genitals, or anus of the other.

(2) Any touching or fondling by a person, either directly or through clothing, of the sex organ, genitals, or anus of an animal or any insertion, however slight, of any part of a person's body or any object into the vaginal or anal opening of an animal except for veterinarian advised care of the animal.

(3) Any insertion, however slight, of any part of an animal's body into the vaginal or anal opening of a person.

(4) Advertising, offering, selling, transferring, purchasing, or otherwise obtaining an animal with the intent that the animal be used for sexual contact in this state.

(5) Organizing, promoting, conducting, or participating as an observer of an act involving conduct described in subparagraph (1), (2), or (3).

(6) Knowingly permitting conduct described in subparagraph (1), (2), or (3) to occur in any premises under the person's ownership or control.

(7) Photographing or filming obscene material, as defined in section 728.1, depicting a person engaging in conduct described in subparagraph (1), (2), or (3).

(8) Distributing, selling, publishing, or transmitting obscene material, as defined in section 728.1, depicting a person engaged in conduct described in subparagraph (1), (2), or (3).

(9) Possessing with the intent to distribute, sell, publish, or transmit obscene material, as defined in section 728.1, depicting a person engaged in conduct described in subparagraph (1), (2), or (3).

(10) Forcing, coercing, enticing, or encouraging a minor to engage in conduct described in subparagraph (1), (2), or (3).

(11) Engaging in a sex act in the presence of a minor.

2. *a.* A person who performs a sex act with an animal is guilty of an aggravated misdemeanor.

b. A person who commits a second or subsequent violation of this section is guilty of a class "D" felony.

c. A person previously convicted of a violation of section 717B.2, 717B.3, 717B.3A, or 717B.3B who commits a violation of this section is guilty of a class "D" felony.

3. Upon a conviction for a violation of this section, and in addition to any sentence

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authorized by law, the court shall require the person to submit to a psychological evaluation and treatment at the person's expense.

2001 Acts, ch 131, §3; 2024 Acts, ch 1037, §1, 2; 2025 Acts, ch 30, §101
Referred to in §232.68, 717B.2, 717B.3, 717B.3A

CHAPTER 717D

ANIMAL CONTEST EVENTS

Referred to in §165B.2, 331.307, 364.22, 701.1, 717F.4

717D.1	Definitions.	717D.4	Penalties.
717D.2	Prohibitions — contest events.	717D.5	Confiscation and disposition of animals.
717D.3	Exceptions.		

717D.1 Definitions.

As used in this chapter:

1. *"Animal"* means a nonhuman vertebrate.
2. *"Contest device"* means equipment designed to enhance an animal's entertainment value during training or a contest event, including a device to improve the contest animal's competitiveness. A contest device includes but is not limited to an implement designed to be attached in place of a natural spur of a cock or other fighting bird in order to enhance the bird's fighting ability, and which is commonly referred to as a spur or gaff.
3. *"Contest event"* means a function organized for the entertainment or profit of spectators where an animal is injured, tormented, or killed, including but not limited to a bull involved in a bullfight or bull baiting, a bear involved in bear baiting, a chicken involved in cock fighting, or a dog involved in dog fighting.
4. *"Establishment"* means the location where a contest event occurs or is to occur, regardless of whether an animal is present at the establishment or the contest animal is witnessed by means of an electronic signal transmitted to the location.
5. *"Livestock"* means the same as defined in section 717.1.
6. *"Local authority"* means the same as defined in section 717B.1.
7. *"Promoter"* means a person who charges admission for entry into an establishment or organizes, holds, advertises, or otherwise conducts a contest event.
8. *"Spectator"* means a person who attends an establishment knowingly to watch or observe a contest event.
9. *"Trainer"* means a person who trains an animal for purposes of engaging in a contest event, regardless of where the contest event is located. A trainer includes a person who uses a contest device.
10. *"Transporter"* means a person who moves an animal for delivery to a training location or a contest event location.

2002 Acts, ch 1130, §5; 2003 Acts, ch 108, §114; 2004 Acts, ch 1056, §3, 4, 10; 2008 Acts, ch 1135, §1

717D.2 Prohibitions — contest events.

A person shall not do any of the following:

1. Own or operate an establishment located in this state in which a contest event occurs or is to occur.
2. Act as a promoter of a contest event, regardless of whether the contest event occurs in this state or another state. For purposes of this subsection, a person who aids, abets, or assists in the promotion of a contest event shall be deemed to act as a promoter.
3. Possess or own an animal engaged or to be engaged in a contest event conducted in this state or another state.
4. Be a party to a commercial transaction for the transfer of an animal engaged or to be

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engaged in a contest event conducted in this state or another state, including but not limited to a transaction by purchase or sale, barter, trade, or an offer involving such a transaction.

5. Act as a trainer of an animal engaged or to be engaged in a contest event conducted in this state or another state. For purposes of this subsection, a person who aids, abets, or assists in the training of an animal engaged or to be engaged in a contest event shall be deemed to act as a trainer.

6. Possess, own, or manufacture a contest device.

7. Be a party to a commercial transaction for the transfer of a contest device, including but not limited to a transaction by purchase or sale, barter, trade, or an offer involving such a transaction.

8. Act as a transporter moving an animal engaged or to be engaged in a contest event in this state.

9. Gambling at a contest event conducted in this state, including but not limited to wagering on the outcome of a contest involving animals.

10. Act as a spectator of a contest event conducted in this state, regardless of whether the person paid admission to witness the contest event.

2002 Acts, ch 1130, §6; 2004 Acts, ch 1056, §5, 6, 10; 2008 Acts, ch 1135, §2
Referred to in §717B.2, 717B.3, 717B.3A, 717D.4, 717D.5

717D.3 Exceptions.

1. This chapter does not apply to a function other than a contest event. A contest event does not involve any of the following events:

a. A race, including but not limited to a race regulated under chapter 99D.

b. A fair event as defined in section 174.1.

c. A rodeo or rodeo event.

d. A 4-H function.

e. A hunting or fishing party.

f. A field meet or trial in which the skill of dogs is demonstrated in pointing, retrieving, trailing, or chasing any game bird, game animal, or fur-bearing animal.

g. The raising or selling of game or fur-bearing animals as provided in chapter 481A.

2. This chapter shall not apply to any of the following:

a. An action to carry out an order issued by a court.

b. An action by a licensed veterinarian practicing veterinary medicine as provided in chapter 169.

c. An action that is consistent with animal husbandry practices.

d. An action allowed in order to carry out another provision of law which allows the action.

e. The taking, hunting, trapping, or fishing for a wild animal as provided in chapter 481A.

f. An action to protect the person's property from a wild animal as defined in section 481A.1.

g. An action to protect a person from injury or death caused by a wild animal as defined in section 481A.1.

h. A person reasonably acting to protect the person's property from damage caused by an unconfined animal.

i. A person reasonably acting to protect a person from injury or death caused by an unconfined animal.

j. A local authority reasonably acting to destroy an animal if, at the time of the destruction, the owner of the animal is absent or unable to care for the animal, and the animal is permanently distressed by disease or injury to a degree that would result in severe and prolonged suffering.

k. A research facility, as defined in section 162.2, provided that the research facility performs functions within the scope of accepted practices and disciplines associated with the research facility.

2002 Acts, ch 1130, §7; 2004 Acts, ch 1019, §31; 2008 Acts, ch 1058, §23

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717D.4 Penalties.

1. Except as provided in section 717D.2, subsection 10, a person who violates a provision of this chapter commits a class "D" felony.

2. A person who violates section 717D.2, subsection 10, by acting as a spectator of a contest event conducted in this state commits the following:

a. An aggravated misdemeanor for the first offense.

b. A class "D" felony for a second or subsequent offense.

2002 Acts, ch 1130, §8; 2004 Acts, ch 1056, §7, 10; 2008 Acts, ch 1135, §3

717D.5 Confiscation and disposition of animals.

1. A local authority may confiscate an animal that is involved in a violation of section 717D.2. An animal that is livestock shall be considered neglected and may be rescued and disposed of as provided in section 717.5. An animal which is not livestock shall be considered threatened and rescued and disposed of as provided in section 717B.4.

2. If an animal that is involved in a violation of section 717D.2 is not rescued and disposed of pursuant to section 717.5 or 717B.4, it shall be forfeited to the state and subject to disposition as ordered by the court. In addition, the court shall order the owner of the animal to pay an amount which shall not be more than the expenses incurred in maintaining or disposing of the animal. The court may also order that the person pay reasonable attorney fees and expenses related to the investigation of the case that shall be taxed as other court costs. If more than one person has a divisible interest in the animal, the amount required to be paid shall be prorated based on the percentage of interest in the animal owned by each person. The moneys shall be paid to the local authority incurring the expense. The amount shall be subtracted from proceeds which are received from the sale of the animal ordered by the court.

2002 Acts, ch 1130, §9; 2004 Acts, ch 1056, §8, 10

CHAPTER 717E

PETS AS PRIZES

Referred to in §331.307, 364.22, 701.1

717E.1 Definitions.
717E.2 Pet awards prohibited.
717E.3 Exceptions.

717E.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Advertise"* means to present a commercial message in any medium including but not limited to print, radio, television, sign, display, label, tag, or articulation.

2. *"Business"* means any enterprise relating to any of the following:

a. The sale or offer for sale of goods or services.

b. A recruitment for employment or membership in an organization.

c. A solicitation to make an investment.

d. An amusement or entertainment activity.

3. *"Fair"* means any of the following:

a. The annual fair and exposition held by the Iowa state fair board pursuant to chapter 173 or any fair event conducted by a fair under the provisions of chapter 174.

b. An exhibition of agricultural or manufactured products.

c. An event for operation of amusement rides or devices or concession booths.

4. *"Game"* means a game of chance or game of skill as defined in section 99B.1.

5. *"Pet"* means a living animal which is limited to a dog, cat, or an animal normally maintained in a small tank or cage in or near a residence, including but not limited to a

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rabbit, gerbil, hamster, mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko, or iguana.

2004 Acts, ch 1109, §1; 2004 Acts, ch 1175, §391
Referred to in §99B.31

717E.2 Pet awards prohibited.

A person is guilty of a simple misdemeanor if the person awards a pet or advertises that a pet may be awarded as any of the following:

1. A prize for participating in a game.
2. A prize for participating in a fair.
3. An inducement or condition for visiting a place of business or attending an event sponsored by a business.
4. An inducement or condition for executing a contract which includes provisions unrelated to the ownership, care, or disposition of the pet.

2004 Acts, ch 1109, §2; 2006 Acts, ch 1030, §81

717E.3 Exceptions.

This chapter shall not apply to any of the following:

1. A pet shop licensed pursuant to section 162.5 if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.
2. Youth programs associated with 4-H clubs; future farmers of America; the Izaak Walton league of America; or organizations associated with outdoor recreation, hunting, or fishing including but not limited to the Iowa sportsmen's federation.

2004 Acts, ch 1109, §3

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CHAPTER 717F

DANGEROUS WILD ANIMALS

Referred to in §331.307, 364.22, 701.1

717F.1 Definitions.
717F.2 Rulemaking — chapter 28E agreements — assistance of animal warden.
717F.3 Dangerous wild animals — prohibitions.
717F.4 Owning or possessing dangerous wild animals on July 1, 2007.
717F.5 Seizure, custody, and disposal of dangerous wild animals.
717F.6 Cause of the escape of a dangerous wild animal — prohibition.
717F.7 Exemptions.
717F.8 Dangerous wild animal registration fees.
717F.9 Dangerous wild animal registration fund.
717F.10 Enforcement.
717F.11 Civil penalty.
717F.12 Injunctive relief.
717F.13 Criminal penalties.

717F.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Agricultural animal"* means an agricultural animal as defined in section 717A.1 other than swine which is a member of the species sus scrofa linnaeus, including but not limited to swine commonly known as Russian boar or European boar of either sex.
2. *"Assistive animal"* means a simian or other animal specially trained or in the process of being trained to assist a person with a disability.
3. *a. "Circus"* means a person who is all of the following:

(1) The holder of a class "C" license issued by the United States department of agriculture as provided in 9 C.F.R. pt. 2, subpt. A.

(2) Is temporarily in this state as an exhibitor as defined in 9 C.F.R. pt. 1, for purposes of providing skilled performances by dangerous wild animals, clowns, or acrobats for public entertainment.

b. "Circus" does not include a person, regardless of whether the person is a holder of a class "C" license as provided in paragraph *"a"*, who uses a dangerous wild animal for any of the following purposes:

(1) A presentation to children at a public or nonpublic school as defined in section 280.2.

(2) Entertainment that involves an activity in which a member of the public is in close proximity to the dangerous wild animal, including but not limited to a contest or a photographic opportunity.

4. *"Custody"* means to possess, control, keep, or harbor a dangerous wild animal in this state by a public agency.

5. *a. "Dangerous wild animal"* means any of the following:

(1) A member of the family canidae of the order carnivora, including but not limited to wolves, coyotes, and jackals. However, a dangerous wild animal does not include a domestic dog.

(2) A member of the family hyaenidae of the order of carnivora, including but not limited to hyenas.

(3) A member of the family felidae of the order carnivora, including but not limited to lions, tigers, cougars, leopards, cheetahs, ocelots, and servals. However, a dangerous wild animal does not include a domestic cat.

(4) A member of the family ursidae of the order carnivora, including bears and pandas.

(5) A member of the family rhinocero tidae of the order perissodactyla, which is a rhinoceros.

(6) A member of the order proboscidea, which are any species of elephant.

(7) A member of the order of primates other than humans, and including the following families: callitrichiadae, cebidae, cercopithecidae, cheirogaleidae, daubentoniidae, galagonidae, hominidae, hylobatidae, indridae, lemuridae, loridae, megaladapidae, or tarsiidae. A member includes but is not limited to marmosets, tamarins, monkeys, lemurs, galagos, bushbabies, great apes, gibbons, lesser apes, indris, sifakas, and tarsiers.

(8) A member of the order crocodilia, including but not limited to alligators, caimans, crocodiles, and gharials.

(9) A member of the order squamata which is any of the following:

(a) A member of the family varanidae, which are limited to water monitors and crocodile monitors.

(b) A member of the family atractaspidae, including but not limited to mole vipers and burrowing asps.

(c) A member of the family helodermatidae, including but not limited to beaded lizards and gila monsters.

(d) A member of the family elapidae, viperidae, crotalidae, atractaspidae, or hydrophidae which are venomous, including but not limited to cobras, mambas, coral snakes, kraits, adders, vipers, rattlesnakes, copperheads, pit vipers, keelbacks, cottonmouths, and sea snakes.

(e) A member of the superfamily henophidia, which are limited to reticulated pythons, anacondas, and African rock pythons.

(10) Swine which is a member of the species sus scrofa linnaeus, including but not limited to swine commonly known as Russian boar or European boar of either sex.

b. "Dangerous wild animal" includes an animal which is the offspring of an animal provided in paragraph *"a"*, and another animal provided in that paragraph or any other animal. It also includes animals which are the offspring of each subsequent generation. However, a dangerous wild animal does not include any of the following:

(1) The offspring of a domestic dog and a wolf, or the offspring from each subsequent generation in which at least one parent is a domestic dog.

(2) (a) The offspring of a domestic cat and another member of the family felidae classified as a bengal with an ancestor classified as an Asian leopard cat which is a member of the species prionailurus bengalensis. The bengal must be the fourth or later filial generation of offspring with the first filial generation being the offspring of a domestic cat and an Asian leopard cat, and each subsequent generation being the offspring of a domestic cat.

(b) The offspring of a domestic cat and another member of the family felidae classified as

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a savannah with an ancestor classified as a serval which is a member of the species leptailurus serval. The savannah must be the fourth or later filial generation of offspring with the first filial generation being the offspring of a domestic cat and a serval, and each subsequent generation being the offspring of a domestic cat.

6. *"Department"* means the department of agriculture and land stewardship.

7. *"Electronic identification device"* means a device which when installed is designed to store information regarding an animal or the animal's owner in a digital format which may be accessed by a computer for purposes of reading or manipulating the information.

8. *"Possess"* means to own, keep, or control a dangerous wild animal, or supervise or provide for the care and feeding of a dangerous wild animal, including any activity relating to confining, handling, breeding, transporting, or exhibiting the dangerous wild animal.

9. *"Public agency"* means the same as defined in section 28E.2.

10. *"Research facility"* means any of the following:

a. A federal research facility as provided in 9 C.F.R. ch. I.

b. A research facility that is required to be registered by the United States department of agriculture pursuant to 9 C.F.R. ch. I.

c. A research facility which has been issued a certificate of registration by the department of agriculture and land stewardship as provided in sections 162.2A and 162.4A.

11. *"Wildlife sanctuary"* means an organization exempt from taxation pursuant to section 501(c) of the Internal Revenue Code that operates a place of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced wildlife are provided care for their lifetime, if all of the following apply:

a. The organization does not buy, sell, trade, auction, lease, loan, or breed any animal of which the organization is an owner.

b. The organization is accredited by the American sanctuary association, the association of sanctuaries, or another similar organization recognized by the department.

2007 Acts, ch 195, §1; 2007 Acts, ch 215, §118 – 120; 2011 Acts, ch 34, §147; 2012 Acts, ch 1021, §113, 114; 2013 Acts, ch 102, §1; 2019 Acts, ch 24, §92; 2019 Acts, ch 65, §7

717F.2 Rulemaking — chapter 28E agreements — assistance of animal warden.

1. The department shall administer this chapter by doing all of the following:

a. Adopting rules as provided in chapter 17A for the administration and enforcement of this chapter.

b. Entering into agreements with public agencies pursuant to chapter 28E as the department determines necessary for the administration and enforcement of this chapter.

2. An animal warden as defined in section 162.2 shall assist the department in seizing and maintaining custody of dangerous wild animals.

2007 Acts, ch 195, §2

717F.3 Dangerous wild animals — prohibitions.

Except as otherwise provided in this chapter, a person shall not do any of the following:

1. Own or possess a dangerous wild animal.

2. Cause or allow a dangerous wild animal owned by a person or in the person's possession to breed.

3. Transport a dangerous wild animal into this state.

2007 Acts, ch 195, §3

717F.4 Owning or possessing dangerous wild animals on July 1, 2007.

A person who owns or possesses a dangerous wild animal on July 1, 2007, may continue to own or possess the dangerous wild animal subject to all of the following:

1. The person must be eighteen years old or older.

2. *a.* The person must not have been convicted of an offense involving the abuse or neglect of an animal pursuant to a law of this state or another state, including but not limited to chapter 717, 717B, 717C, or 717D or an ordinance adopted by a city or county.

b. The department, another state, or the federal government must not have suspended an application for a permit or license or revoked a permit or license required to operate a

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commercial establishment for the care, breeding, or sale of animals, including as provided in chapter 162.

c. The person must not have been convicted of a felony for an offense committed within the last ten years, as provided by this Code, under the laws of another state, or under federal law.

d. The person must not have been convicted of a misdemeanor or felony for an offense committed within the last ten years involving a controlled substance as defined in section 124.101 in this state, under the laws of another state, or under federal law.

3. Within sixty days after July 1, 2007, the person must have an electronic identification device implanted beneath the skin or hide of the dangerous wild animal, unless a licensed veterinarian states in writing that the implantation would endanger the comfort or health of the dangerous wild animal. In such case, an electronic identification device may be otherwise attached to the dangerous wild animal as required by the department.

4. Not later than December 31, 2007, the person must notify the department using a registration form prepared by the department. The registration form shall include all of the following information:

a. The person's name, address, and telephone number.

b. A sworn affidavit that the person meets the requirements necessary to own or possess a dangerous wild animal as provided in this section.

c. A complete inventory of each dangerous wild animal which the person owns or possesses. The inventory shall include all of the following information:

(1) The number of the dangerous wild animals according to species.

(2) The manufacturer and manufacturer's number of the electronic device implanted in or attached to each dangerous wild animal.

(3) The location where each dangerous wild animal is kept. The person must notify the department in writing within ten days of a change of address or location where the dangerous wild animal is kept.

(4) The approximate age, sex, color, weight, scars, and any distinguishing marks of each dangerous wild animal.

(5) The name, business mailing address, and business telephone number of the licensed veterinarian who is responsible for providing care to the dangerous wild animal. The information shall include a statement signed by the licensed veterinarian certifying that the dangerous wild animal is in good health.

(6) A color photograph of the dangerous wild animal.

(7) A copy of a current liability insurance policy as required in this section. The person shall send a copy of the current liability policy to the department each year.

5. The person must pay the department a registration fee as provided in section 717F.8.

6. The person must maintain health and ownership records for the dangerous wild animal for the life of the dangerous wild animal.

7. The person must confine the dangerous wild animal in a primary enclosure as required by the department on the person's premises. The person must not allow the dangerous wild animal outside of the primary enclosure unless the dangerous wild animal is moved pursuant to any of the following:

a. To receive veterinary care from a licensed veterinarian.

b. To comply with the directions of the department or an animal warden.

c. To transfer ownership and possession of the dangerous wild animal to a wildlife sanctuary or provide for its destruction by euthanasia as required by the department.

8. The person must display at least one sign on the person's premises where the dangerous wild animal is kept warning the public that the dangerous wild animal is confined there. The sign must include a symbol warning children of the presence of the dangerous wild animal.

9. The person must immediately notify an animal warden or other local law enforcement official of any escape of a dangerous wild animal.

10. The person must maintain liability insurance coverage in an amount of not less than one hundred thousand dollars with a deductible of not more than two hundred fifty dollars, for each occurrence of property damage, bodily injury, or death caused by each dangerous wild animal kept by the person.

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11. The person who owns or possesses the dangerous wild animal is strictly liable for any damages, injury, or death caused by the dangerous wild animal. The person must reimburse the department or other public agency for actual expenses incurred by capturing and maintaining custody of the dangerous wild animal.

12. If the person is no longer able to care for the dangerous wild animal, all of the following apply:

a. The person must so notify the department, stating the planned disposition of the dangerous wild animal.

b. The person must dispose of the dangerous wild animal by transferring ownership and possession to a wildlife sanctuary or providing for its destruction by euthanasia as required by the department.

2007 Acts, ch 195, §4
Referred to in §717F.6, 717F.7, 717F.8

717F.5 Seizure, custody, and disposal of dangerous wild animals.

1. *a.* Except as provided in paragraph *"b"*, the department shall seize a dangerous wild animal which is in the possession of a person if the person is not in compliance with the requirements of this chapter.

b. Upon request, the department may provide that the person retain possession of the dangerous wild animal for not more than fourteen days, upon conditions required by the department. During that period, the person shall take all necessary actions to comply with this chapter. The department shall inspect the premises where the dangerous wild animal is kept during reasonable times to ensure that the person is complying with the conditions.

2. If the person fails to comply with the conditions of the department at any time or is not in compliance with this chapter following the fourteen-day period, the department shall seize the dangerous wild animal.

a. The dangerous wild animal shall be considered to be a threatened animal which has been rescued as provided in chapter 717B. The court may authorize the return of the dangerous wild animal to the person from whom the dangerous wild animal was seized if the court finds all of the following:

(1) The person is capable of providing the care required for the dangerous wild animal.

(2) There is a substantial likelihood that the person will provide the care required for the dangerous wild animal.

(3) The dangerous wild animal has not been abused, neglected, or tortured, as provided in chapter 717B.

b. If the court orders a permanent disposition of the dangerous wild animal, the dangerous wild animal shall be subject to disposition as provided in section 717B.4 and the responsible party shall be assessed costs associated with its seizure, custody, and disposition as provided in that section. The department may find long-term placement for the dangerous wild animal with a wildlife sanctuary or institution accredited or certified by the American zoo and aquarium association.

2007 Acts, ch 195, §5

717F.6 Cause of the escape of a dangerous wild animal — prohibition.

A person shall not intentionally cause a dangerous wild animal to escape from its place of confinement, including as provided in section 717F.4.

2007 Acts, ch 195, §6

717F.7 Exemptions.

This chapter does not apply to any of the following:

1. An institution accredited or certified by the American zoo and aquarium association.

2. A wildlife sanctuary.

3. A person who keeps falcons, if the person has been issued a falconry license by the department of natural resources pursuant to rules adopted pursuant to section 483A.1.

4. A person who owns or possesses a dangerous wild animal as an agricultural animal. The person shall not transfer the dangerous wild animal to another person, unless the person

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to whom the dangerous wild animal is transferred will own or possess it as an agricultural animal or the person is a wildlife sanctuary.

5. A person who owns or possesses a dangerous wild animal as an assistive animal. The person shall not transfer the dangerous wild animal to another person, unless the person to whom the dangerous wild animal is transferred will own or possess it as an assistive animal or the person is a wildlife sanctuary.

6. A person who harvests the dangerous wild animal as a hunter or trapper pursuant to state law and as regulated by the department of natural resources.

7. A person who has been issued a wildlife rehabilitation permit by the department of natural resources pursuant to section 481A.65.

8. A circus that obtains a permit from a city in which it will be temporarily operating, if the city issues permits.

9. A city.

10. A nonprofit corporation governed under chapter 504 that is an organization described in section 501(c)(3) of the Internal Revenue Code and that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code if the nonprofit corporation was a party to a contract executed with a city prior to July 1, 2007, to provide for the exhibition of dangerous wild animals at a municipal zoo. The nonprofit corporation shall not transfer the dangerous wild animal to another person, unless the person to whom the dangerous wild animal is transferred is a wildlife sanctuary.

11. The state fair as provided in chapter 173 or any fair as provided in chapter 174.

12. A research facility.

13. A location operated by a person licensed to practice veterinary medicine pursuant to chapter 169. However, this subsection shall not apply to a swine which is a member of the species sus scrofa linnaeus, including but not limited to swine commonly known as Russian boar or European boar of either sex.

14. A pound as defined in section 162.2.

15. An animal shelter as defined in section 162.2.

16. A county conservation board as provided in chapter 350.

17. An employee of the department responsible for the administration of this chapter, an animal warden as defined in section 162.2, or an animal care provider or law enforcement officer as defined in section 717B.1.

18. A person temporarily transporting a dangerous wild animal through this state if the transit time is not more than ninety-six hours and the dangerous wild animal is maintained within a confined area sufficient to prevent its escape or injuring members of the traveling public.

19. A public agency which maintains permanent custody of a dangerous wild animal, if the person to whom the public agency assigns the duty to manage the custody of the dangerous wild animal complies with the provisions of section 717F.4.

20. A person who keeps a dangerous wild animal pursuant to all of the following conditions:

a. The person is licensed by the United States department of agriculture as provided in 9 C.F.R. ch. I.

b. The person is registered by the department of agriculture and land stewardship. Upon a complaint filed with the department of agriculture and land stewardship, the department may inspect the premises or investigate the practices of the registered person and suspend or revoke the registration for the same causes and in the same manner as provided in section 162.12.

2007 Acts, ch 195, §7; 2007 Acts, ch 215, §121, 122; 2018 Acts, ch 1159, §25, 28

717F.8 Dangerous wild animal registration fees.

The department may charge a registration fee for each dangerous wild animal owned or possessed by a person required to be registered pursuant to section 717F.4.

1. The department shall collect an annual registration fee which is an original registration fee or a renewal of an original registration fee. The amount of the renewal registration fee is

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one-half of the amount of the original registration fee. Moneys collected in registration fees shall be deposited in the dangerous wild animal registration fund created in section 717F.9.

2. The amount of the original registration fees shall be as follows:

a. Five hundred dollars for a member of the order proboscidea, which are any species of elephant.

b. Five hundred dollars for a member of the family rhinocero tidae of the order perissodactyla, which is a rhinoceros.

c. Three hundred dollars for a member of the family ursidae of the order carnivora, which is limited to bears.

d. For a member of the family felidae of the order carnivora, all of the following:

(1) Three hundred dollars for a member of the subfamily pantherinae, limited to leopards other than snow leopards, lions, and tigers; and for a member of the subfamily felinae limited to pumas, jaguars, and cougars.

(2) Two hundred dollars for a member of the subfamily felinae limited to bobcats, clouded leopards, cheetahs, and lynx.

(3) One hundred dollars for a member of the subfamily felinae limited to caracals, desert cats, Geoffroy's cats, jungle cats, margays, ocelots, servals, and wild cats.

e. For a member of the order of primates other than humans, all of the following:

(1) Three hundred dollars for a member commonly referred to as an ape, belonging to the hylobatidae family such as gibbons and siamangs, or to the pongidae family including gorillas, orangutans, or chimpanzees.

(2) One hundred fifty dollars for a member commonly referred to as an old world monkey, belonging to the family cercopithecidae, including but not limited to macaques, rhesus, mangabeys, mandrills, guenons, patas monkeys, langurs, and proboscis monkeys.

(3) Fifty dollars for a member commonly referred to as a new world monkey belonging to the family cebidae, including but not limited to cebids, including capuchin monkeys, howlers, woolly monkeys, squirrel monkeys, night monkeys, titis, uakaris, or to the family callitrichidae, including but not limited to marmosets and tamarins.

f. One hundred dollars for a member of the order crocodilia, including but not limited to alligators, caimans, crocodiles, and gharials.

g. Fifty dollars for a member of the family varanidae of the order squamata, which are limited to water monitors and crocodile monitors.

h. Fifty dollars for a member of the family atractaspidae, including but not limited to mole vipers and burrowing asps.

i. Fifty dollars for a member of the family helodermatidae, including but not limited to beaded lizards and gila monsters.

j. Fifty dollars for a member of the family elapidae, viperidae, crotalidae, atractaspidae, or hydrophidae which are venomous, including but not limited to cobras, mambas, coral snakes, kraits, adders, vipers, rattlesnakes, copperheads, pit vipers, keelbacks, cottonmouths, and sea snakes.

k. One hundred dollars for a member of the superfamily henophidia, which are limited to reticulated pythons, anacondas, and African rock pythons.

l. Ten dollars for swine which is a member of the species sus scrofa linnaeus, including but not limited to swine commonly known as Russian boar or European boar of either sex.

2007 Acts, ch 195, §8; 2007 Acts, ch 215, §123; 2012 Acts, ch 1021, §115; 2019 Acts, ch 24, §93

Referred to in §717F.4, 717F.9

717F.9 Dangerous wild animal registration fund.

1. A dangerous wild animal registration fund is created in the state treasury under the control of the department. The fund is composed of moneys appropriated by the general assembly and moneys available to and obtained or accepted by the department from the United States or private sources for placement in the fund. The fund shall include moneys deposited into the fund from registration fees collected by the department pursuant to section 717F.8.

2. Moneys in the dangerous wild animal registration fund are appropriated to the

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department exclusively to administer and enforce the provisions of this chapter. The moneys shall not be transferred, used, obligated, appropriated, or otherwise encumbered except as provided in this subsection.

3. Section 8.33 shall not apply to moneys in the dangerous wild animal registration fund. Notwithstanding section 12C.7, moneys earned as income or interest from the fund shall remain in the fund until expended as provided in this section.

2007 Acts, ch 195, §9
Referred to in §717F.8

717F.10 Enforcement.

The department is the principal agency charged with enforcing the provisions of this chapter. An animal warden as defined in section 162.2, or an animal care provider or law enforcement officer as defined in section 717B.1, shall enforce this chapter as directed by the department.

2007 Acts, ch 195, §10

717F.11 Civil penalty.

A person owning or possessing a dangerous wild animal who violates a provision of this chapter is subject to a civil penalty of not less than two hundred dollars and not more than two thousand dollars for each dangerous wild animal involved in the violation. Each day that a violation continues shall be considered as a separate offense. The civil penalties shall be deposited into the general fund of the state.

2007 Acts, ch 195, §11

717F.12 Injunctive relief.

The courts of this state may prevent and restrain violations of this chapter through the issuance of an injunction. The attorney general or a county attorney may institute suits on behalf of the state to prevent and restrain violations of this chapter.

2007 Acts, ch 195, §12

717F.13 Criminal penalties.

A person who intentionally causes a dangerous wild animal to escape in violation of this chapter is guilty of an aggravated misdemeanor.

2007 Acts, ch 195, §13

CHAPTER 718

OFFENSES AGAINST THE GOVERNMENT

Referred to in §331.307, 364.22, 701.1

718.1 Insurrection.
718.2 Impersonating a public official.
718.3 Willful disturbance.
718.4 Harassment of public officers and employees.
718.5 Falsifying public documents.
718.6 False reports to or communications with public safety entities.

718.1 Insurrection.

An insurrection is three or more persons acting in concert and using physical violence against persons or property, with the purpose of interfering with, disrupting, or destroying the government of the state or any subdivision thereof, or to prevent any executive, legislative, or judicial officer or body from performing its lawful function. Participation in insurrection is a class "C" felony.

[C51, §2565, 2567; R60, §4188, 4190; C73, §3845, 3847; C97, §4724, 4726; C24, 27, 31, 35, 39, §**12897, 12898, 12900, 12904;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §689.1, 689.2, 689.4, 689.8; C79, 81, §718.1]

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718.2 Impersonating a public official.

Any person who falsely claims to be or assumes to act as an elected or appointed officer, magistrate, peace officer, or person authorized to act on behalf of the state or any subdivision thereof, having no authority to do so, commits an aggravated misdemeanor.

[C51, §2671, 2672; R60, §4298, 4299; C73, §3962, 3963; C97, §4901, 4902; C24, 27, 31, 35, 39, §**13306, 13307;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §740.4, 740.5; C79, 81, §718.2]

718.3 Willful disturbance.

Any person who willfully disturbs any deliberative body or agency of the state, or subdivision thereof, with the purpose of disrupting the functioning of such body or agency by tumultuous behavior, or coercing by force or the threat of force any official conduct or proceeding, commits a serious misdemeanor.

[C79, 81, §718.3]

718.4 Harassment of public officers and employees.

Any person who willfully prevents or attempts to prevent any public officer or employee from performing the officer's or employee's duty commits a simple misdemeanor.

[C79, 81, §718.4]
Referred to in §22.8A

718.5 Falsifying public documents.

A person who, having no right or authority to do so, makes or alters any public document, or any instrument which purports to be a public document, or who possesses a seal or any counterfeit seal of the state or of any of its subdivisions, or of any officer, employee, or agency of the state or of any of its subdivisions, commits a class "D" felony.

[C51, §2628, 2642, 2677; R60, §4255, 4269, 4304; C73, §3919, 3933, 3968; C97, §1136, 4855, 4869, 4907; C24, 27, 31, 35, 39, §**13141, 13156, 13283, 13314;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §718.3, 718.8, 738.21, 740.12; C79, 81, §718.5]

718.6 False reports to or communications with public safety entities.

1. Except as provided in subsection 2, a person who reports or causes to be reported false information to a fire department, a law enforcement authority, or other public safety entity, knowing that the information is false, or who reports the alleged occurrence of a criminal act, knowing the act did not occur, commits a simple misdemeanor unless the alleged criminal act reported is a serious or aggravated misdemeanor or felony, in which case the person commits a serious misdemeanor.

2. A person who reports or causes to be reported false information to a fire department, a law enforcement authority, or other public safety entity, knowing that the information is false, or who reports the alleged occurrence of a criminal act, knowing the act did not occur, commits a class "D" felony if the alleged criminal act reported is any of the following:

a. A forcible felony under section 702.11.

b. Intimidation with a dangerous weapon under section 708.6.

c. An act of terrorism under chapter 708A.

d. Unlawful possession of biological agents or diseases under chapter 708B.

e. Any offense under chapter 712.

3. If the reported false information involves a criminal act under subsection 2 and the reported false information results in serious bodily injury to or the death of another person, the person reporting the false information commits a class "C" felony. For purposes of this subsection, a person causes serious bodily injury or death when the report of false information contributes to the other person's serious bodily injury or death.

4. Except as provided in subsection 2, a person who telephones an emergency 911 communications center, knowing that the person is not reporting an emergency or otherwise needing emergency information or assistance, commits a simple misdemeanor.

5. Except as provided in subsection 2, a person who knowingly provides false information to a law enforcement officer who enters the information on a citation commits a simple

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misdemeanor unless the criminal act for which the citation is issued is a serious or aggravated misdemeanor or felony, in which case the person commits a serious misdemeanor.

[R60, §1768; C73, §1566; C97, §2468; S13, §2468; C24, 27, 31, 35, 39, §**13110, 13111;** C46, 50, 54, 58, 62, 66, §714.31, 714.32; C71, 73, 75, 77, §714.31, 714.32, 714.42; C79, 81, §718.6]

95 Acts, ch 89, §1; 2024 Acts, ch 1013, §1

Referred to in §34A.16, 80F.1

CHAPTER 718A

DESECRATION OF FLAG OR OTHER INSIGNIA

Referred to in §331.307, 331.653, 364.22, 701.1

This chapter not enacted as a part of this title; transferred from chapter 32 in Code 1993

718A.1 Definitions.
718A.1A Desecration of flag or insignia.
718A.2 Actions for penalty.
718A.3 Federal flag and insignia — definition.
718A.4 State flag and insignia — definition.
718A.5 Presumptive evidence of desecration.
718A.6 Enforcement.
718A.7 Retirement ceremony.

718A.1 Definitions.

As used in this chapter:

1. *"Contempt"* means an intentional lack of respect or reverence by treating in a rough manner.
2. *"Deface"* means to intentionally mar the external appearance.
3. *"Defile"* means to intentionally make physically unclean.
4. *"Mutilate"* means to intentionally cut up or alter so as to make imperfect.
5. *"Trample"* means to intentionally tread upon or intentionally cause a machine, vehicle, or animal to tread upon.

2007 Acts, ch 202, §13; 2008 Acts, ch 1032, §88

718A.1A Desecration of flag or insignia.

Any person who in any manner, for exhibition or display, shall place or cause to be placed, any word, figure, mark, picture, design, drawing, or any advertisement of any nature, upon any flag, standard, color, ensign, shield, or other insignia of the United States, or upon any flag, ensign, great seal, or other insignia of this state, or shall expose or cause to be exposed to public view, any such flag, standard, color, ensign, shield, or other insignia of the United States, or any such flag, ensign, great seal, or other insignia of this state, upon which shall have been printed, painted, or otherwise placed, or to which shall be attached, appended, affixed, or annexed, any word, figure, mark, picture, design, or drawing, or any advertisement of any nature, or who shall expose to public view, manufacture, sell, expose for sale, give away, or have in possession for sale, or to give away, or for use for any purpose any article or substance, being an article of merchandise or a receptacle of merchandise or article or thing for carrying or transporting merchandise, upon which shall have been printed, painted, attached or otherwise placed, a representation of any such flag, standard, color, ensign, shield, or other insignia of the United States, or any such flag, ensign, great seal, or other insignia of this state, to advertise, call attention to, decorate, mark, or distinguish the article or substance on which so placed, or who shall publicly mutilate, deface, defile or defy, trample upon, cast contempt upon, satirize, deride or burlesque, either by words or act, such flag, standard, color, ensign, shield, or other insignia of the United States, or flag, ensign, great seal, or other insignia of this state, or who shall, for any purpose, place such flag, standard, color, ensign, shield, or other insignia of the United

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States, or flag, ensign, great seal, or other insignia of this state, upon the ground or where the same may be trod upon, shall be deemed guilty of a simple misdemeanor.

[S13, §5028-a; C24, 27, 31, 35, 39, §**472;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §32.1]
C93, §718A.1
CS2007, §718A.1A

718A.2 Actions for penalty.

The action or suit may be brought by and in the name of the state, on the relation of a citizen of the state, and the penalty, when collected, less the reasonable cost and expense of action or suit and recovery, to be certified by the clerk of the district court of the county in which the offense is committed, shall be paid to the treasurer of state for deposit in the general fund of the state, and two or more penalties may be sued for and recovered in the same action or suit.

[S13, §5028-a; C24, 27, 31, 35, 39, §**473;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §32.2]
83 Acts, ch 185, §1, 62; 83 Acts, ch 186, §10014, 10201, 10204
C93, §718A.2

718A.3 Federal flag and insignia — definition.

The words *"flag, standard, color, ensign, shield, or other insignia of the United States"* as used in this chapter, shall include any flag, standard, color, ensign, shield, or other insignia of the United States, or any picture or representation of any of them, made of any substance or represented on any substance, and of any size, evidently purporting to be any such flag, standard, color, insignia, shield, or other insignia of the United States of America, or a picture or a representation of any of them.

[S13, §5028-a; C24, 27, 31, 35, 39, §**474;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §32.3]
C93, §718A.3

718A.4 State flag and insignia — definition.

The words *"flag, ensign, great seal, or other insignia of this state"* as used in this chapter, shall include any flag, ensign, great seal, or other insignia, or any picture or any representation of any of them, made of any substance or represented on any substance, and of any size, evidently purporting to be any such flag, ensign, great seal, or other insignia of the state, or a picture or a representation of any of them.

[S13, §5028-a; C24, 27, 31, 35, 39, §**475;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §32.4]
C93, §718A.4

718A.5 Presumptive evidence of desecration.

The possession by any person other than a public officer, as such, of any flag, standard, color, ensign, shield, or other insignia of the United States, or flag, ensign, great seal, or other insignia of this state, on which shall be anything made unlawful by this chapter, or of any article or substance or thing on which shall be anything made unlawful by this chapter, shall be presumptive evidence that the same is in violation of this chapter.

[S13, §5028-a; C24, 27, 31, 35, 39, §**476;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §32.5]
C93, §718A.5

718A.6 Enforcement.

1. It shall be the duty of the sheriffs of the various counties, chiefs of police, and city marshals to enforce the provisions of this chapter, and for failure to do so they may be removed as by law provided.

2. This chapter shall not be construed to apply to a newspaper, periodical, book, pamphlet, circular, certificate, diploma, warrant, or commission of appointment to office, ornamental picture, article of jewelry, or stationery for use in private correspondence, on any of which shall be printed, painted, or placed, said flag, disconnected from any advertisement.

3. Nothing in this chapter shall be construed as rendering unlawful the use of any

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trademark or trade emblem actually adopted by any person, firm, corporation, or association prior to January 1, 1895.

[C24, 27, 31, 35, 39, §**477;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §32.6]

C93, §718A.6

2018 Acts, ch 1041, §127

Removal of public officers, §66.1A

718A.7 Retirement ceremony.

This chapter does not apply to a flag retirement ceremony conducted pursuant to federal law.

2007 Acts, ch 202, §14

CHAPTER 718B

IMPERSONATING A DECORATED MILITARY VETERAN

Referred to in §331.307, 364.22, 701.1

718B.1 Impersonating a decorated military veteran.

718B.1 Impersonating a decorated military veteran.

A person who impersonates a decorated military veteran with the intent to deceive another person for the purpose of gaining any real or anticipated monetary gain commits a serious misdemeanor. For the purposes of this section, *"decorated military veteran"* means a veteran of the armed forces of the United States who has been awarded any decoration or medal authorized by the United States Congress for service in the armed forces of the United States, any of the service medals or badges awarded to the members of such forces, or the ribbon, button, or rosette of any such badge, decoration, or medal.

2011 Acts, ch 96, §1

CHAPTER 718C

ILLEGAL REENTRY BY ALIENS

Referred to in §331.307, 364.22, 701.1

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718C.1 Definitions.

As used in this chapter:

1. *"Alien"* means the same as defined in 8 U.S.C. §1101, as of January 1, 2023.
2. *"Port of entry"* means a port of entry in the United States as designated by 19 C.F.R. pt. 101.

2024 Acts, ch 1020, §1

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718C.2 Illegal reentry into state by certain aliens.

1. A person who is an alien commits an offense if the person enters, attempts to enter, or is at any time found in this state under any of the following circumstances:

a. The person has been denied admission to or has been excluded, deported, or removed from the United States.

b. The person has departed from the United States while an order of exclusion, deportation, or removal is outstanding.

2. An offense under this section is an aggravated misdemeanor, except that the offense is:

a. A class "D" felony if any of the following are true:

(1) The person's removal was subsequent to a conviction for commission of two or more misdemeanors involving drugs, crimes against a person, or both.

(2) The person was excluded pursuant to 8 U.S.C. §1225(c) because the defendant was excludable under 8 U.S.C. §1182(a)(3)(B).

(3) The person was removed pursuant to the provisions of 8 U.S.C. ch. 12, subch. V.

(4) The person was removed pursuant to 8 U.S.C. §1231(a)(4)(B).

b. A class "C" felony if the person was removed subsequent to a conviction for the commission of a felony.

3. For purposes of this section, *"removal"* includes an order issued under this chapter or any other agreement in which an alien stipulates to removal pursuant to a criminal proceeding under either federal or state law.

2024 Acts, ch 1020, §2
Referred to in §718C.10, 907.3

718C.3 Arrest prohibited in certain locations.

Notwithstanding any other law, a peace officer may not arrest or detain a person for purposes of enforcing a provision of this chapter if the person is on the premises or grounds of any of the following places:

1. A public or private primary or secondary school for educational purposes.

2. A church, synagogue, or other established place of religious worship.

3. A health care facility, as defined in section 135C.1, including a facility a state agency maintains or operates to provide health care, or the office of a health care provider, provided that the person is on the premises or grounds of the facility or office for the purpose of receiving medical treatment.

4. A facility that provides forensic medical examinations to sexual assault survivors provided that the person is on the premises or grounds of the facility for purposes of obtaining a forensic medical examination and treatment.

2024 Acts, ch 1020, §3

718C.4 Order to return to foreign nation.

1. A judge during a person's initial appearance following an arrest for a violation of this chapter may, after making a determination that probable cause exists for the arrest, order the person released from custody and issue a written order in accordance with subsection 3.

2. The judge in a person's case at any time after the person's initial appearance may, in lieu of continuing the prosecution of or entering an adjudication regarding an offense under this chapter, dismiss the charge pending against the person and issue a written order in accordance with subsection 3.

3. A written order authorized by subsection 1 or 2 shall discharge the person and require the person to return to the foreign nation from which the person entered or attempted to enter, and may be issued only if all of the following requirements are met:

a. The person agrees to the order.

b. The person has not previously been convicted of an offense under this chapter, or previously obtained a discharge under an order under subsection 1 or 2.

c. The person is not charged with another offense that is punishable as an aggravated misdemeanor or any higher category of offense.

d. Before the issuance of the order, the arresting law enforcement agency has done all of the following:

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(1) Collected all available identifying information of the person, which must include taking fingerprints from the person and using other applicable photographic and biometric measures to identify the person.

(2) Cross-referenced the collected information with all relevant local, state, and criminal databases and federal lists or classifications used to identify a person as a threat or potential threat to national security.

4. Upon a person's conviction of an offense under this chapter, the judge shall enter in the judgment in the case an order requiring the person to return to the foreign nation from which the person entered or attempted to enter. An order issued under this subsection takes effect on completion of the term of confinement or imprisonment imposed by the judgment.

5. An order issued under this section must include all of the following:

a. The manner of transportation of the person to a port of entry.

b. The law enforcement officer or state agency responsible for monitoring compliance with the order.

6. An order issued under this section must be filed with the county clerk of the county in which the person was arrested for an order described by subsection 1, or with the clerk of the court exercising jurisdiction in the case for an order described by subsection 2 or 4.

7. Not later than the seventh day after the date an order is issued under this section, the law enforcement officer or state agency required to monitor compliance with the order shall report the issuance of the order to the department of public safety for inclusion in the computerized criminal history system.

2024 Acts, ch 1020, §4; 2024 Acts, ch 1154, §23

718C.5 Refusal to comply with order to return to foreign nation.

1. A person who is an alien commits an offense if all of the following are true:

a. The person has been charged with or convicted of an offense under this chapter.

b. A judge has issued an order under this chapter for the person to return to the foreign nation from which the person entered or attempted to enter.

c. The person failed to comply with the order.

2. An offense under this section is a class "C" felony.

2024 Acts, ch 1020, §5
Referred to in §718C.10, 907.3

718C.6 Abatement of prosecution on basis of immigration status determination prohibited.

A court may not abate the prosecution of an offense under this chapter on the basis that a federal determination regarding the immigration status of the person is pending or will be initiated.

2024 Acts, ch 1020, §6

718C.7 Civil immunity for and indemnification of local government officials, employees, and contractors.

1. Except as provided by subsection 4, a local government official, employee, or contractor is immune from liability for damages arising from a cause of action under state law resulting from an action taken by the official, employee, or contractor to enforce this chapter during the course and scope of the official's, employee's, or contractor's office, employment, or contractual performance for or service on behalf of the local government.

2. Subject to subsection 3 and except as provided by subsection 4, a local government shall indemnify an official, employee, or contractor of the local government for damages arising from a cause of action under federal law resulting from an action taken by the official, employee, or contractor to enforce this chapter during the course and scope of the official's, employee's, or contractor's office, employment, or contractual performance for or service on behalf of the local government.

3. Indemnification payments made under subsection 2 by a local government shall not exceed the following:

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a. One hundred thousand dollars to any one person or three hundred thousand dollars for any single occurrence in the case of personal injury or death.

b. Ten thousand dollars for a single occurrence of property damage.

4. Subsections 1 and 2 do not apply if the court or jury determines that the local government official, employee, or contractor acted in bad faith, with conscious indifference, or with recklessness.

5. A local government shall indemnify an official, employee, or contractor of the local government for reasonable attorney fees incurred in defense of a criminal prosecution against the official, employee, or contractor for an action taken by the official, employee, or contractor to enforce this chapter during the course and scope of the official's, employee's, or contractor's office, employment, or contractual performance for or service on behalf of the local government.

6. This section shall not be construed to waive any statutory limits on damages under state law.

2024 Acts, ch 1020, §7
Referred to in §718C.9

718C.8 Civil immunity for and indemnification of state officials, employees, and contractors.

1. Except as provided by subsection 4, an elected or appointed state official, or a state employee or contractor, is immune from liability for damages arising from a cause of action under state law resulting from an action taken by the official, employee, or contractor to enforce this chapter during the course and scope of the official's, employee's, or contractor's office, employment, or contractual performance for or service on behalf of the state.

2. Except as provided by subsection 4, the state shall indemnify an elected or appointed state official or a state employee or contractor for damages arising from a cause of action under federal law resulting from an action taken by the official, employee, or contractor to enforce this chapter during the course and scope of the official's, employee's, or contractor's office, employment, or contractual performance for or service on behalf of the state.

3. Notwithstanding any other law, an indemnification payment made under subsection 2 is not subject to an indemnification limit under the laws of this state.

4. Subsections 1 and 2 do not apply if the court or jury determines that the state official, employee, or contractor acted in bad faith, with conscious indifference, or with recklessness.

5. The state shall indemnify a state official, employee, or contractor for reasonable attorney fees incurred in defense of a criminal prosecution against the official, employee, or contractor for an action taken by the official, employee, or contractor to enforce this chapter during the course and scope of the official's, employee's, or contractor's office, employment, or contractual performance for or service on behalf of the state.

6. A state official, employee, or contractor who may be entitled to indemnification under subsection 2 is entitled to representation by the attorney general in an action in connection with which the official, employee, or contractor may be entitled to that indemnification.

7. This section shall not be construed to waive any statutory limits on damages under state law.

2024 Acts, ch 1020, §8
Referred to in §718C.9

718C.9 Appeal to supreme court.

For a civil action brought against a person who may be entitled to immunity or indemnification under section 718C.7 or 718C.8, an appeal shall be taken directly to the supreme court.

2024 Acts, ch 1020, §9

718C.10 Deferred judgment, deferred sentence, or suspended sentence prohibited.

Notwithstanding any other provision of law, a person who is convicted of an offense under section 718C.2 or 718C.5 shall not be eligible for a deferred judgment, deferred sentence, or suspended sentence.

2024 Acts, ch 1020, §10

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CHAPTER 719

OBSTRUCTING JUSTICE

Referred to in §331.307, 364.22, 701.1, 901C.3

719.1	Interference with official acts.	719.6	Assisting prisoner to escape.
719.1A	Providing false identification information.	719.7	Possessing contraband.
719.2	Refusing to assist officer.	719.7A	Electronic contraband — criminal penalties.
719.3	Preventing apprehension, obstructing prosecution, or obstructing defense.	719.8	Furnishing a controlled substance or intoxicating beverage to inmates at a detention facility.
719.4	Escape or absence from custody.	719.9	Use of unmanned aerial vehicle — prohibitions.
719.5	Permitting prisoner to escape.		

719.1 Interference with official acts.

1. *a.* A person commits interference with official acts when the person knowingly resists or obstructs anyone known by the person to be a peace officer, jailer, emergency medical care provider under chapter 147A, medical examiner, or fire fighter, whether paid or volunteer, or a person performing bailiff duties pursuant to section 602.1303, subsection 3, in the performance of any act which is within the scope of the lawful duty or authority of that officer, jailer, emergency medical care provider under chapter 147A, medical examiner, or fire fighter, whether paid or volunteer, or a person performing bailiff duties pursuant to section 602.1303, subsection 3, or who knowingly resists or obstructs the service or execution by any authorized person of any civil or criminal process or order of any court.

b. Interference with official acts is a simple misdemeanor. In addition to any other penalties, the punishment imposed under this paragraph shall include assessment of a fine of not less than two hundred fifty dollars.

c. If a person commits interference with official acts, as defined in this subsection, which results in bodily injury, the person commits a serious misdemeanor.

d. If a person commits interference with official acts, as defined in this subsection, which results in serious injury, the person commits an aggravated misdemeanor.

e. If a person commits interference with official acts, as defined in this subsection, and in so doing inflicts bodily injury other than serious injury, that person commits an aggravated misdemeanor.

f. If a person commits interference with official acts, as defined in this subsection, and in so doing inflicts or attempts to inflict serious injury, or displays a dangerous weapon, as defined in section 702.7, or is armed with a firearm, that person commits a class "D" felony.

2. *a.* A person under the custody, control, or supervision of the department of corrections commits interference with official acts when the person knowingly resists, obstructs, or interferes with a correctional officer, agent, employee, or contractor, whether paid or volunteer, in the performance of the person's official duties.

b. Interference with official acts in violation of this subsection is a serious misdemeanor.

c. If a person violates this subsection and in so doing commits an assault, as defined in section 708.1, the person commits an aggravated misdemeanor.

d. If a person violates this subsection and the violation results in bodily injury to another, the person commits an aggravated misdemeanor.

e. If a person violates this subsection and the violation results in serious injury to another, the person commits a class "D" felony.

f. If a person violates this subsection and in so doing inflicts or attempts to inflict bodily injury other than serious injury to another, displays a dangerous weapon, as defined in section 702.7, or is armed with a firearm, the person commits a class "D" felony.

g. If a person violates this subsection and uses or attempts to use a dangerous weapon, as defined in section 702.7, or inflicts serious injury to another, the person commits a class "C" felony.

3. The terms *"resist"* and *"obstruct"*, as used in this section, do not include verbal

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harassment unless the verbal harassment is accompanied by a present ability and apparent intention to execute a verbal threat physically.

4. The term *"jailer"* as used in this section means the same as defined in section 708.3A.

[C51, §2669; R60, §4296; C73, §3960; C97, §4899; C24, 27, 31, 35, 39, §**13331;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §742.1; C79, 81, §719.1]

84 Acts, ch 1246, §4; 91 Acts, ch 219, §22; 95 Acts, ch 90, §4; 96 Acts, ch 1034, §63; 99 Acts, ch 153, §21; 2013 Acts, ch 52, §3; 2013 Acts, ch 90, §202; 2014 Acts, ch 1026, §136; 2016 Acts, ch 1027, §1, 2; 2017 Acts, ch 42, §1; 2021 Acts, ch 173, §2

Referred to in §29A.42

719.1A Providing false identification information.

A person who knowingly provides false identification information to anyone known by the person to be a peace officer, emergency medical care provider under chapter 147A, or fire fighter, whether paid or volunteer, in the performance of any act which is within the scope of the lawful duty or authority of that officer, emergency medical care provider, or fire fighter, commits a simple misdemeanor.

2010 Acts, ch 1078, §1

Referred to in §805.3, 805.6

719.2 Refusing to assist officer.

Any person who is requested or ordered by any magistrate or peace officer to render the magistrate or officer assistance in making or attempting to make an arrest, or to prevent the commission of any criminal act, shall render assistance as required. A person who, unreasonably and without lawful cause, refuses or neglects to render assistance when so requested commits a simple misdemeanor.

[C51, §2670, 2793, 2795, 2799; R60, §4297, 4489, 4491, 4495; C73, §3961, 4145, 4147, 5149; C97, §4900, 5143, 5145, 5149; C24, 27, 31, 35, 39, §**13332, 13333, 13335, 13344;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §742.2, 742.3, 742.5, 743.6; C79, 81, §719.2]

719.3 Preventing apprehension, obstructing prosecution, or obstructing defense.

A person who, with intent to prevent the apprehension or obstruct the prosecution or defense of any person, knowingly does any of the following acts, commits an aggravated misdemeanor:

1. Destroys, alters, conceals or disguises physical evidence which would be admissible in the trial of another for a public offense, or makes available false evidence or furnishes false information with the intent that it be used in the trial of that case.

2. Induces a witness having knowledge material to the subject at issue to leave the state or hide, or to fail to appear when subpoenaed.

[C51, §2654; R60, §4281; C73, §3946; C97, §4882; C24, 27, 31, 35, 39, §**13170;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §723.1; C79, 81, §719.3]

719.4 Escape or absence from custody.

1. A person convicted of a felony, or charged with or arrested for the commission of a felony, who intentionally escapes, or attempts to escape, from a detention facility, community-based correctional facility, or institution to which the person has been committed by reason of the conviction, charge, or arrest, or from the custody of any public officer, public employee, or any other person to whom the person has been entrusted, commits a class "D" felony.

2. A person convicted of, charged with, or arrested for a misdemeanor, who intentionally escapes, or attempts to escape, from a detention facility, community-based correctional facility, or institution to which the person has been committed by reason of the conviction, charge, or arrest, or from the custody of any public officer, public employee, or any other person to whom the person has been entrusted, commits a serious misdemeanor.

3. A person who has been committed to an institution under the control of the Iowa department of corrections, to a community-based correctional facility, or to a jail or correctional institution, who knowingly and voluntarily is absent from a place where the person is required to be, commits a serious misdemeanor.

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4. A person who flees from the state to avoid prosecution for a public offense which is a felony or aggravated misdemeanor commits a class "D" felony.

5. Except for subsection 4, an offense committed under this section includes any offense committed wholly outside the state.

[C51, §2668; R60, §4295; C73, §3959; C97, §4898; S13, §4897-a, 4898; C24, 27, 31, 35, 39, §**13351, 13353, 13358;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §745.1, 745.3, 745.8; C79, 81, §719.4; 82 Acts, ch 1082, §1]

83 Acts, ch 96, §119, 159; 86 Acts, ch 1040, §1; 86 Acts, ch 1238, §30; 99 Acts, ch 182, §3; 2000 Acts, ch 1037, §1, 2

Referred to in §356A.3, 901.8

719.5 Permitting prisoner to escape.

Any jailer or other public officer or employee who voluntarily permits, aids or abets in the escape or attempted escape of any person in custody by reason of a conviction or charge of any crime, commits the crime of permitting a prisoner to escape which is subject to the following penalties:

1. If the prisoner is in custody by reason of a conviction or charge of a class "A" felony, the defendant commits a class "C" felony.

2. If the prisoner is in custody by reason of a conviction or charge of any public offense other than a class "A" felony, the defendant commits a class "D" felony.

[C51, §2661 – 2663; R60, §4288 – 4290; C73, §3953 – 3955; C97, §4891 – 4893; C24, 27, 31, 35, 39, §**13359 – 13361;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §745.9 – 745.11; C79, 81, §719.5]

719.6 Assisting prisoner to escape.

Any person who introduces into any detention facility or correctional institution any weapon, explosive or incendiary substance, rope, ladder, or any instrument or device by which that person intends to facilitate the escape of any prisoner, or any person who, not being authorized by law, knowingly causes any such weapon, explosive or incendiary substance, rope, ladder, instrument or device to come into the possession of any prisoner, commits the crime of assisting a prisoner to escape which is subject to the following penalties:

1. If the prisoner was confined by reason of a conviction of a class "A" felony, the defendant commits a class "C" felony.

2. If the prisoner was confined by reason of a conviction of any public offense other than a class "A" felony, the defendant commits a class "D" felony.

[C51, §2664 – 2666; R60, §4291 – 4293; C73, §1663, 3956 – 3958; C97, §2712, 4894 – 4896; C13, §4913-a; SS15, §2713-n16; C24, 27, 31, 35, 39, §**13362 – 13368;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §745.12 – 745.18; C79, 81, §719.6]

719.7 Possessing contraband.

1. *"Contraband"* includes but is not limited to any of the following:

a. A controlled substance or a simulated or counterfeit controlled substance, hypodermic syringe, or intoxicating beverage.

b. A dangerous weapon, offensive weapon, pneumatic gun, stun gun, firearm ammunition, knife of any length or any other cutting device, explosive or incendiary material, instrument, device, or other material fashioned in such a manner as to be capable of inflicting death or injury.

c. Rope, ladder components, key or key pattern, metal file, instrument, device, or other material designed or intended to facilitate escape of an inmate.

2. The sheriff may x-ray a person committed to the jail, or the department of corrections may x-ray a person under the control of the department, if there is reason to believe that the person is in possession of contraband. A licensed physician or x-ray technician under the supervision of a licensed physician must x-ray the person.

3. A person commits the offense of possessing contraband if the person, not authorized by law, does any of the following:

a. Knowingly introduces contraband into, or onto, the grounds of a secure facility for

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the detention or custody of juveniles, detention facility, jail, community-based correctional facility, correctional institution, or institution under the management of the department of corrections.

b. Knowingly conveys contraband to any person confined in a secure facility for the detention or custody of juveniles, detention facility, jail, community-based correctional facility, correctional institution, or institution under the management of the department of corrections.

c. Knowingly makes, obtains, or possesses contraband while confined in a secure facility for the detention or custody of juveniles, detention facility, jail, community-based correctional facility, correctional institution, or institution under the management of the department of corrections, or while being transported or moved incidental to confinement.

4. A person who possesses contraband or fails to report an offense of possessing contraband commits the following:

a. A class "C" felony for the possession of contraband if the contraband is of the type described in subsection 1, paragraph "*b*".

b. A class "D" felony for the possession of contraband if the contraband is any other type of contraband.

c. An aggravated misdemeanor for failing to report a known violation or attempted violation of this section to an official or officer at a secure facility for the detention or custody of juveniles, detention facility, jail, community-based correctional facility, correctional institution, or institution under the management of the department of corrections.

5. Nothing in this section is intended to limit the authority of the administrator of any secure facility for the detention or custody of juveniles, detention facility, jail, community-based correctional facility, correctional institution, or institution under the management of the department of corrections to prescribe or enforce rules concerning the definition of contraband, and the transportation, making, or possession of substances, devices, instruments, materials, or other items.

[C73, §1663; C97, §2712; S13, §4913-a; SS15, §2713-n16; C24, 27, 31, 35, 39, §**13365, 13366, 13368;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §745.15, 745.16, 745.18; C79, 81, §719.7]

83 Acts, ch 96, §120, 159; 99 Acts, ch 163, §1; 2007 Acts, ch 89, §1; 2018 Acts, ch 1020, §1 – 3

719.7A Electronic contraband — criminal penalties.

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

a. "*Electronic contraband*" means a mobile telephone or other hand-held electronic communication device.

b. "*Facility*" means a county jail, municipal holding facility, or institution under the management of the department of corrections.

2. A person commits the offense of possessing electronic contraband under this section if the person, not authorized by law, does any of the following:

a. Knowingly supplies or attempts to supply electronic contraband to any person confined in a facility, or to any person confined in a facility while the person is being transported or moved incidental to the confinement.

b. Knowingly makes, obtains, or possesses electronic contraband while confined in a facility, or while being transported or moved incidental to confinement.

3. A person who possesses electronic contraband commits a class "D" felony.

4. *a.* A person commits the offense of failing to report electronic contraband when the person fails to report a known violation or attempted violation of this section to an official or officer at a facility.

b. A person who violates this subsection commits an aggravated misdemeanor.

5. The sheriff may x-ray a person committed to the jail, the supervising law enforcement agency may x-ray a person confined in the municipal holding facility, or the department of corrections may x-ray a person under the control of the department, if there is reason to believe that the person is in possession of electronic contraband. A licensed physician or x-ray technician under the supervision of a licensed physician must x-ray the person.

6. Nothing in this section is intended to limit the authority of the administrator of any

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facility to prescribe or enforce rules concerning the definition of electronic contraband, and the supplying, making, obtaining, or possession of electronic contraband.

2011 Acts, ch 19, §1

719.8 Furnishing a controlled substance or intoxicating beverage to inmates at a detention facility.

A person not authorized by law who furnishes or knowingly makes available a controlled substance or intoxicating beverage to an inmate at a detention facility, or who introduces a controlled substance or intoxicating beverage into the premises of such a facility, commits a class "D" felony.

[C73, §1663; C97, §2712; S13, §4913-a; SS15, §2713-n16; C24, 27, 31, 35, 39, §**13365, 13366, 13368;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §745.15, 745.16, 745.18; C79, 81, §719.8]

83 Acts, ch 96, §121, 159; 99 Acts, ch 163, §2

719.9 Use of unmanned aerial vehicle — prohibitions.

1. As used in this section:

a. "Facility" means a county jail, municipal holding facility, secure facility for the detention or custody of juveniles, community-based correctional facility, or institution under the management of the department of corrections.

b. "Unmanned aerial vehicle" means a vehicle or device that uses aerodynamic forces to achieve flight and is piloted remotely.

2. A person shall not operate an unmanned aerial vehicle knowing that the unmanned aerial vehicle is operating in, on, or above a facility and any contiguous real property comprising the surrounding grounds of the facility, unless the unmanned aerial vehicle is operated by a law enforcement agency or the person has permission from the authority in charge of the facility to operate an unmanned aerial vehicle in, on, or above such facility.

3. This section does not apply to an unmanned aerial vehicle while operating for commercial use in compliance with federal aviation administration regulations, authorizations, or exemptions.

4. A person who violates this section commits a class "D" felony.

2018 Acts, ch 1168, §20

Admissibility of information, see §808.15

CHAPTER 720

INTERFERENCE WITH JUDICIAL PROCESS

Referred to in §331.307, 364.22, 701.1, 901C.3, 914.5

720.1 Compounding a felony.
720.2 Perjury, contradictory statements, and retraction.
720.3 Suborning perjury.
720.4 Tampering with witnesses, jurors, or reporting parties.
720.5 False representation of records or process.
720.6 Malicious prosecution.
720.7 Interference with judicial acts — penalty.

720.1 Compounding a felony.

A person having knowledge of the commission by another of a felony indictable in this state who receives any consideration for a promise to conceal such crime, or not to prosecute or aid or give evidence to the prosecution of such crime, compounds that felony. Compounding any felony is an aggravated misdemeanor.

[C51, §2659, 2660; R60, §4286, 4287; C73, §3951, 3952; C97, §4889, 4890; C24, 27, 31, 35, 39, §**13168, 13169;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §722.1, 722.2; C79, 81, §720.1]

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720.2 Perjury, contradictory statements, and retraction.

A person who, while under oath or affirmation in any proceeding or other matter in which statements under oath or affirmation are required or authorized by law, knowingly makes a false statement of material facts or who falsely denies knowledge of material facts, commits a class "D" felony. Where, while under oath or affirmation, in the same proceeding or different proceedings where oath or affirmation is required, a person has made contradictory statements, the indictment will be sufficient if it states that one or the other of the contradictory statements was false, to the knowledge of such person, and it shall be sufficient proof of perjury that one of the statements must be false, and that the person making the statements knew that one of them was false when the person made the statement, provided that both statements have been made within the period prescribed by the applicable statute of limitations. No person shall be guilty of perjury if the person retracts the false statement in the course of the proceedings where it was made before the false statement has substantially affected the proceeding.

[C51, §2644; R60, §4271; C73, §3936; C97, §4872; S13, §4919-c; C24, 27, 31, 35, 39, §**13165, 13290;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §721.1, 738.28; C79, 81, §720.2]

Referred to in §214A.11, 501.103, 610.5

720.3 Suborning perjury.

A person who procures or offers any inducement to another to make a statement under oath or affirmation in any proceeding or other matter in which statements under oath or affirmation are required or authorized, with the intent that such person will make a false statement, or who procures or offers any inducement to one who the person reasonably believes will be called upon for a statement in any such proceeding or matter, to conceal material facts known to such person, commits a class "D" felony.

[C51, §2645, 2646; R60, §4272, 4273; C73, §3937, 3938; C97, §4873, 4874; C24, 27, 31, 35, 39, §**13166, 13167;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §721.2, 721.3; C79, 81, §720.3]

720.4 Tampering with witnesses, jurors, or reporting parties.

1. As used in this section:

a. "Juror" means the same as defined in section 607A.3, subsection 5.

b. "Reporting party" means a person who does either of the following:

(1) Reports or attempts to report a public offense to any fire department, law enforcement agency, emergency communications center, or other public safety entity.

(2) Assists or attempts to assist a law enforcement agency or a prosecuting agency in any criminal investigation or judicial proceeding.

c. "Tampering" includes any of the following acts committed against a witness, juror, or reporting party:

(1) Bribery or an attempt to bribe.
(2) Threats.
(3) Forcible or fraudulent detaining or restraining.
(4) Harassment as described in section 708.7, subsection 1.
(5) Assault as described in section 708.1, subsection 2.
(6) Any other public offense.

d. "Witness" means a person who is summoned to testify in any judicial proceeding, arbitration, or legislative hearing, or who is listed in the minutes of evidence as provided in rule of criminal procedure 2.4 or 2.5.

2. A person shall not do any of the following:

a. With the intent to improperly influence the testimony of an individual that the person believes is or may be a witness, to prevent such individual from testifying, to encourage such individual to disobey or avoid a subpoena or other legal process, or to encourage such individual to withhold evidence, information, or documents, or in retaliation for anything lawfully done by such an individual, tamper with a witness.

b. With the intent to improperly influence the decision of any individual that the person believes is or may be a juror, to prevent such individual from serving in a judicial proceeding, or in retaliation for anything lawfully done by such individual, tamper with a juror.

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c. With the intent to improperly influence the statements of an individual that the person believes is or may be a reporting party, to prevent such individual from becoming a reporting party, to encourage such individual to disobey or avoid a subpoena or other legal process, or to encourage such individual to withhold evidence, information, or documents, or in retaliation for anything lawfully done by such an individual, tamper with a reporting party.

3. A person who tampers with a witness, juror, or reporting party, as described in subsection 2, commits a public offense that shall be classified and punished as an offense one degree higher than the underlying offense, not to exceed a class "C" felony, but in no case shall the public offense be classified and punished lower than an aggravated misdemeanor.

[C51, §2646, 2652, 2654; R60, §4273, 4279, 4281; C73, §3938, 3944, 3946; C97, §4874, 4880, 4882; C24, 27, 31, 35, 39, §**13167, 13172, 13297;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §721.3, 723.1, 739.6; C79, 81, §720.4]

2024 Acts, ch 1133, §1

Referred to in §723A.1

720.5 False representation of records or process.

Any person who represents any document or paper to be any public record or any civil or criminal process, when the person knows such representation to be false, commits a simple misdemeanor.

[C51, §2627; R60, §4254; C73, §3918; C97, §4854; C24, 27, 31, 35, 39, §**13140;** C46, 50, 54, 58, 62, §718.2; C66, 71, 73, 75, 77, §713.43, 718.2; C79, 81, §720.5]

720.6 Malicious prosecution.

A person who causes or attempts to cause another to be indicted or prosecuted for any public offense, having no reasonable grounds for believing that the person committed the offense commits a serious misdemeanor.

[C51, §2757; R60, §4407; C73, §4086; C97, §5058; C24, 27, 31, 35, 39, §**13163;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §719.2; C79, 81, §720.6]

720.7 Interference with judicial acts — penalty.

1. As used in this section:

a. "Court employee" means the same as defined in section 602.1101.

b. "Family member" means a spouse, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, grandfather, grandmother, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, father, mother, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

c. "Judicial officer" means the same as defined in section 602.1101.

2. A person who harasses a judicial officer, court employee, or a family member of a judicial officer or a court employee in violation of section 708.7, with the intent to interfere with or improperly influence, or in retaliation for, the official acts of a judicial officer or court employee, commits an aggravated misdemeanor.

2009 Acts, ch 77, §1

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CHAPTER 721

OFFICIAL MISCONDUCT

Referred to in §39A.7, 331.307, 364.22, 701.1

Candidates; see also §49.120, 49.121

721.1 Felonious misconduct in office.
721.2 Nonfelonious misconduct in office.
721.3 Solicitation for political purposes.
721.4 Using public motor vehicles for political purposes.
721.5 State employees not to participate.
721.6 Exception to sections 721.3 through 721.5.
721.7 Penalty for violating sections 721.3 through 721.5.
721.8 Labeling publicly owned motor vehicles.
721.9 Punishment for violation of section 721.8.
721.10 Misuse of public records and files.
721.11 Interest in public contracts.
721.12 Profiting from inmates — penalty.

721.1 Felonious misconduct in office.

Any public officer or employee, who knowingly does any of the following, commits a class "D" felony:

1. Makes or gives any false entry, false return, false certificate, or false receipt, where such entries, returns, certificates, or receipts are authorized by law.

2. Falsifies any public record, or issues any document falsely purporting to be a public document.

3. Falsifies a writing, or knowingly delivers a falsified writing, with the knowledge that the writing is falsified and that the writing will become a public record of a government body.

4. For purposes of this section, *"government body"* and *"public record"* mean the same as defined in section 22.1.

[C51, §2677; R60, §4304, 4309; C73, §3968, 3971; C97, §1136, 4907, 4910; C24, 27, 31, 35, 39, §**13283, 13311, 13314;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §738.21, 740.9, 740.12; C79, 81, §721.1]

2001 Acts, ch 31, §1

721.2 Nonfelonious misconduct in office.

Any public officer or employee, or any person acting under color of such office or employment, who knowingly does any of the following, commits a serious misdemeanor:

1. Makes any contract which contemplates an expenditure known by the person to be in excess of that authorized by law.

2. Fails to report to the proper officer the receipt or expenditure of public moneys, together with the proper vouchers therefor, when such is required of the person by law.

3. Requests, demands, or receives from another for performing any service or duty which is required of the person by law, or which is performed as an incident of the person's office or employment, any compensation other than the fee, if any, which the person is authorized by law to receive for such performance.

4. By color of the person's office and in excess of the authority conferred on the person by that office, requires any person to do anything or to refrain from doing any lawful thing.

5. Uses or permits any other person to use the property owned by the state or any subdivision or agency of the state for any private purpose and for personal gain, to the detriment of the state or any subdivision thereof.

6. Fails to perform any duty required of the person by law.

7. Demands that any public employee contribute or pay anything of value, either directly or indirectly, to any person, organization or fund, or in any way coerces or attempts to coerce any public employee to make any such contributions or payments, except where such contributions or payments are expressly required by law.

8. Permits persons to use the property owned by the state or a subdivision or agency of the state to operate a political phone bank for any of the following purposes:

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a. To poll voters on their preferences for candidates or ballot measures at an election; however, this paragraph does not apply to authorized research at an educational institution.

b. To solicit funds for a political candidate or organization.

c. To urge support for a candidate or ballot measure to voters.

1. [R60, §216, 2184; C73, §3976; C97, §4913; C24, 27, 31, 35, 39, §**13313;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §740.11; C79, 81, §721.2]

2. [R60, §216, 2184, 4308 – 4310; C73, §3970 – 3972, 3976; C97, §4909 – 4911, 4913; C24, 27, 31, 35, 39, §**13309 – 13311, 13313;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §740.7 – 740.9, 740.11; C79, 81, §721.2]

3. [C51, §2560, 2658; R60, §4167, 4285; C73, §3840, 3950; C97, §1297, 4888; S13, §5028-n; C24, 27, 31, 35, 39, §**13304, 13312, 13317, 13318;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §740.1, 740.10, 741.1, 741.2; C79, 81, §721.2]

4. [C51, §2672; R60, §4299, 4305, 4306; C73, §3963, 3969; C97, §4902, 4908; C24, 27, 31, 35, 39, §**13305, 13306;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §740.3, 740.4; C79, 81, §721.2]

5. [C35, §13316-e1; C39, §**13316.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §740.20; C79, 81, §721.2]

6. [C51, §2657, 2674, 2703, 2800; R60, §4284, 4301, 4345, 4496; C73, §3949, 3965, 4005, 4152; C97, §4887, 4904, 4929, 5150; C24, 27, 31, 35, 39, §**13280, 13316, 13338, 13345;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §738.18, 740.19, 742.8, 743.7; C79, 81, §721.2]

7. [C79, 81, §721.2]

87 Acts, ch 221, §35

Referred to in §15.106, 15A.2, 16.13, 901C.3

721.3 Solicitation for political purposes.

It shall be unlawful for any person or political organization either directly or indirectly to solicit or demand from any employee of any commission, board or agency created under the statutes of Iowa, any contribution of money or any other thing of value for election purposes or for the purpose of paying expenses of any political organization or any person seeking election to public office.

[S13, §2727-a36; C24, 27, 31, 35, §13315; C39, §**13315.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §740.13; C79, 81, §721.3]

Referred to in §721.6, 721.7

721.4 Using public motor vehicles for political purposes.

It shall be unlawful for any person to use or permit to be used any motor vehicle owned by the state of Iowa or any political subdivision thereof for the purpose of transporting any political literature or any person or persons engaging in a political campaign for any political party or any person seeking an elective office.

[C39, §**13315.3;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §740.15; C79, 81, §721.4]

Referred to in §721.6, 721.7

721.5 State employees not to participate.

It shall be unlawful for any state officer, any state appointive officer, or state employee to leave the place of employment or the duties of office for the purpose of soliciting votes or engaging in campaign work during the hours of employment of any such officer or employee.

[C39, §**13315.4;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §740.16; C79, 81, §721.5]

Referred to in §721.6, 721.7

721.6 Exception to sections 721.3 through 721.5.

The provisions of sections 721.3 through 721.5 shall not be construed as prohibiting any such officer or employee who is a candidate for political office to engage in campaigning at any time or at any place for the officer's or employee's own candidacy.

[C39, §**13315.5;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §740.17; C79, 81, §721.6]

2013 Acts, ch 90, §203

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721.7 Penalty for violating sections 721.3 through 721.5.

Any person who violates any provision of sections 721.3 through 721.5 shall be guilty of a serious misdemeanor.

[S13, §2727-a36; C24, 27, 31, 35, §13315; C39, §**13315.6;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §740.18; C79, 81, §721.7]

2013 Acts, ch 90, §204

721.8 Labeling publicly owned motor vehicles.

All publicly owned motor vehicles shall bear at least two labels in a conspicuous place, one on each side of the vehicle. This label shall be designed to cover not less than one square foot of surface. This section does not apply to a motor vehicle which is specifically assigned by the head of the department or office owning or controlling it, to enforcement of police regulations or to motor vehicles issued ordinary registration plates pursuant to section 321.19, subsection 1.

[C35, §13316-e2; C39, §**13316.2;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §740.21; C79, 81, §721.8]

85 Acts, ch 115, §3

Referred to in §721.9

721.9 Punishment for violation of section 721.8.

A violation of section 721.8 shall be a serious misdemeanor.

[C35, §13316-e3; C39, §**13316.3;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §740.22; C79, 81, §721.9]

721.10 Misuse of public records and files.

A public officer or employee who, by reason of the officer's or employee's employment, has access to any public record, or to any file, dossier, or accumulation of information of any kind, and who gives or transfers to any person, in exchange for anything of value other than fees authorized by law, any such record, file, dossier, or accumulation of information, or any part thereof, or who imparts to any person any information contained therein, in exchange for anything of value other than fees authorized by law, commits a serious misdemeanor.

[C79, 81, §721.10]

Referred to in §901C.3

721.11 Interest in public contracts.

Any officer or employee of the state or of any subdivision thereof who is directly or indirectly interested in any contract to furnish anything of value to the state or any subdivision thereof where such interest is prohibited by statute commits a serious misdemeanor. This section shall not apply to any contract awarded as a result of open, public and competitive bidding.

[S13, §468-a; C24, 27, 31, 35, 39, §**13327;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §741.11; C79, 81, §721.11]

721.12 Profiting from inmates — penalty.

A peace officer as defined by section 801.4, subsection 11, a jailer, or an employee of a penal or correctional facility shall not be the purchaser, directly or indirectly, of property being sold by a prisoner who is in the person's custody. However, a peace officer, jailer, or employee of a penal or correctional facility may purchase inmate made items at an art or craft sale or show, but only when the items are offered for sale to the public and the price paid for the item is the same price offered to any other prospective purchaser. A sale made in violation of this section is void. A peace officer, jailer, or employee of a penal or correctional facility who violates this section, commits a simple misdemeanor.

[82 Acts, ch 1145, §1]

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CHAPTER 722

BRIBERY AND CORRUPTION

Referred to in §43.5, 331.307, 364.22, 701.1

Chapter applicable to primary elections, §43.5

722.1 Bribery.
722.2 Accepting bribe.
722.3 Bribery in sports.
722.4 and 722.5 Repealed by 2002 Acts, ch 1071, §15.
722.6 Repealed by 2000 Acts, ch 1201, §18.
722.7 and 722.8 Repealed by 2002 Acts, ch 1071, §15, 16.
722.9 Repealed by 2000 Acts, ch 1201, §18.
722.10 Commercial bribery.
722.11 Student athlete prohibitions.

722.1 Bribery.

A person who offers, promises, or gives anything of value or any benefit to a person who is serving or has been elected, selected, appointed, employed, or otherwise engaged to serve in a public capacity, including a public officer or employee, a referee, juror, or jury panel member, or a witness in a judicial or arbitration hearing or any official inquiry, or a member of a board of arbitration, pursuant to an agreement or arrangement or with the understanding that the promise or thing of value or benefit will influence the act, vote, opinion, judgment, decision, or exercise of discretion of the person with respect to the person's services in that capacity commits a class "D" felony. In addition, a person convicted under this section is disqualified from holding public office under the laws of this state.

[C51, §2647, 2649, 2650, 2652; R60, §4274, 4276, 4277, 4279; C73, §3939, 3941, 3942, 3944; C97, §4875, 4877, 4878, 4880, 4886; C24, 27, 31, 35, 39, §**13292, 13294, 13295, 13297, 13302;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §739.1, 739.3, 739.4, 739.6, 739.11; C79, 81, §722.1]

87 Acts, ch 213, §9

Referred to in §88A.10, 89A.17

722.2 Accepting bribe.

A person who is serving or has been elected, selected, appointed, employed, or otherwise engaged to serve in a public capacity, including a public officer or employee, a referee, juror, or jury panel member, or a witness in a judicial or arbitration hearing or any official inquiry, or a member of a board of arbitration who solicits or knowingly accepts or receives a promise or anything of value or a benefit given pursuant to an understanding or arrangement that the promise or thing of value or benefit will influence the act, vote, opinion, judgment, decision, or exercise of discretion of the person with respect to the person's services in that capacity commits a class "C" felony. In addition, a person convicted under this section is disqualified from holding public office under the laws of this state.

[C51, §2648, 2649, 2651, 2653, 2655, 2656; R60, §4275, 4276, 4278, 4280, 4282, 4283; C73, §3940, 3941, 3943, 3945, 3947, 3948; C97, §4876, 4877, 4879, 4881, 4883 – 4885; C24, 27, 31, 35, 39, §**13293, 13294, 13296, 13298 – 13301;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §739.2, 739.3, 739.5, 739.7 – 739.10; C79, 81, §722.2]

87 Acts, ch 213, §10

722.3 Bribery in sports.

A person who offers, solicits, gives or receives anything of value or any benefit or promise of anything of value or any benefit, with the intent that the recipient thereof do any of the following, commits an aggravated misdemeanor:

1. If the person is a participant or prospective participant in any professional or amateur sport, match, or contest as a contestant or player, lose or in some way affect the outcome of such sport, match, or contest.

2. If the person is an umpire, referee, judge, or other official in any professional or amateur sport, match, or contest, or an owner, manager, coach, trainer or relative of any participant,

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use the person's position or influence to affect the outcome of any such sport, match, or contest or the score thereof.

[C54, 58, 62, 66, 71, 73, 75, 77, §739.12; C79, 81, §722.3]

722.4 and 722.5 Repealed by 2002 Acts, ch 1071, §15. See §39A.2.

722.6 Repealed by 2000 Acts, ch 1201, §18. See §39A.2.

722.7 and 722.8 Repealed by 2002 Acts, ch 1071, §15, 16. See §39A.3 and 39A.4.

722.9 Repealed by 2000 Acts, ch 1201, §18. See §39A.2.

722.10 Commercial bribery.

1. As used in subsection 2, the following definitions shall apply unless the context otherwise requires:

a. "Employer" means any sole proprietor, partnership, corporation, association, or other entity or organization.

b. "Employee" includes every officer, employee, agent or representative.

c. "Gratuity" means consideration in any form, including but not limited to a gift, commission, discount and bonus.

2. It is unlawful for a person to offer or deliver directly or indirectly for the personal benefit of an employee acting on behalf of the employee's employer in a business transaction or course of transactions with the person a gratuity in consideration of an act or omission which the person has reason to know is in conflict with the employment relation and duties of the employee to the employer. It is unlawful for an employee acting on behalf of the employee's employer in a business transaction or course of transactions with a person to solicit or receive from the person a gratuity directly or indirectly for the personal benefit of the employee in consideration of an act or omission which the employee has reason to know is in conflict with the employment relation and duties of the employee to the employer.

3. A violation of subsection 2 is a class "D" felony.

[C79, 81, §722.10]

722.11 Student athlete prohibitions.

1. *Definitions.* As used in this section:

a. "Immediate family member" means a spouse, child, stepchild, parent, stepparent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or guardian of a person named in this paragraph.

b. "Institution of higher education" means an institution of higher education under the control of the state board of regents, a community college, or a private college or university located in this state.

c. "Student athlete" means a person who engages in, is eligible to engage in, or may be eligible to engage in any intercollegiate sporting event, contest, exhibition, or program. The term includes a person who has applied, is eligible to apply, or who may be eligible to apply in the future to an institution of higher education.

2. *Prohibitions.*

a. Except as provided in paragraphs *"c"* and *"d"*, a person shall not give, offer, promise, or attempt to give any money or other thing of value to a student athlete or immediate family member of a student athlete for either of the following purposes:

(1) To induce, encourage, or reward the student athlete's application, enrollment, or attendance at an institution of higher education in order to have the student athlete participate in intercollegiate sporting events, contests, exhibitions, or programs at that institution.

(2) To induce, encourage, or reward the student athlete's participation in an intercollegiate sporting event, contest, exhibition, or program.

b. A person shall not aid or abet an act described in paragraph *"a"*.

c. As used in this subsection, *"person"* does not include any of the following:

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(1) An institution of higher education or any of its officers or employees if the institution, officer, or employee is acting in accordance with an official written policy of the institution.

(2) An immediate family member of the student athlete.

d. An intercollegiate athletic award approved or administered by the institution of higher education that the student athlete attends is not an inducement, encouragement or reward under paragraph *"a"*.

e. A person who engages in conduct knowing or having reason to know that the conduct violates this subsection commits an aggravated misdemeanor.

3. *Prohibitions for student athletes.*

a. Except as provided in paragraph *"b"*, a student athlete or immediate family member of the student athlete, shall not solicit or accept money or anything of value for any of the purposes described in subsection 2, paragraph *"a"*. A person shall not aid or abet an act described in this paragraph.

b. This subsection does not apply to money or other things of value that a student athlete receives from any of the following:

(1) An institution of higher education, its officers, or employees if the institution, officer, or employee offered money or other thing of value in accordance with an official written policy of the institution or if the thing of value is an intercollegiate athletic award approved or administered by that institution.

(2) An immediate family member of the student athlete.

c. A person who engages in conduct knowing or having reason to know that the conduct violates this subsection commits a serious misdemeanor.

88 Acts, ch 1248, §13
Referred to in §724.6

CHAPTER 723
PUBLIC DISORDER

Referred to in §331.307, 364.22, 701.1

723.1	Riot.	723.5	Disorderly conduct — funeral or memorial service.
723.2	Unlawful assembly.	723.6	Interference with public disorder control.
723.3	Failure to disperse.		
723.4	Disorderly conduct.		

723.1 Riot.

A riot is three or more persons assembled together in a violent and disturbing manner, and with any use of unlawful force or violence by them or any of them against another person, or causing property damage. A person who willingly joins in or remains a part of a riot, knowing or having reasonable grounds to believe that it is such, commits a class "D" felony.

[C51, §2740, 2741, 2743; R60, §4388, 4389, 4391; C73, §4067, 4068, 4070; C97, §5031, 5032, 5035; C24, 27, 31, 35, 39, §**13340, 13341, 13347;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §743.2, 743.3, 743.9; C79, 81, §723.1]

2021 Acts, ch 183, §44, 48
Referred to in §123.56, 657.12, 723.4, 901C.3

723.2 Unlawful assembly.

An unlawful assembly is three or more persons assembled together, with them or any of them acting in a violent manner, and with intent that they or any of them will commit a public offense. A person who willingly joins in or remains a part of an unlawful assembly, or who

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joined a lawful assembly but willingly remains after the assembly becomes unlawful, knowing or having reasonable grounds to believe that it is such, commits an aggravated misdemeanor.

[C51, §2739, 2741; R60, §4387, 4389; C73, §4066, 4068; C97, §5030, 5032; C24, 27, 31, 35, 39, §**13339, 13341;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §743.1, 743.3; C79, 81, §723.2]

2021 Acts, ch 183, §45, 48

Referred to in §723.4

723.3 Failure to disperse.

A peace officer may order the participants in a riot or unlawful assembly or persons in the immediate vicinity of a riot or unlawful assembly to disperse. Any person within hearing distance of such command, who refuses to obey, commits a simple misdemeanor.

[C51, §2797, 2798, 2801; R60, §4493, 4494, 4497; C73, §4149, 4150, 4153; C97, §5147, 5148, 5151; C24, 27, 31, 35, 39, §**13342, 13343, 13346;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §743.4, 743.5, 743.8; C79, 81, §723.3]

723.4 Disorderly conduct.

1. A person commits a simple misdemeanor when the person does any of the following:

a. Engages in fighting or violent behavior in any public place or in or near any lawful assembly of persons, provided, that participants in athletic contests may engage in such conduct which is reasonably related to that sport.

b. Makes loud and raucous noise in the vicinity of any residence or public building which intentionally or recklessly causes unreasonable distress to the occupants thereof.

c. Directs abusive epithets or makes any threatening gesture which the person knows or reasonably should know is likely to provoke a violent reaction by another.

d. Without lawful authority or color of authority, the person disturbs any lawful assembly or meeting of persons by conduct intended to disrupt the meeting or assembly.

e. By words or action, initiates or circulates a report or warning of fire, epidemic, or other catastrophe, knowing such report to be false or such warning to be baseless.

f. (1) Knowingly and publicly uses the flag of the United States in such a manner as to show disrespect for the flag as a symbol of the United States, with the intent or reasonable expectation that such use will provoke or encourage another to commit trespass or assault.

(2) As used in this paragraph:

(a) *"Deface"* means to intentionally mar the external appearance.

(b) *"Defile"* means to intentionally make physically unclean.

(c) *"Flag"* means a piece of woven cloth or other material designed to be flown from a pole or mast.

(d) *"Mutilate"* means to intentionally cut up or alter so as to make imperfect.

(e) *"Show disrespect"* means to deface, defile, mutilate, or trample.

(f) *"Trample"* means to intentionally tread upon or intentionally cause a machine, vehicle, or animal to tread upon.

(3) This paragraph does not apply to a flag retirement ceremony conducted pursuant to federal law.

2. A person commits a serious misdemeanor when the person, without lawful authority or color of authority, obstructs any street, sidewalk, highway, or other public way, with the intent to prevent or hinder its lawful use by others.

3. A person commits an aggravated misdemeanor when the person commits disorderly conduct as described in subsection 2 and does any of the following:

a. Obstructs or attempts to obstruct a fully controlled-access facility on a highway, street, or road in which the speed restriction is controlled by section 321.285, subsection 3, or section 321.285, subsection 5.

b. Commits property damage.

c. Is present during an unlawful assembly as defined in section 723.2.

4. A person commits a class "D" felony when the person commits disorderly conduct as described in subsection 2 and does any of the following:

a. Is present during a riot as defined in section 723.1.

b. Causes bodily injury.

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5. A person commits a class "C" felony when the person commits disorderly conduct as described in subsection 2 and the person causes serious bodily injury or death.

[C51, §2718, 2738, 2742; R60, §1768, 4360, 4386, 4390; C73, §1566, 4023, 4065, 4069; C97, §2468, 4959, 5029, 5033, 5034; S13, §2468, 5034; C24, 27, 31, 35, 39, §**13110, 13111, 13221, 13226, 13348, 13349;** C46, 50, 54, 58, 62, 66, §714.31, 714.32, 727.1, 728.1, 744.1, 744.2; C71, 73, 75, 77, §714.31, 714.32, 714.42, 727.1, 728.1, 744.1, 744.2; C79, 81, §723.4]

88 Acts, ch 1093, §1; 2007 Acts, ch 202, §15; 2010 Acts, ch 1061, §82; 2021 Acts, ch 15, §1; 2021 Acts, ch 183, §46, 48

723.5 Disorderly conduct — funeral or memorial service.

1. A person shall not do any of the following within one thousand feet of the building or other location where a funeral or memorial service is being conducted, or within one thousand feet of a funeral procession or burial:

a. Make loud and raucous noise which causes unreasonable distress to the persons attending the funeral or memorial service, or participating in the funeral procession.

b. Direct abusive epithets or make any threatening gesture which the person knows or reasonably should know is likely to provoke a violent reaction by another.

c. Disturb or disrupt the funeral, memorial service, funeral procession, or burial by conduct intended to disturb or disrupt the funeral, memorial service, funeral procession, or burial.

2. This section applies to conduct within sixty minutes preceding, during, and within sixty minutes after a funeral, memorial service, funeral procession, or burial.

3. A person who commits a violation of this section commits:

a. A simple misdemeanor for a first offense.

b. A serious misdemeanor for a second offense.

c. A class "D" felony for a third or subsequent offense.

2006 Acts, ch 1058, §1, 2; 2015 Acts, ch 78, §1

723.6 Interference with public disorder control.

Any person who possesses a tool, instrument, or device with the intent to suppress or disrupt law enforcement from legally deploying a device to control public disorder under this chapter commits an aggravated misdemeanor.

2021 Acts, ch 183, §47, 48

CHAPTER 723A

CRIMINAL STREET GANGS

Referred to in §331.307, 364.22, 657.2, 701.1

723A.1 Definitions.
723A.2 Criminal gang participation.
723A.3 Gang recruitment — penalty.

723A.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Criminal acts"* means any of the following or any combination of the following:

a. An offense constituting a violation of section 124.401 involving a controlled substance, a counterfeit substance, or a simulated controlled substance.

b. An offense constituting a violation of chapter 711 involving a robbery or extortion.

c. An offense constituting a violation of section 708.6 involving intimidation with a dangerous weapon.

d. An offense constituting a violation of section 708.8.

e. An offense constituting a violation of section 720.4.

f. Any other offense constituting a forcible felony as defined in section 702.11.

g. An offense constituting a violation of chapter 724.

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h. Brandishing a dangerous weapon. For purposes of this paragraph:

(1) *"Brandishing a dangerous weapon"* means the display or exhibition of a dangerous weapon, with the intent to use, intimidate, or threaten another person without justification, or the actual use of the dangerous weapon in a manner which is intended to or does cause serious injury or death without justification.

(2) *"Dangerous weapon"* means either of the following:

(a) An instrument or device designed primarily for use in inflicting death or injury upon a human being or animal, and that is capable of inflicting death upon a human being when used in the manner for which it was designed.

(b) An instrument or device of any sort whatsoever that is actually used in a manner that indicates the defendant intends to inflict death or serious injury upon another person without justification, and that, when so used, is capable of inflicting death or serious injury upon a human being.

2. *"Criminal street gang"* means any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more criminal acts, which has an identifiable name or identifying sign or symbol, and whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.

3. *"Pattern of criminal gang activity"* means the commission, attempt to commit, conspiring to commit, or solicitation of two or more criminal acts, provided the criminal acts were committed on separate dates or by two or more persons who are members of, or belong to, the same criminal street gang.

90 Acts, ch 1251, §57; 95 Acts, ch 191, §51; 96 Acts, ch 1134, §10; 97 Acts, ch 119, §1, 2, 4; 2002 Acts, ch 1075, §9

Subsection 1, paragraph h affirmed and reenacted effective May 6, 1997; legislative findings; 97 Acts, ch 119, §1, 2, 4

723A.2 Criminal gang participation.

A person who actively participates in or is a member of a criminal street gang and who willfully aids and abets any criminal act committed for the benefit of, at the direction of, or in association with any criminal street gang, commits a class "D" felony.

90 Acts, ch 1251, §58

Referred to in §232.8

723A.3 Gang recruitment — penalty.

1. A person who solicits, recruits, entices, or intimidates a minor to join a criminal street gang commits a class "C" felony.

2. A person who conspires to solicit, recruit, entice, or intimidate a minor to join a criminal street gang commits a class "D" felony.

95 Acts, ch 191, §52

CHAPTER 724

WEAPONS

Referred to in §232.8, 331.307, 331.653, 364.22, 701.1, 723A.1, 901C.3, 914.7

724.1	Offensive weapons.	724.2A	Peace officer — defined — reserved peace officer included.
724.1A	Firearm suppressors — certification.	724.3	Unauthorized possession of offensive weapons.
724.1B	Firearm suppressors — penalty.	724.4	Use of a dangerous weapon in the commission of a crime.
724.1C	Short-barreled rifle or short-barreled shotgun — penalty.	724.4A	Weapons free zones — enhanced penalties.
724.2	Authority to possess offensive weapons.		

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724.4B	Carrying firearms on school grounds — penalty — exceptions.
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724.28	Prohibition of regulation by political subdivisions — exception.
724.28A	Authority to carry firearm — peace officers.
724.29	Firearm devices.
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724.30	Reckless use of a firearm.
724.31	Persons subject to firearm disabilities due to mental health commitments or adjudications — relief from disabilities — reports.
724.31A	Identifying information — background checks. Repealed by 2025 Acts, ch 104, §2.
724.32	County courthouse — weapon prohibitions.

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724.1 Offensive weapons.

1. An offensive weapon is any device or instrumentality of the following types:

a. A machine gun. A machine gun is a firearm which shoots or is designed to shoot more than one shot, without manual reloading, by a single function of the trigger.

b. Any weapon other than a shotgun or muzzle loading rifle, cannon, pistol, revolver or musket, which fires or can be made to fire a projectile by the explosion of a propellant charge, which has a barrel or tube with the bore of more than six-tenths of an inch in diameter, or the ammunition or projectile therefor, but not including antique weapons kept for display or lawful shooting.

c. A destructive device as defined in section 101A.1.

d. A ballistic knife. A ballistic knife is a knife with a detachable blade which is propelled by a spring-operated mechanism, elastic material, or compressed gas.

e. Any part or combination of parts either designed or intended to be used to convert any

device into an offensive weapon as described in paragraphs *"a"* through *"d"*, or to assemble into such an offensive weapon, except magazines or other parts, ammunition, or ammunition components used in common with lawful sporting firearms or parts including but not limited to barrels suitable for refitting to sporting firearms.

f. Any bullet or projectile containing any explosive mixture or chemical compound capable of exploding or detonating prior to or upon impact, or any shotshell or cartridge containing exothermic pyrophoric misch metal as a projectile which is designed to throw or project a flame or fireball to simulate a flamethrower.

2. An offensive weapon or part or combination of parts therefor shall not include the following:

a. An antique firearm. An antique firearm is any firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898 or any firearm which is a replica of such a firearm if such replica is not designed or redesigned for using conventional rimfire or centerfire fixed ammunition or which uses only rimfire or centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

b. A collector's item. A collector's item is any firearm other than a machine gun that by reason of its date of manufacture, value, design, and other characteristics is not likely to be used as a weapon. The commissioner of public safety shall designate by rule firearms which the commissioner determines to be collector's items and shall revise or update the list of firearms at least annually.

c. Any device which is not designed or redesigned for use as a weapon; any device which is designed solely for use as a signaling, pyrotechnic, line-throwing, safety, or similar device; or any firearm which is unserviceable by reason of being unable to discharge a shot by means of an explosive and is incapable of being readily restored to a firing condition.

[C27, 31, 35, §12960-b1; C39, §**12960.01;** C46, 50, 54, 58, 62, 66, §696.1; C71, 73, 75, 77, §696.1, 697.10, 697.11; C79, 81, §724.1]

83 Acts, ch 7, §1; 88 Acts, ch 1164, §2, 3; 92 Acts, ch 1004, §1, 2; 2000 Acts, ch 1116, §7; 2013 Acts, ch 90, §205; 2014 Acts, ch 1092, §148; 2015 Acts, ch 30, §194; 2016 Acts, ch 1044, §1, 4; 2017 Acts, ch 69, §1; 2023 Acts, ch 12, §6, 8

Referred to in §123.56, 124.401, 657.12, 724.2, 809.21, 809A.17

724.1A Firearm suppressors — certification.

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

a. *"Certification"* means the participation and assent of the chief law enforcement officer of the jurisdiction where the applicant resides or maintains an address of record, that is necessary under federal law for the approval of an application to make or transfer a firearm suppressor.

b. *"Chief law enforcement officer"* means the county sheriff, chief of police, or the designee of such official, that the federal bureau of alcohol, tobacco, firearms and explosives, or any successor agency, has identified by regulation or has determined is otherwise eligible to provide any required certification for making or transferring a firearm suppressor.

c. *"Firearm suppressor"* means a mechanical device specifically constructed and designed so that when attached to a firearm it silences, muffles, or suppresses the sound when fired and that is considered a *"firearm silencer"* or *"firearm muffler"* as defined in 18 U.S.C. §921.

2. *a.* A chief law enforcement officer is not required to make any certification under this section the chief law enforcement officer knows to be false, but the chief law enforcement officer shall not refuse, based on a generalized objection, to issue a certification to make or transfer a firearm suppressor.

b. When the certification of the chief law enforcement officer is required by federal law or regulation for making or transferring a firearm suppressor, the chief law enforcement officer shall, within thirty days of receipt of a request for certification, issue such certification if the applicant is not prohibited by law from making or transferring a firearm suppressor or is not the subject of a proceeding that could result in the applicant being prohibited by law from making or transferring the firearm suppressor. If the chief law enforcement officer does not

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issue a certification as required by this section, the chief law enforcement officer shall provide the applicant with a written notification of the denial and the reason for the denial.

c. A certification that has been approved under this section grants the person the authority to make or transfer a firearm suppressor as provided by state and federal law.

3. An applicant whose request for certification is denied may appeal the decision of the chief law enforcement officer to the district court for the county in which the applicant resides or maintains an address of record. The court shall review the decision of the chief law enforcement officer to deny the certification de novo. If the court finds that the applicant is not prohibited by law from making or transferring the firearm suppressor, and is not the subject of a proceeding that could result in such prohibition, or that no substantial evidence supports the decision of the chief law enforcement officer, the court shall order the chief law enforcement officer to issue the certification and award court costs and reasonable attorney fees to the applicant. If the court determines the applicant is not eligible to be issued a certification, the court shall award court costs and reasonable attorney fees to the political subdivision of the state representing the chief law enforcement officer.

4. In making a determination about whether to issue a certification under subsection 2, a chief law enforcement officer may conduct a criminal background check, including an inquiry of the national instant criminal background check system maintained by the federal bureau of investigation or any successor agency, but shall only require the applicant to provide as much information as is necessary to identify the applicant for this purpose or to determine the disposition of an arrest or proceeding relevant to the eligibility of the applicant to lawfully possess or receive a firearm suppressor. A chief law enforcement officer shall not require access to or consent to inspect any private premises as a condition of providing a certification under this section.

5. A chief law enforcement officer and employees of the chief law enforcement officer who act in good faith are immune from liability arising from any act or omission in making a certification as required by this section.

2016 Acts, ch 1044, §2, 4

724.1B Firearm suppressors — penalty.

1. A person shall not knowingly possess a firearm suppressor in this state in violation of federal law.

2. A person who possesses a firearm suppressor in violation of subsection 1 commits a class "D" felony.

2016 Acts, ch 1044, §3, 4

724.1C Short-barreled rifle or short-barreled shotgun — penalty.

1. For purposes of this section, "*short-barreled rifle*" or "*short-barreled shotgun*" means the same as defined in 18 U.S.C. §921.

2. A person shall not knowingly possess a short-barreled rifle or short-barreled shotgun in violation of federal law.

3. A person who possesses a short-barreled rifle or short-barreled shotgun in violation of subsection 2 commits a class "D" felony.

2017 Acts, ch 69, §2

724.2 Authority to possess offensive weapons.

1. Any of the following persons or entities is authorized to possess an offensive weapon when the person's or entity's duties or lawful activities require or permit such possession:

a. Any peace officer.

b. Any member of the armed forces of the United States or of the national guard.

c. Any person in the service of the United States.

d. A correctional officer, serving in an institution under the authority of the Iowa department of corrections.

e. Any person who under the laws of this state and the United States, is lawfully engaged in the business of supplying those authorized to possess such devices.

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f. Any person, firm or corporation who under the laws of this state and the United States is lawfully engaged in the improvement, invention or manufacture of firearms.

g. Any museum or similar place which possesses, solely as relics, offensive weapons which are rendered permanently unfit for use.

h. A resident of this state who possesses an offensive weapon which is a curio or relic firearm under the federal Firearms Act, 18 U.S.C. ch. 44, solely for use in the official functions of a historical reenactment organization of which the person is a member, if the offensive weapon has been permanently rendered unfit for the firing of live ammunition. The offensive weapon may, however, be adapted for the firing of blank ammunition.

i. A nonresident who possesses an offensive weapon which is a curio or relic firearm under the federal Firearms Act, 18 U.S.C. ch. 44, solely for use in official functions in this state of a historical reenactment organization of which the person is a member, if the offensive weapon is legally possessed by the person in the person's state of residence and the offensive weapon is at all times while in this state rendered incapable of firing live ammunition. A nonresident who possesses an offensive weapon under this paragraph while in this state shall not have in the person's possession live ammunition. The offensive weapon may, however, be adapted for the firing of blank ammunition.

2. Notwithstanding subsection 1, a person is not authorized to possess in this state a shotshell or cartridge intended to project a flame or fireball of the type described in section 724.1.

[C27, 31, 35, §12960-b4, 12960-b5, 12960-b7; C39, §**12960.04, 12960.05, 12960.07;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §696.4 – 696.7; C79, 81, §724.2]

83 Acts, ch 96, §122, 159; 97 Acts, ch 166, §3; 2013 Acts, ch 90, §206; 2013 Acts, ch 140, §78

724.2A Peace officer — defined — reserved peace officer included.

As used in sections 724.4B, 724.6, and 724.11, "*peace officer*" includes a reserve peace officer as defined in section 80D.1A.

96 Acts, ch 1078, §1; 2017 Acts, ch 69, §5; 2017 Acts, ch 170, §46; 2021 Acts, ch 35, §8

Referred to in §708.12, 708.13

724.3 Unauthorized possession of offensive weapons.

Any person, other than a person authorized in this chapter, who knowingly possesses an offensive weapon commits a class "D" felony.

[C27, 31, 35, §12960-b3; C39, §**12960.03;** C46, 50, 54, 58, 62, 66, §696.3; C71, 73, 75, 77, §696.3, 697.11; C79, 81, §724.3]

2018 Acts, ch 1026, §176

724.4 Use of a dangerous weapon in the commission of a crime.

A person who goes armed with a dangerous weapon on or about the person, and who uses the dangerous weapon in the commission of a crime, commits an aggravated misdemeanor, except as provided in section 708.8.

[S13, §4775-1a, -3a, -4a, -7a, -11a; C24, 27, 31, 35, 39, §**12936 – 12939;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §695.2 – 695.5; C79, 81, §724.4]

83 Acts, ch 7, §2; 83 Acts, ch 96, §123, 159; 87 Acts, ch 13, §5; 88 Acts, ch 1164, §4; 98 Acts, ch 1131, §3; 2017 Acts, ch 69, §6; 2018 Acts, ch 1058, §5; 2018 Acts, ch 1117, §1, 2; 2021 Acts, ch 35, §9

Referred to in §232.52

724.4A Weapons free zones — enhanced penalties.

1. As used in this section, "*weapons free zone*" means the area in or on, or within one thousand feet of, the real property comprising a public or private elementary or secondary school, or in or on the real property comprising a public park. A weapons free zone shall not include that portion of a public park designated as a hunting area under section 461A.42.

2. Notwithstanding sections 902.9 and 903.1, a person who commits a public offense involving a firearm or offensive weapon, within a weapons free zone, in violation of this

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or any other chapter shall be subject to a fine of twice the maximum amount which may otherwise be imposed for the public offense.

94 Acts, ch 1172, §53

724.4B Carrying firearms on school grounds — penalty — exceptions.

1. A person who goes armed with, carries, or transports a firearm of any kind, whether concealed or not, on the grounds of a school commits a class "D" felony. For the purposes of this section, "*school*" means a public or nonpublic school as defined in section 280.2.

2. Subsection 1 does not apply to the following:

a. A person who has been specifically authorized by the school to go armed with, carry, or transport a firearm on the school grounds for any lawful purpose.

b. A peace officer including a peace officer who has not been certified and a federal officer when the officer's employment requires going armed, whether or not the peace officer or federal officer is acting in the performance of official duties.

c. A member of the armed forces of the United States or of the national guard or person in the service of the United States, when the firearm is carried in connection with the person's duties as such.

d. A correctional officer, when the officer's duties require the officer to carry a firearm, serving under the authority of the Iowa department of corrections.

e. A person who for any lawful purpose carries an unloaded pistol, revolver, or other firearm inside a closed and fastened container or securely wrapped package that is too large to be concealed on the person.

f. A person who for any lawful purpose carries or transports an unloaded pistol, revolver, or other firearm in a vehicle or common carrier inside a closed and fastened container or securely wrapped package that is too large to be concealed on the person or carries or transports an unloaded pistol, revolver, or other firearm inside a cargo or luggage compartment where the pistol or revolver will not be readily accessible to any person riding in the vehicle or common carrier.

g. A law enforcement officer from another state when the officer's duties require the officer to carry a firearm and the officer is in this state for any of the following reasons:

(1) The extradition or other lawful removal of a prisoner from this state.

(2) Pursuit of a suspect in compliance with chapter 806.

(3) Activities in the capacity of a law enforcement officer with the knowledge and consent of the chief of police of the city or the sheriff of the county in which the activities occur or of the commissioner of public safety.

h. A licensee under chapter 80A or an employee of such a licensee, while the licensee or employee is engaged in the performance of duties, and if the licensee or employee possesses a valid professional or nonprofessional permit to carry weapons issued pursuant to this chapter.

95 Acts, ch 191, §53; 2013 Acts, ch 90, §207; 2017 Acts, ch 69, §7; 2021 Acts, ch 35, §10

Referred to in §232.52, 724.2A

724.4C Possession or carrying of dangerous weapons while under the influence.

1. Except as provided in subsection 2, a person commits a serious misdemeanor if the person is intoxicated as provided under the conditions set out in section 321J.2, subsection 1, paragraph "*a*", "*b*", or "*c*", and the person does any of the following:

a. Carries a dangerous weapon on or about the person.

b. Carries a dangerous weapon within the person's immediate access or reach while in a vehicle.

2. This section shall not apply to any of the following:

a. A person who carries or possesses a dangerous weapon while in the person's own dwelling, place of business, or on land owned or lawfully possessed by the person.

b. The transitory possession or use of a dangerous weapon during an act of justified self-defense or justified defense of another, provided that the possession lasts no longer than is immediately necessary to resolve the emergency.

2010 Acts, ch 1178, §4, 19; 2017 Acts, ch 69, §8; 2017 Acts, ch 170, §47

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724.4D Carrying of dangerous weapons — duty to cooperate — reasonable suspicion.

A person carrying a dangerous weapon whose behavior creates a reasonable suspicion that the person presents a danger to the person's self or others shall cooperate with an investigating officer.

2021 Acts, ch 35, §11

724.4E Possession of dangerous weapons and loaded firearms by minors.

1. A minor who goes armed with a dangerous weapon concealed on or about the person commits a serious misdemeanor.

2. A minor who carries, transports, or possesses a loaded firearm of any kind within the limits of a city or knowingly carries or transports a pistol or revolver in a vehicle commits a serious misdemeanor.

3. A minor who goes armed with a dangerous weapon that directs an electric current impulse, wave, or beam that produces a high-voltage pulse designed to immobilize a person, whether concealed or not, commits a simple misdemeanor.

2021 Acts, ch 35, §12

Referred to in §232.2

724.5 Availability of permit not to be construed as prohibition on unlicensed carrying of weapons.

The availability of a professional or nonprofessional permit to carry weapons under this chapter shall not be construed to impose a general prohibition on the otherwise lawful unlicensed carrying or transport, whether openly or concealed, of a dangerous weapon, including a loaded firearm.

[S13, §4775-8a; C24, 27, 31, 35, 39, §**12947;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §695.15; C79, 81, §724.5]

90 Acts, ch 1168, §60; 2017 Acts, ch 69, §9; 2018 Acts, ch 1026, §177; 2021 Acts, ch 35, §13

724.6 Professional permit to carry weapons.

1. *a.* (1) A person may be issued a permit to carry weapons when the person's employment in a private investigation business or private security business licensed under chapter 80A, or a person's employment as a peace officer, correctional officer, member of the general assembly, judicial officer, county attorney, assistant county attorney, attorney general, deputy attorney general, assistant attorney general, security guard, bank messenger or other person transporting property of a value requiring security, or in police work, reasonably justifies that person going armed.

(2) A person may be issued a permit to carry weapons if the person is an emergency medical care provider who is designated and attached to a law enforcement tactical team by the authorities having jurisdiction. A person issued a permit to carry weapons under this paragraph shall train with the law enforcement tactical team the person is designated and attached to, complete a prescribed firearm safety training course offered pursuant to section 724.9, subsection 1, paragraph *"e"*, complete any additional training as prescribed by the authorities having jurisdiction, and not be disqualified under section 724.8.

(3) A person may be issued a permit to carry weapons if the person is a school employee of a school district, a private school, or an institution of higher education as defined in section 722.11. The person shall complete a prescribed firearm safety training course offered pursuant to section 724.9, subsection 1, prior to being issued a permit, and not be disqualified under section 724.8. A person issued a permit to carry weapons under this subparagraph shall receive one-time, in-person legal training, including training on qualified immunity, annual emergency medical training, and annual communication training that is approved by the department of public safety. A person issued a permit to carry weapons under this subparagraph shall complete annual live scenario training and quarterly live firearm training approved by the department of public safety for school employees of a school district, a private school, or an institution of higher education that has opted into participating in the professional permitting of school employees. A school employee issued a professional permit to carry by the department of public safety who is up to date with all

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required training, and the school district that employs the school employee, shall be entitled to qualified immunity from criminal or civil liability for all damages incurred pursuant to the application of reasonable force at the place of employment. The identity of a person who has been issued a permit pursuant to this subparagraph shall be confidential and shall not be a public record subject to disclosure under chapter 22. The department of public safety shall adopt rules pursuant to chapter 17A to administer this subparagraph.

(4) A person may be issued a permit to carry weapons if the person is a member of the general assembly, judicial officer, county attorney, assistant county attorney, attorney general, deputy attorney general, or assistant attorney general. An application for a permit by an assistant county attorney must be approved by the county attorney of each county in which the applicant serves prior to a permit to carry weapons being issued. An application for a permit by the attorney general or deputy attorney general or by an assistant attorney general shall be delivered to the sheriff for the county in which the applicant resides. The sheriff of the issuing county may require the applicant to complete a proficiency examination prior to issuing the permit to carry weapons. The standards for a proficiency examination for a member of the general assembly, judicial officer, county attorney, assistant county attorney, attorney general, deputy attorney general, or assistant attorney general shall not exceed the standards required of a peace officer. The applicant shall pay the reasonable costs associated with completing a proficiency examination.

b. The permit shall be on a form prescribed and published by the commissioner of public safety, shall identify the holder, and shall state the nature of the employment requiring the holder to go armed. A permit so issued, other than to a peace officer, member of the general assembly, judicial officer, county attorney, assistant county attorney, attorney general, deputy attorney general, or assistant attorney general, shall authorize the person to whom it is issued to go armed anywhere in the state, only while engaged in the employment, and while going to and from the place of the employment.

c. A permit issued to a certified peace officer, member of the general assembly, judicial officer, county attorney, assistant county attorney, attorney general, deputy attorney general, or assistant attorney general shall authorize that peace officer, member of the general assembly, judicial officer, county attorney, assistant county attorney, attorney general, deputy attorney general, or assistant attorney general to go armed anywhere in the state at all times, including on the grounds of a school.

d. Permits shall expire twelve months after the date when issued except that permits issued to peace officers, members of the general assembly, judicial officers, county attorneys, assistant county attorneys, the attorney general, deputy attorneys general, assistant attorneys general, and correctional officers are valid through the holder of the permit's period of employment unless otherwise canceled. When the employment is terminated, the holder of the permit shall surrender the permit to the issuing officer for cancellation.

e. Notwithstanding any other provision in this section, a person issued a permit to carry weapons under this section may carry weapons only in a concealed manner when inside a courtroom. This paragraph does not apply to peace officers or correctional officers when fulfilling their duties of employment.

2. Notwithstanding subsection 1, fire fighters, as defined in section 411.1, subsection 11, airport fire fighters included under section 97B.49B, school employees, and emergency medical care providers other than emergency medical care providers specified in subsection 1, paragraph *"a"*, subparagraph (2), shall not, as a condition of employment, be required to obtain a permit under this section. However, the provisions of this subsection shall not apply to a person designated as an arson investigator by the chief fire officer of a political subdivision.

3. For purposes of this section:

a. "Emergency medical care provider" means the same as defined in section 147A.1.

b. "Judicial officer" means the same as defined in section 602.1101.

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4. The supreme court may by rule impose additional training or other requirements on judicial officers who hold a permit issued under this section.

[S13, §4775-4a, -7a; C24, 27, 31, 35, 39, §**12939, 12943 – 12945;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §695.5, 695.11 – 695.13; C79, 81, §724.6]

83 Acts, ch 7, §3; 84 Acts, ch 1235, §17; 93 Acts, ch 31, §1; 94 Acts, ch 1183, §87; 95 Acts, ch 41, §26; 98 Acts, ch 1183, §74; 2004 Acts, ch 1103, §58; 2010 Acts, ch 1149, §18; 2017 Acts, ch 69, §10; 2021 Acts, ch 35, §14 – 16; 2024 Acts, ch 1084, §2 – 4; 2024 Acts, ch 1119, §1 – 3; 2024 Acts, ch 1179, §11, 13; 2026 Acts, ch 1077, §1 – 6

Referred to in §29C.25, 80A.13, 279.84, 724.2A, 724.11
Subsection 1, paragraph a, subparagraphs (1) and (4) amended
Subsection 1, paragraphs b – d amended
Subsection 1, NEW paragraph e
Subsection 3 amended
NEW subsection 4

724.7 Nonprofessional permit to carry weapons.

1. Any person who is not disqualified under section 724.8, who satisfies the training requirements of section 724.9, and who files an application in accordance with section 724.10 shall be issued a nonprofessional permit to carry weapons. Such permits shall be on a form prescribed and published by the commissioner of public safety, which shall be readily distinguishable from the professional permit, and shall identify the holder of the permit. Such permits shall not be issued for a particular weapon and shall not contain information about a particular weapon including the make, model, or serial number of the weapon or any ammunition used in that weapon. All permits so issued shall be for a period of five years and shall be valid throughout the state except where the possession or carrying of a firearm is prohibited by state or federal law.

2. The commissioner of public safety shall develop a process to allow service members deployed for military service to submit a renewal of a nonprofessional permit to carry weapons early and by mail. In addition, a permit issued to a service member who is deployed for military service, as defined in section 29A.1, subsection 3, 8, or 12, that would otherwise expire during the period of deployment shall remain valid for ninety days after the end of the service member's deployment.

[S13, §4775-3a; C24, 27, 31, 35, 39, §**12938, 12945;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §695.4, 695.13; C79, 81, §724.7]

2010 Acts, ch 1170, §6; 2010 Acts, ch 1178, §5, 19; 2011 Acts, ch 47, §12; 2012 Acts, ch 1072, §40

Referred to in §29C.25, 80A.13, 724.11

724.8 Persons ineligible for permit to carry weapons.

No professional or nonprofessional permit to carry weapons shall be issued to a person who is subject to any of the following:

1. Is less than eighteen years of age.
2. Is addicted to the use of alcohol.
3. Probable cause exists to believe, based upon documented specific actions of the person, where at least one of the actions occurred within two years immediately preceding the date of the permit application, that the person is likely to use a weapon unlawfully or in such other manner as would endanger the person's self or others.
4. Is subject to the provisions of section 724.26.
5. Has, within the previous three years, been convicted of any serious or aggravated misdemeanor defined in chapter 708 not involving the use of a firearm or explosive.
6. Is prohibited by federal law from shipping, transporting, possessing, or receiving a firearm.

[C79, 81, §724.8]

2010 Acts, ch 1178, §6, 19; 2025 Acts, ch 27, §1

Referred to in §80A.13, 724.6, 724.7, 724.8B, 724.10, 724.11, 724.27

724.8A Limitation on authority — nonprojectile high-voltage pulse weapons designed to immobilize — public universities and community colleges.

1. The governing board of a university under the control of the state board of regents as

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provided in chapter 262 or a community college under the jurisdiction of a board of directors for a merged area as provided in chapter 260C shall not adopt or enforce any policy or rule that prohibits the carrying, transportation, or possession of a dangerous weapon that directs an electric current, impulse, wave, or beam that produces a high-voltage pulse designed to immobilize a person in the buildings or on the grounds of such a college or university, as long as such a dangerous weapon does not generate a projectile that directs an electric current, impulse, wave, or beam that produces a high-voltage pulse designed to immobilize a person, and such a dangerous weapon is not used in the commission of a public offense.

2. This section shall not apply to any policy or rule adopted or enforced by the governing board of a university under the control of the state board of regents as provided in chapter 262 or a community college under the jurisdiction of a board of directors for a merged area as provided in chapter 260C that prohibits persons who have been convicted of a felony from carrying, transporting, or possessing a dangerous weapon that directs an electric current, impulse, wave, or beam that produces a high-voltage pulse designed to immobilize a person in the buildings or on the grounds of such a university or community college.

3. This section shall not apply to any policy or rule adopted or enforced by the governing board of a university under the control of the state board of regents as provided in chapter 262 that prohibits the carrying, transportation, or possession of a dangerous weapon that directs an electric current, impulse, wave, or beam that produces a high-voltage pulse designed to immobilize a person inside the buildings or physical structures of any stadium or hospital associated with an institution governed by the state board of regents.

2019 Acts, ch 94, §3; 2020 Acts, ch 1063, §376
Referred to in §80A.13, 260C.14A, 262.9D, 724.11

724.8B Persons ineligible to carry dangerous weapons.

A person determined to be ineligible to receive a permit to carry weapons under section 724.8, subsection 2, 3, 4, 5, or 6, a person who illegally possesses a controlled substance included in chapter 124, subchapter II, or a person who is committing an indictable offense is prohibited from carrying dangerous weapons. Unless otherwise provided by law, a person who violates this section commits a serious misdemeanor.

2021 Acts, ch 35, §17
Referred to in §80A.13, 724.11, 724.15, 724.16

724.9 Firearm safety training.

1. An applicant for an initial permit to carry weapons shall demonstrate knowledge of firearm safety by any of the following means:

a. Completion of any national rifle association handgun safety training course or a handgun safety training course offered by an instructor certified by an organization approved by the department of public safety pursuant to section 724.9A.

b. Completion of any handgun safety training course available to the general public offered by a law enforcement agency, community college, college, private or public institution or organization, or firearms training school, utilizing instructors certified by the national rifle association or an organization approved by the department of public safety pursuant to section 724.9A or another state's department of public safety, state police department, or similar certifying body.

c. Completion of any handgun safety training course offered for security guards, investigators, special deputies, or any division or subdivision of a law enforcement or security enforcement agency approved by the department of public safety.

d. Completion of small arms training while serving with the armed forces of the United States.

e. Completion of a law enforcement agency firearm safety training course that qualifies a peace officer to carry a firearm in the normal course of the peace officer's duties.

f. Completion of a hunter education program approved by the natural resource commission pursuant to section 483A.27, if the program includes handgun safety training and completion of the handgun safety training is included on the certificate of completion.

2. The handgun safety training course required in subsection 1 may be conducted over the

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internet in a live or web-based format, if completion of the course is verified by the instructor or provider of the course.

3. Firearm safety training shall not be required for renewals of permits issued after December 31, 2010.

4. If firearm safety training is required under this section, evidence of such training may be documented by any of the following:

a. A photocopy of a certificate of completion or any similar document indicating completion of any course or class identified in subsection 1 that was completed within twenty-four months prior to the date of the application.

b. An affidavit from the instructor, school, organization, or group that conducted or taught a course or class identified in subsection 1 that was completed within twenty-four months prior to the date of the application attesting to the completion of the course or class by the applicant.

c. For personnel released or retired from active duty in the armed forces of the United States, possession of an honorable discharge or general discharge under honorable conditions issued any time prior to the date of the application.

d. For personnel on active duty or serving in one of the national guard or reserve components of the armed forces of the United States, possession of a certificate of completion of basic training with a service record of successful completion of small arms training and qualification issued prior to the date of the application, or any other official documentation satisfactory to the issuing officer issued prior to the date of the application.

5. An issuing officer shall not condition the issuance of a permit on training requirements that are not specified in or that exceed the requirements of this section.

6. If an applicant applies after expiration of the time periods specified for renewal in section 724.11, firearm safety training shall not be required for a renewal permit under this section.

[C79, 81, §724.9]

2010 Acts, ch 1178, §7, 19; 2017 Acts, ch 69, §12; 2021 Acts, ch 35, §19

Referred to in §80A.13, 724.6, 724.7, 724.9A, 724.10, 724.11

724.9A Approval of organizations that may certify handgun safety training instructors.

The department of public safety shall adopt rules to approve organizations that may certify individuals as handgun safety training instructors eligible to offer a handgun safety training course under section 724.9, subsection 1, paragraphs *"a"* and *"b"*.

2021 Acts, ch 35, §20

Referred to in §80A.13, 724.9, 724.11

724.10 Application for permit to carry weapons — background check required.

1. A person shall not be issued a permit to carry weapons unless the person has completed and signed an application on a form to be prescribed and published by the commissioner of public safety. The application shall require only the full name, driver's license or nonoperator's identification card number, residence, place of birth, and date of birth of the applicant, and shall state whether the applicant meets the criteria specified in sections 724.8 and 724.9. An applicant may provide the applicant's social security number if the applicant so chooses. The applicant shall also display an identification card that bears a distinguishing number assigned to the cardholder, the full name, date of birth, sex, residence address, and a brief description and color photograph of the cardholder.

2. The issuing officer, upon receipt of an initial or renewal application under this section, shall immediately conduct a background check concerning each applicant by obtaining criminal history data from the department of public safety which shall include an inquiry of the national instant criminal background check system maintained by the federal bureau of investigation or any successor agency.

3. A person who makes what the person knows to be a false statement of material fact on an application submitted under this section or who submits what the person knows to be any

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materially falsified or forged documentation in connection with such an application commits a class "D" felony.

[S13, §4775-4a, -7a; C24, 27, 31, 35, 39, §**12939, 12940;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §695.5, 695.6; C79, 81, §724.10]

90 Acts, ch 1147, §1; 2002 Acts, ch 1055, §1; 2010 Acts, ch 1178, §8, 19; 2013 Acts, ch 30, §166; 2016 Acts, ch 1011, §116

Referred to in §80A.13, 724.7, 724.11

724.11 Issuance of permit to carry weapons.

1. Applications for permits to carry weapons shall be made to the sheriff of the county in which the applicant resides. Applications for professional permits to carry weapons for persons who are nonresidents of the state, or whose need to go armed arises out of employment by the state, shall be made to the commissioner of public safety. In either case, the sheriff or commissioner, before issuing the permit, shall determine that the requirements of sections 724.6 through 724.10 have been satisfied. A renewal applicant shall apply within thirty days prior to the expiration of the permit, or within thirty days after the expiration of the permit; otherwise the applicant shall be considered an applicant for an initial permit for purposes of renewal fees under subsection 3.

2. Neither the sheriff nor the commissioner shall require an applicant for a permit to carry weapons to provide information identifying a particular weapon in the application including the make, model, or serial number of the weapon or any ammunition used in that particular weapon.

3. The issuing officer shall collect a fee of fifty dollars for an initial permit, except from a duly appointed peace officer or correctional officer, for each permit issued. Renewal permits or duplicate permits shall be issued for a fee of twenty-five dollars, provided the application for such renewal permit is received by the issuing officer within thirty days prior to the expiration of the applicant's current permit or within thirty days after the expiration of the applicant's current permit. The issuing officer shall notify the commissioner of public safety of the issuance of any permit at least monthly and forward to the commissioner an amount equal to ten dollars for each permit issued and five dollars for each renewal or duplicate permit issued. All such fees received by the commissioner shall be paid to the treasurer of state and deposited in the operating account of the department of public safety to offset the cost of administering this chapter. Notwithstanding section 8.33, any unspent balance as of June 30 of each year shall not revert to the general fund of the state.

4. The sheriff or commissioner of public safety shall approve or deny an initial or renewal application submitted under this section within thirty days of receipt of the application. A person whose application for a permit under this chapter is denied may seek review of the denial under section 724.21A. The failure to approve or deny an initial or renewal application shall result in a decision of approval.

5. An initial or renewal permit shall have a uniform appearance, size, and content prescribed and published by the commissioner of public safety. The permit shall contain the name of the permittee and the effective date of the permit, but shall not contain the permittee's social security number. The permit shall also include a designation that the permit is invalid when the permittee is intoxicated. Such a permit shall not be issued for a particular weapon and shall not contain information about a particular weapon including the make, model, or serial number of the weapon, or any ammunition used in that weapon.

[S13, §4775-3a; C24, 27, §12941; C31, 35, §12941, 12941-c1, 12941-d1; C39, §**12941, 12941.1, 12941.2;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §695.7 – 695.9; C79, 81, §724.11]

91 Acts, ch 207, §1; 97 Acts, ch 23, §78; 2010 Acts, ch 1178, §9, 19; 2017 Acts, ch 69, §13, 14; 2020 Acts, ch 1063, §377

Referred to in §80A.13, 724.2A, 724.9

724.11A Recognition.

A valid permit or license issued by another state to any nonresident of this state shall be considered to be a valid permit or license to carry weapons issued pursuant to this chapter,

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except that such permit or license shall not be deemed to satisfy the requirements of section 724.15.

2010 Acts, ch 1178, §10, 19; 2017 Acts, ch 69, §17; 2021 Acts, ch 35, §1

724.12 Permit to carry weapons not transferable.

Permits to carry weapons shall be issued to a specific person only, and may not be transferred from one person to another.

[C24, 27, 31, 35, 39, §**12942;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §695.10; C79, 81, §724.12]

724.13 Suspension or revocation of permit to carry weapons — criminal history background check.

1. An issuing officer who finds that a person issued a permit to carry weapons under this chapter has been arrested for a disqualifying offense or is the subject of proceedings that could lead to the person's ineligibility for such permit may immediately suspend such permit. An issuing officer proceeding under this section shall immediately notify the permit holder of the suspension by personal service or certified mail on a form prescribed and published by the commissioner of public safety and the suspension shall become effective upon the permit holder's receipt of such notice. If the suspension is based on an arrest or a proceeding that does not result in a disqualifying conviction or finding against the permit holder, the issuing officer shall immediately reinstate the permit upon receipt of proof of the matter's final disposition. If the arrest leads to a disqualifying conviction or the proceedings to a disqualifying finding, the issuing officer shall revoke the permit. The issuing officer may also revoke the permit of a person whom the issuing officer later finds was not qualified for such a permit at the time of issuance or who the officer finds provided materially false information on the permit application. A person aggrieved by a suspension or revocation under this section may seek review of the decision pursuant to section 724.21A.

2. The issuing officer may annually conduct a background check concerning a person issued a permit by obtaining criminal history data from the department of public safety.

[S13, §4775-6a; C24, 27, 31, 35, 39, §**12946;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §695.14; C79, 81, §724.13]

2010 Acts, ch 1178, §11, 19

Referred to in §29C.25, 724.14

724.14 Nonprofessional permit — change of residence to another county.

If a permit holder of a nonprofessional permit to carry weapons changes residences from one county to another county after the issuance of the permit, the department of public safety shall by rule specify the procedure to transfer the regulation of the holder's permit to another sheriff for the purposes of issuing a renewal or duplicate permit, or complying with section 724.13.

2017 Acts, ch 69, §15

724.15 Acquiring pistols or revolvers.

1. It is the intent of this section to satisfy federal requirements of 18 U.S.C. §922(t)(3) in order to acquire pistols or revolvers. In order to acquire a pistol or revolver from a federally licensed firearms dealer, an unlicensed person is required to have a valid permit to acquire or a valid permit to carry weapons issued in accordance with this chapter or the person must complete a satisfactory national instant criminal background check pursuant to 18 U.S.C. §922(t). A person under the age of twenty-one shall not be issued a permit to acquire a pistol or revolver, nor shall a nonprofessional permit to carry weapons held by a person who has not reached the age of twenty-one be valid for the transfer of a pistol or revolver from a federally licensed firearms dealer.

2. A person shall not acquire a pistol or revolver if the person is any of the following:

a. Under eighteen years of age.

b. Prohibited by section 724.26 or federal law from possessing, shipping, transporting, or receiving a firearm.

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c. Prohibited by court order from possessing, shipping, transporting, or receiving a firearm.

d. Ineligible to possess dangerous weapons pursuant to section 724.8B.

e. Intoxicated as provided under the conditions set out in section 321J.2, subsection 1.

3. An issuing officer who finds that a person issued a permit to acquire pistols or revolvers under this chapter has been arrested for a disqualifying offense or is the subject of proceedings that could lead to the person's ineligibility for such permit may immediately suspend such permit. An issuing officer proceeding under this subsection shall immediately notify the permit holder of the suspension by personal service or certified mail on a form prescribed and published by the commissioner of public safety and the suspension shall become effective upon the permit holder's receipt of such notice. If the suspension is based on an arrest or a proceeding that does not result in a disqualifying conviction or finding against the permit holder, the issuing officer shall immediately reinstate the permit upon receipt of proof of the matter's final disposition. If the arrest leads to a disqualifying conviction or the proceedings to a disqualifying finding, the issuing officer shall revoke the permit. The issuing officer may also revoke the permit of a person whom the issuing officer later finds was not qualified for such a permit at the time of issuance or whom the officer finds provided materially false information on the permit application. A person aggrieved by a suspension or revocation under this subsection may seek review of the decision pursuant to section 724.21A.

[C79, 81, §724.15]

90 Acts, ch 1147, §2, 3; 2010 Acts, ch 1178, §12, 19; 2017 Acts, ch 69, §18 – 20; 2021 Acts, ch 35, §2; 2021 Acts, ch 174, §29; 2025 Acts, ch 27, §2, 3

Referred to in §724.11A, 724.17, 724.19, 724.27

724.16 Prohibited transfers of firearms.

1. A person shall not transfer a firearm to another person if the person knows or reasonably should know that the other person is ineligible to possess dangerous weapons pursuant to section 724.8B, is intoxicated as provided under the conditions set out in section 321J.2, subsection 1, or is prohibited from receiving or possessing a firearm under section 724.26 or federal law.

2. A person shall not loan or rent a firearm to another person for temporary use during lawful activities if the person knows or reasonably should know that the other person is ineligible to possess dangerous weapons pursuant to section 724.8B, is intoxicated as provided under the conditions set out in section 321J.2, subsection 1, or is prohibited from receiving or possessing a firearm under section 724.26 or federal law.

3. A person who transfers, loans, or rents a firearm in violation of this section commits a class "D" felony.

[C79, 81, §724.16]

90 Acts, ch 1147, §4; 94 Acts, ch 1172, §54; 2017 Acts, ch 69, §21; 2021 Acts, ch 35, §3

724.16A Trafficking in stolen weapons.

1. A person who knowingly transfers or acquires possession, or who facilitates the transfer, of a stolen firearm commits:

a. A class "D" felony for a first offense.

b. A class "C" felony for second and subsequent offenses or if the weapon is used in the commission of a public offense.

2. However, this section shall not apply to a person purchasing stolen firearms through a buy-back program sponsored by a law enforcement agency if the firearms are returned to their rightful owners or destroyed.

94 Acts, ch 1172, §55; 97 Acts, ch 119, §1, 3, 4; 2013 Acts, ch 90, §235

Section affirmed and reenacted effective May 6, 1997; legislative findings; 97 Acts, ch 119, §1, 3, 4

724.17 Permit to acquire — criminal history check.

1. The application for a permit to acquire pistols or revolvers may be made to the sheriff of the county of the applicant's residence and shall be on a form prescribed and published by the commissioner of public safety. The application shall require only the full name of the

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applicant, the driver's license or nonoperator's identification card number of the applicant, the residence of the applicant, the date and place of birth of the applicant, and whether the applicant meets the criteria specified in section 724.15. The applicant shall also display an identification card that bears a distinguishing number assigned to the cardholder, the full name, date of birth, sex, residence address, and brief description and color photograph of the cardholder, or other identification as specified by rule of the department of public safety. The sheriff shall conduct a criminal history check concerning each applicant by obtaining criminal history data from the department of public safety which shall include an inquiry of the national instant criminal background check system maintained by the federal bureau of investigation or any successor agency. A person who makes what the person knows to be a false statement of material fact on an application submitted under this section or who submits what the person knows to be any materially falsified or forged documentation in connection with such an application commits a class "D" felony.

2. An issuing officer may conduct an annual criminal history check concerning a person issued a permit to acquire by obtaining criminal history data from the department of public safety.

[C79, 81, §724.17]

90 Acts, ch 1147, §5; 2002 Acts, ch 1055, §2; 2010 Acts, ch 1178, §13, 19; 2013 Acts, ch 30, §167; 2016 Acts, ch 1011, §117; 2017 Acts, ch 69, §22; 2017 Acts, ch 170, §48

724.18 Procedure for making application for permit to acquire.

A person may personally request the sheriff to mail an application for a permit to acquire pistols or revolvers, and the sheriff shall immediately forward to such person an application for a permit to acquire pistols or revolvers. A person shall upon completion of the application personally deliver such application to the sheriff who shall note the period of validity on the application and shall immediately issue the permit to acquire pistols or revolvers to the applicant. For the purposes of this section the date of application shall be the date on which the sheriff received the completed application.

[C79, 81, §724.18]

2017 Acts, ch 69, §23

724.19 Issuance of permit to acquire.

The permit to acquire pistols or revolvers shall be issued to the applicant immediately upon completion of the application unless the applicant is disqualified under the provisions of section 724.15. The permit shall have a uniform appearance, size, and content prescribed and published by the commissioner of public safety. The permit shall contain the name of the permittee and the effective date of the permit, but shall not contain the permittee's social security number. Such a permit shall not be issued for a particular pistol or revolver and shall not contain information about a particular pistol or revolver including the make, model, or serial number of the pistol or revolver, or any ammunition used in that pistol or revolver.

[C79, 81, §724.19]

2002 Acts, ch 1055, §3; 2017 Acts, ch 69, §24

Referred to in §29C.25

724.20 Validity of permit to acquire pistols or revolvers.

The permit shall be valid throughout the state and shall be valid three days after the date of application and shall be invalid five years after the date of issuance.

[C79, 81, §724.20]

2017 Acts, ch 69, §25

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724.21 Giving false information when acquiring pistol or revolver.

A person who gives a false name or presents false identification, or otherwise knowingly gives false material information to one from whom the person seeks to acquire a pistol or revolver, commits a class "D" felony.

[S13, §4775-10a; C24, 27, 31, 35, 39, §**12955;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §695.23; C79, 81, §724.21]

90 Acts, ch 1147, §6

724.21A Denial, suspension, or revocation of permit to carry weapons or permit to acquire pistols or revolvers.

1. In any case where the sheriff or the commissioner of public safety denies an application for or suspends or revokes a permit to carry weapons or a permit to acquire pistols or revolvers, the sheriff or commissioner shall provide a written statement of the reasons for the denial, suspension, or revocation and the applicant or permit holder shall have the right to appeal the denial, suspension, or revocation to an administrative law judge in the department of inspections, appeals, and licensing within thirty days of receiving written notice of the denial, suspension, or revocation.

2. The applicant or permit holder may file an appeal with an administrative law judge by filing a copy of the denial, suspension, or revocation notice with a written statement that clearly states the applicant's reasons rebutting the denial, suspension, or revocation along with a fee of ten dollars. Additional supporting information relevant to the proceedings may also be included.

3. The administrative law judge shall, within forty-five days of receipt of the request for an appeal, set a hearing date. The hearing may be held by telephone or video conference at the discretion of the administrative law judge. The administrative law judge shall receive witness testimony and other evidence relevant to the proceedings at the hearing. The hearing shall be conducted pursuant to chapter 17A.

4. Upon conclusion of the hearing, the administrative law judge shall order that the denial, suspension, or revocation of the permit be either rescinded or sustained. An applicant, permit holder, or issuing officer aggrieved by the final judgment of the administrative law judge shall have the right to judicial review in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.

5. The standard of review under this section shall be clear and convincing evidence that the issuing officer's written statement of the reasons for the denial, suspension, or revocation constituted probable cause to deny an application or to suspend or revoke a permit.

6. The department of inspections, appeals, and licensing shall adopt rules pursuant to chapter 17A as necessary to carry out the provisions of this section.

7. In any case where the issuing officer denies an application for, or suspends or revokes a permit to carry weapons or a permit to acquire pistols or revolvers solely because of an adverse determination by the national instant criminal background check system, the applicant or permit holder shall not seek relief under this section but may pursue relief of the national instant criminal background check system determination pursuant to Pub. L. No. 103-159, sections 103(f) and (g) and 104 and 28 C.F.R. §25.10, or other applicable law. The outcome of such proceedings shall be binding on the issuing officer.

8. If an applicant or permit holder appeals the decision by the sheriff or commissioner to deny an application for or suspend or revoke a permit to carry weapons or a permit to acquire pistols or revolvers, and it is later determined on appeal the applicant or permit holder is eligible to be issued or possess a permit to carry weapons or a permit to acquire pistols or revolvers, the applicant or permit holder shall be awarded court costs and reasonable attorney fees. If the decision of the sheriff or commissioner to deny an application for or suspend or revoke a permit to carry weapons or a permit to acquire pistols or revolvers is upheld on appeal, or the applicant or permit holder withdraws or dismisses the appeal, the political subdivision of the state representing the sheriff or the state department representing the commissioner shall be awarded court costs and reasonable attorney fees.

2010 Acts, ch 1178, §14, 19; 2017 Acts, ch 69, §26, 27; 2023 Acts, ch 19, §2038

Referred to in §724.11, 724.13, 724.15

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724.22 Persons under eighteen — sale, loan, gift, making available — possession.

1. Except as provided in subsection 3, a person who sells, loans, gives, or makes available a rifle or shotgun or ammunition for a rifle or shotgun to a minor commits a serious misdemeanor for a first offense and a class "D" felony for second and subsequent offenses.

2. Except as provided in subsection 4, a person who sells, loans, gives, or makes available a pistol or revolver or ammunition for a pistol or revolver to a person below the age of eighteen commits a serious misdemeanor for a first offense and a class "D" felony for second and subsequent offenses.

3. A parent, guardian, spouse who is eighteen years of age or older, or another with the express consent of the minor's parent or guardian or spouse who is eighteen years of age or older may allow a minor to possess a rifle or shotgun or the ammunition therefor which may be lawfully used.

4. *a.* A parent, guardian, or spouse who is eighteen years of age or older, of a person under the age of eighteen may allow the person, while under direct supervision, to possess a pistol or revolver or the ammunition therefor for any lawful purpose, or while the person receives instruction in the proper use thereof from an instructor eighteen years of age or older, with the consent of such parent, guardian, or spouse.

b. As used in this section, "*direct supervision*" means supervision provided by the parent, guardian, spouse, or instructor who is eighteen years of age or older, who maintains a physical presence near the supervised person conducive to hands-on instruction, who maintains visual and verbal contact at all times with the supervised person, and who is not intoxicated as provided under the conditions set out in section 321J.2, subsection 1, or under the influence of an illegal drug.

5. For the purposes of this section, caliber .22 rimfire ammunition shall be deemed to be rifle ammunition.

6. It shall be unlawful for any person to store or leave a loaded firearm which is not secured by a trigger lock mechanism, placed in a securely locked box or container, or placed in some other location which a reasonable person would believe to be secure from a minor under the age of fourteen years, if such person knows or has reason to believe that a minor under the age of fourteen years is likely to gain access to the firearm without the lawful permission of the minor's parent, guardian, or person having charge of the minor, the minor lawfully gains access to the firearm without the consent of the minor's parent, guardian, or person having charge of the minor, and the minor exhibits the firearm in a public place in an unlawful manner, or uses the firearm unlawfully to cause injury or death to a person. This subsection does not apply if the minor obtains the firearm as a result of an unlawful entry by any person. A violation of this subsection is punishable as a serious misdemeanor.

7. A parent, guardian, or spouse, who is eighteen years of age or older, of a minor under the age of fourteen years and who allows that minor to possess a pistol or revolver or the ammunition pursuant hereto shall be strictly liable to an injured party for all damages resulting from the possession of the pistol or revolver or ammunition therefor by that minor.

8. A parent, guardian, spouse, or instructor, who knowingly provides direct supervision under subsection 4, of a person while intoxicated as provided under the conditions set out in section 321J.2, subsection 1, paragraph "*a*", "*b*", or "*c*", commits child endangerment in violation of section 726.6, subsection 2, paragraph "*i*".

[C97, §5004; C24, 27, 31, 35, 39, §**12958;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §695.26; C79, 81, §724.22]

90 Acts, ch 1147, §7; 94 Acts, ch 1023, §119; 94 Acts, ch 1172, §56; 2017 Acts, ch 69, §28, 29, 50; 2017 Acts, ch 170, §49, 51, 53, 54; 2025 Acts, ch 27, §4, 5; 2026 Acts, ch 1040, §114

Referred to in §481A.48, 726.6

Section not amended; internal reference change applied and section history revised

724.23 Records kept by commissioner and issuing officers.

1. The commissioner of public safety shall maintain a permanent record of all valid permits to carry weapons and of current permit revocations.

2. *a.* Notwithstanding any other law or rule to the contrary, the commissioner of public safety and any issuing officer shall keep confidential personally identifiable information of

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holders of professional or nonprofessional permits to carry weapons and permits to acquire pistols or revolvers, including but not limited to the name, social security number, date of birth, residential or business address, and driver's license or other identification number of the applicant or permit holder.

b. This subsection shall not prohibit the release of statistical information relating to the issuance, denial, revocation, or administration of professional or nonprofessional permits to carry weapons and permits to acquire pistols or revolvers, provided that the release of such information does not reveal the identity of any individual permit holder.

c. This subsection shall not prohibit the release of information to a criminal or juvenile justice agency as defined in section 692.1 for the performance of any lawfully authorized duty or for conducting a lawfully authorized background investigation.

d. This subsection shall not prohibit the release of information relating to the validity of a professional permit to carry weapons to an employer who requires an employee or an agent of the employer to possess a professional permit to carry weapons as part of the duties of the employee or agent.

e. Except as provided in paragraphs *"b"*, *"c"*, and *"d"*, the release of any confidential information under this section shall require a court order or the consent of the person whose personally identifiable information is the subject of the information request.

[C79, 81, §724.23]

83 Acts, ch 7, §4; 2017 Acts, ch 69, §31, 50, 51

724.24 Purchase or sale of firearms in contiguous states. Repealed by 2002 Acts, ch 1055, §5.

724.25 Felony and antique firearm defined.

1. As used in section 724.26, the word *"felony"* means any offense punishable in the jurisdiction where it occurred by imprisonment for a term exceeding one year, but does not include any offense, other than an offense involving a firearm or explosive, classified as a misdemeanor under the laws of the state and punishable by a term of imprisonment of two years or less.

2. As used in this chapter, an *"antique firearm"* means any firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898. An antique firearm also means a replica of a firearm so described if the replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition or if the replica uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

[C79, 81, §724.25]

86 Acts, ch 1065, §1; 2010 Acts, ch 1178, §15, 19; 2016 Acts, ch 1011, §118

724.26 Possession, receipt, transportation, or dominion and control of firearms, offensive weapons, and ammunition by felons and others.

1. *a.* A person who is convicted of a felony in a state or federal court, or who is adjudicated delinquent on the basis of conduct that would constitute a felony if committed by an adult, and who knowingly has under the person's dominion and control or possession, receives, or transports or causes to be transported a firearm or offensive weapon is guilty of the following:

(1) A class "D" felony for a first offense, with commitment to the custody of the director of the department of corrections for an indeterminate term not to exceed five years with a mandatory minimum term of confinement of two years.

(2) A class "D" felony for a second offense, with commitment to the custody of the director of the department of corrections for an indeterminate term not to exceed five years with a mandatory minimum term of confinement of four years.

(3) A class "C" felony for a third offense, with commitment to the custody of the director of the department of corrections for an indeterminate term not to exceed ten years with a mandatory minimum term of confinement of seven years.

(4) A class "C" felony for a fourth or subsequent offense, with commitment to the custody

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of the director of the department of corrections for an indeterminate term not to exceed ten years with a mandatory minimum term of confinement of ten years.

b. The court shall not defer judgment or sentencing, or suspend execution of any mandatory minimum sentence of incarceration imposed by this subsection, except the court may suspend execution of any sentence of incarceration imposed under subparagraph (1) upon the recommendation of the county attorney.

c. Earned time accrued by a person convicted under this subsection shall not be applied to reduce any mandatory minimum sentence imposed. Earned time accrued shall be credited against the person's indeterminate term of incarceration, but shall not reduce any mandatory minimum sentence imposed.

2. *a.* Except as provided in paragraph *"b"*, a person who is subject to a protective order under 18 U.S.C. §922(g)(8) or who has been convicted of a misdemeanor crime of domestic violence under 18 U.S.C. §922(g)(9) and who knowingly possesses, ships, transports, or receives a firearm, offensive weapon, or ammunition is guilty of a class "D" felony.

b. This subsection shall not apply to the possession, shipment, transportation, or receipt of a firearm, offensive weapon, or ammunition issued by a state department or agency or political subdivision for use in the performance of the official duties of the person who is the subject of a protective order under 18 U.S.C. §922(g)(8).

c. For purposes of this section, *"misdemeanor crime of domestic violence"* means an assault under section 708.1, subsection 2, paragraph *"a"* or *"c"*, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.

3. Upon the issuance of a protective order or entry of a judgment of conviction described in subsection 2, the court shall inform the person who is the subject of such order or conviction that the person shall not possess, ship, transport, or receive a firearm, offensive weapon, or ammunition while such order is in effect or until such conviction is vacated or until the person's rights have been restored in accordance with section 724.27.

4. Except as provided in section 809A.17, subsection 5, paragraph *"b"*, a court that issues an order or that enters a judgment of conviction described in subsection 2 and that finds the subject of the order or conviction to be in possession of any firearm, offensive weapon, or ammunition shall order that such firearm, offensive weapon, or ammunition be sold or transferred by a date certain to the custody of a qualified person in this state, as determined by the court. The qualified person must be able to lawfully possess such firearm, offensive weapon, or ammunition in this state. If the court is unable to identify a qualified person to receive such firearm, offensive weapon, or ammunition, the court shall order that the firearm, offensive weapon, or ammunition be transferred by a date certain to the county sheriff or a local law enforcement agency designated by the court for safekeeping until a qualified person is identified to receive the firearm, offensive weapon, or ammunition, until such order is no longer in effect, until such conviction is vacated, or until the person's rights have been restored in accordance with section 724.27. If the firearm, offensive weapon, or ammunition is to be transferred to the sheriff's office or a local law enforcement agency, the court shall assess the person the reasonable cost of storing the firearm, offensive weapon, or ammunition, payable to the county sheriff or the local law enforcement agency.

5. Upon entry of an order described in subsection 2, the court shall enter the name, address, date of birth, driver's license number, or other identifying information of the person subject to the order into the Iowa criminal justice information system, the reason for the order, and the date by which the person is required to comply with any relinquishment order issued under subsection 4. At the time such order is no longer in effect, such information relating to the prohibition in subsection 3 shall be deleted from the Iowa criminal justice information system.

6. If a firearm, offensive weapon, or ammunition has been transferred to a qualified person pursuant to subsection 4 and the protective order described in subsection 2 is no longer in effect, the firearm, offensive weapon, or ammunition shall be returned to the person who was

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subject to the protective order within five days of that person's request to have the firearm, offensive weapon, or ammunition returned.

[C79, 81, §724.26]

90 Acts, ch 1147, §8; 97 Acts, ch 126, §47; 2002 Acts, ch 1055, §4; 2002 Acts, ch 1175, §94; 2002 Acts, 2nd Ex, ch 1003, §243, 262; 2010 Acts, ch 1083, §4; 2013 Acts, ch 90, §254; 2025 Acts, ch 104, §1

Referred to in §236.5, 724.8, 724.15, 724.16, 724.25, 724.27, 804.21
Exception; see §724.27

724.27 Offenders' rights restored.

1. The provisions of section 724.8, section 724.15, subsection 2, and section 724.26 shall not apply to a person who is eligible to have the person's civil rights regarding firearms restored if any of the following occur:

a. The person is pardoned by the President of the United States or the chief executive of a state for a disqualifying conviction.

b. The person's civil rights have been restored after a disqualifying conviction, commitment, or adjudication.

c. The person's conviction for a disqualifying offense has been expunged.

2. Subsection 1 shall not apply to a person whose pardon, restoration of civil rights, or expungement of conviction expressly forbids the person to receive, transport, or possess firearms or destructive devices and a person not eligible to have the person's civil rights restored under section 914.7.

[C79, 81, §724.27]

94 Acts, ch 1172, §57; 2010 Acts, ch 1178, §16, 19; 2021 Acts, ch 35, §4

Referred to in §724.26

724.28 Prohibition of regulation by political subdivisions — exception.

1. As used in this section, *"political subdivision of the state"* means a city, county, or township.

2. A political subdivision of the state shall not enact an ordinance, motion, resolution, policy, or amendment regulating the ownership, possession, carrying, legal transfer, lawful transportation, modification, registration, or licensing of firearms, firearms attachments, or other weapons when the ownership, possession, carrying, transfer, transportation, or modification is otherwise lawful under the laws of this state. An ordinance regulating firearms, firearms attachments, or other weapons in violation of this section existing on or after April 5, 1990, is void.

3. If a political subdivision of the state, prior to, on, or after July 1, 2020, adopts, makes, enacts, or amends any ordinance, measure, enactment, rule, resolution, motion, or policy regulating the ownership, possession, carrying, legal transfer, lawful transportation, modification, registration, or licensing of firearms, firearms attachments, or other weapons when the ownership, possession, carrying, transfer, transportation, modification, registration, or licensing of firearms, firearms attachments, or other weapons is otherwise lawful under the laws of this state, a person adversely affected by the ordinance, measure, enactment, rule, resolution, motion, or policy may file suit in the appropriate court for declaratory and injunctive relief and all damages attributable to the violation, including all of the following:

a. A court shall assess against the political subdivision of the state damages in the amount of not more than five hundred dollars and not less than one hundred dollars per day after providing written notice to the political subdivision of the state of the violation, not to exceed five thousand dollars. However, if the political subdivision of the state knowingly participated in such a violation, damages shall be assessed against the political subdivision of the state in the amount of not more than two thousand five hundred dollars and not less than one thousand dollars per day after providing written notice to the political subdivision of the state of the violation, not to exceed twenty-five thousand dollars. These damages shall be paid by the political subdivision of the state directly to the adversely affected person.

b. The court shall award the prevailing party in any such lawsuit reasonable attorney fees and court costs.

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c. The court, for good cause, may assess damages in excess of the amounts set forth in paragraph *"a"* against the political subdivision of the state found to be in violation of this subsection.

4. A political subdivision of the state may restrict the carrying, possession, or transportation of firearms or other dangerous weapons in the buildings or physical structures located on property under the political subdivision's control if adequate arrangements are made by the political subdivision to screen persons for firearms or other dangerous weapons and the political subdivision provides armed security personnel inside the building or physical structure where the restriction is to be in effect.

5. A political subdivision of the state shall not enact an ordinance, motion, resolution, policy, or amendment regulating the storage of weapons or ammunition. An ordinance, motion, resolution, policy, or amendment regulating the storage of weapons or ammunition existing on or after July 1, 2020, is void. This subsection shall not be construed to preclude a political subdivision from regulating the storage of explosive materials consistent with chapter 101A.

90 Acts, ch 1147, §9; 2017 Acts, ch 69, §32; 2020 Acts, ch 1099, §3, 4; 2021 Acts, ch 35, §21; 2024 Acts, ch 1118, §1, 2

724.28A Authority to carry firearm — peace officers.

A peace officer shall not be prohibited from carrying a firearm while engaged in the performance of official duties.

2021 Acts, ch 183, §37, 38

724.29 Firearm devices.

A person who sells or offers for sale a manual or power-driven trigger activating device constructed and designed so that when attached to a firearm increases the rate of fire of the firearm is guilty of an aggravated misdemeanor.

90 Acts, ch 1147, §10

724.29A Fraudulent purchase of firearms or ammunition.

1. For purposes of this section:

a. "Ammunition" means any cartridge, shell, or projectile designed for use in a firearm.

b. "Licensed firearms dealer" means a person who is licensed pursuant to 18 U.S.C. §923 to engage in the business of dealing in firearms.

c. "Materially false information" means information that portrays an illegal transaction as legal or a legal transaction as illegal.

d. "Private seller" means a person who sells or offers for sale any firearm or ammunition.

2. A person who knowingly solicits, persuades, encourages, or entices a licensed firearms dealer or private seller of firearms or ammunition to transfer a firearm or ammunition under circumstances that the person knows would violate the laws of this state or of the United States commits a class "D" felony.

3. A person who knowingly provides materially false information to a licensed firearms dealer or private seller of firearms or ammunition with the intent to deceive the firearms dealer or seller about the legality of a transfer of a firearm or ammunition commits a class "D" felony.

4. A person who willfully procures another to engage in conduct prohibited by this section shall be held accountable as a principal.

5. This section does not apply to a law enforcement officer acting in the officer's official capacity or to a person acting under the direction of such law enforcement officer.

2017 Acts, ch 69, §45

724.30 Reckless use of a firearm.

A person who intentionally discharges a firearm in a reckless manner commits the following:

1. A class "C" felony if a serious injury occurs.
2. A class "D" felony if a bodily injury which is not a serious injury occurs.

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3. An aggravated misdemeanor if property damage occurs without a serious injury or bodily injury occurring.

4. A simple misdemeanor if no injury to a person or damage to property occurs.

94 Acts, ch 1172, §58

Restrictions on shooting over public waters or roads; §481A.54

724.31 Persons subject to firearm disabilities due to mental health commitments or adjudications — relief from disabilities — reports.

1. When a court issues an order or judgment under the laws of this state by which a person becomes subject to the provisions of 18 U.S.C. §922(d)(4) and (g)(4), the clerk of the district court shall forward only such information as is necessary to identify the person to the department of public safety, which in turn shall enter the information on the Iowa on-line warrants and articles criminal justice information network and forward the information to the federal bureau of investigation or its successor agency for the sole purpose of inclusion in the national instant criminal background check system database. The clerk of the district court shall also notify the person of the prohibitions imposed under 18 U.S.C. §922(d)(4) and (g)(4).

2. A person who is subject to the disabilities imposed by 18 U.S.C. §922(d)(4) and (g)(4) because of an order or judgment that occurred under the laws of this state may petition the court that issued the order or judgment or the court in the county where the person resides for relief from the disabilities imposed under 18 U.S.C. §922(d)(4) and (g)(4). A copy of the petition shall also be served on the director of health and human services and the county attorney at the county attorney's office of the county in which the original order occurred, and the director or the county attorney may appear, support, object to, and present evidence relevant to the relief sought by the petitioner.

3. The court shall receive and consider evidence in a closed proceeding, including evidence offered by the petitioner, concerning all of the following:

a. The circumstances surrounding the original issuance of the order or judgment that resulted in the firearm disabilities imposed by 18 U.S.C. §922(d)(4) and (g)(4).

b. The petitioner's record, which shall include, at a minimum, the petitioner's mental health records and criminal history records, if any.

c. The petitioner's reputation, developed, at a minimum, through character witness statements, testimony, and other character evidence.

d. Any changes in the petitioner's condition or circumstances since the issuance of the original order or judgment that are relevant to the relief sought.

4. The court shall grant a petition for relief filed pursuant to subsection 2 if the court finds by a preponderance of the evidence that the petitioner will not be likely to act in a manner dangerous to the public safety and that the granting of the relief would not be contrary to the public interest. A record shall be kept of the proceedings, but the record shall remain confidential and shall be disclosed only to a court in the event of an appeal. The petitioner may appeal a denial of the requested relief, and review on appeal shall be de novo. A person may file a petition for relief under subsection 2 not more than once every two years.

5. If a court issues an order granting a petition for relief filed pursuant to subsection 2, the clerk of the court shall immediately notify the department of public safety of the order granting relief under this section. The department of public safety shall, as soon thereafter as is practicable but not later than ten business days thereafter, update, correct, modify, or remove the petitioner's record in any database that the department of public safety makes available to the national instant criminal background check system and shall notify the United States department of justice that the basis for such record being made available no longer applies.

2010 Acts, ch 1178, §17, 19; 2011 Acts, ch 72, §1 – 3; 2021 Acts, ch 35, §18; 2023 Acts, ch 19, §1306

Referred to in §229.24, 602.8102(125A)

724.31A Identifying information — background checks. Repealed by 2025 Acts, ch 104, §2.

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724.32 County courthouse — weapon prohibitions.

A supreme court or judicial branch order that prohibits a person from lawfully carrying, possessing, or transporting a weapon in a county courthouse or other joint-use public facility shall be unenforceable unless the judicial order applies only to a courtroom or a court office, or to a courthouse used only for judicial branch functions.

2020 Acts, ch 1099, §5

CHAPTER 725

VICE

Referred to in §232C.4, 331.307, 364.22, 701.1, 714B.9

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725.1 Prostitution.

1. *a.* Except as provided in paragraph *"b"*, a person who sells or offers for sale the person's services as a partner in a sex act commits an aggravated misdemeanor.

b. If the person who sells or offers for sale the person's services as a partner in a sex act is under the age of eighteen, the county attorney may elect, in lieu of filing a petition alleging that the person has committed a delinquent act, that the person shall not be arrested, charged, or prosecuted for an offense under this section, but instead may be taken into temporary custody under section 232.78 or 232.79 or shall be referred to the department of health and human services for the possible filing of a petition alleging that the person is a child in need of assistance.

c. If the person who sells or offers for sale the person's services as a partner in a sex act is under the age of eighteen, upon the expiration of two years following the person's conviction for a violation of paragraph *"a"* or of a similar local ordinance, the person may petition the court to expunge the conviction, and if the person has had no other criminal convictions, other than local traffic violations or simple misdemeanor violations of chapter 321 during the two-year period, the conviction shall be expunged as a matter of law. The court shall enter an order that the record of the conviction be expunged by the clerk of the district court. Notwithstanding section 692.2, after receipt of notice from the clerk of the district court that a record of conviction for a violation of paragraph *"a"* has been expunged, the record of conviction shall be removed from the criminal history data files maintained by the department of public safety.

2. *a.* Except as provided in paragraph *"b"*, a person who purchases or offers to purchase another person's services as a partner in a sex act commits an aggravated misdemeanor.

b. A person who purchases or offers to purchase services as a partner in a sex act from a person who is under the age of eighteen, or who is reasonably believed to be under the age

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of eighteen including a law enforcement officer or agent posing as a minor under the age of eighteen, commits a class "D" felony.

[C97, §4943; C24, 27, 31, 35, 39, §**13173;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §724.1; C79, 81, §725.1]

2014 Acts, ch 1097, §6; 2015 Acts, ch 30, §195; 2023 Acts, ch 19, §1307; 2025 Acts, ch 97, §3; 2026 Acts, ch 1104, §8

Referred to in §232.68, 232E.1, 321.375, 725.2, 911.2A
Subsection 1, paragraph b amended

725.2 Pimping.

1. A person who solicits a patron for a prostitute, or who knowingly takes or shares in the earnings of a prostitute, or who knowingly furnishes a room or other place to be used for the purpose of prostitution, whether for compensation or not, commits a class "D" felony.

2. A person who solicits a patron for a prostitute who is under the age of eighteen, or who knowingly takes or shares in the earnings of a prostitute who is under the age of eighteen, or who knowingly furnishes a room or other place to be used for the purposes of prostitution of a prostitute who is under the age of eighteen, whether for compensation or not, commits a class "C" felony.

3. It shall be an affirmative defense to a prosecution of a person under the age of twenty-one for a violation of this section that the person was allowed, permitted, or encouraged by an adult having influence or control of the person to engage in acts prohibited pursuant to section 725.1, subsection 1, while the person was under the age of eighteen.

[C51, §2710; R60, §4352; C73, §4013; C97, §4939; S13, §4975-c; C24, 27, 31, 35, 39, §**13174, 13175;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §724.2, 724.3; C79, 81, §725.2]

2014 Acts, ch 1097, §7

Referred to in §321.375, 692A.102, 692A.126, 911.2A

725.3 Pandering.

1. A person who persuades, arranges, coerces, or otherwise causes another, not a minor, to become a prostitute or to return to the practice of prostitution after having abandoned it, or keeps or maintains any premises for the purposes of prostitution or takes a share in the income from such premises knowing the character and content of such income, commits a class "D" felony.

2. A person who persuades, arranges, coerces, or otherwise causes a minor to become a prostitute or to return to the practice of prostitution after having abandoned it, or keeps or maintains any premises for the purpose of prostitution involving minors or knowingly shares in the income from such premises knowing the character and content of such income, commits a class "C" felony.

[C51, §2584; R60, §4207; C73, §3865; C97, §4760; S13, §4944-i, -j; C24, 27, 31, 35, 39, §**13179, 13181, 13182;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §724.7, 724.9, 724.10; C79, 81, §725.3]

86 Acts, ch 1046, §2; 87 Acts, ch 115, §82

Referred to in §229A.2, 321.375, 692A.102, 692A.126, 901A.1, 911.2A

725.4 Leasing premises for prostitution.

A person who has rented or let any building, structure or part thereof, boat, trailer or other place offering shelter or seclusion, and who knows, or has reason to know, that the lessee or tenant is using such for the purposes of prostitution, and who does not, immediately upon acquiring such knowledge, terminate the tenancy or effectively put an end to such practice of prostitution in such place, commits a serious misdemeanor.

[C51, §2712; R60, §4354; C73, §4015; C97, §4941; C24, 27, 31, 35, 39, §**13178;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §724.6; C79, 81, §725.4]

725.5 Keeping gambling houses.

Any person who keeps a house, shop, or place resorted to for the purpose of gambling, or permits any person in any house, shop, or other place under the person's control or care

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to conduct bookmaking or to play at cards, dice, faro, roulette, equality, punchboard, slot machine or other game for money or other thing, commits a serious misdemeanor.

[C51, §2721; R60, §4363; C73, §4026; C97, §4962; C24, 27, 31, 35, 39, §**13198;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §726.1; C79, 81, §725.5]

Referred to in §709A.1, 725.6, 725.15

725.6 "Keeper" defined.

In a prosecution under section 725.5, any person who has the charge of or attends to any such house, shop, or place is the keeper thereof.

[C51, §2721; R60, §4363; C73, §4026; C97, §4962; C24, 27, 31, 35, 39, §**13199;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §726.2; C79, 81, §725.6]

Referred to in §725.15

725.7 Gaming and betting — penalty.

1. Except as permitted in chapters 99B and 99D, a person shall not do any of the following:

a. Participate in a game for any sum of money or other property of any value.

b. Make any bet.

c. For a fee, directly or indirectly, give or accept anything of value to be wagered or to be transmitted or delivered for a wager to be placed within or without the state of Iowa.

d. For a fee, deliver anything of value which has been received outside the enclosure of a racetrack licensed under chapter 99D to be placed as wagers in the pari-mutuel pool or other authorized systems of wagering.

e. Engage in bookmaking, except as permitted in chapters 99E and 99F.

2. A person who violates this section is guilty of the following:

a. Illegal gaming in the fourth degree if the sum of money or value of other property involved does not exceed one hundred dollars. Illegal gaming in the fourth degree constitutes the following:

(1) A serious misdemeanor for a first offense.

(2) An aggravated misdemeanor for a second offense.

(3) A class "D" felony for a third offense.

(4) A class "C" felony for a fourth or subsequent offense.

b. Illegal gaming in the third degree if the sum of money or value of other property involved exceeds one hundred dollars but does not exceed five hundred dollars. Illegal gaming in the third degree constitutes the following:

(1) An aggravated misdemeanor for a first offense.

(2) A class "D" felony for a second offense.

(3) A class "C" felony for a third or subsequent offense.

c. Illegal gaming in the second degree if the sum of money or value of other property involved exceeds five hundred dollars but does not exceed five thousand dollars. Illegal gaming in the second degree constitutes the following:

(1) A class "D" felony for a first offense.

(2) A class "C" felony for a second or subsequent offense.

d. Illegal gaming in the first degree if the sum of money or value of other property involved exceeds five thousand dollars. Illegal gaming in the first degree constitutes a class "C" felony.

[C51, §2723; R60, §4365; C73, §4028; C97, §4964; C24, 27, 31, 35, 39, §**13202;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §726.3; C79, 81, §725.7]

83 Acts, ch 187, §34; 89 Acts, ch 296, §88; 2019 Acts, ch 132, §40, 45, 46

Referred to in §81.1, 99D.24, 99F.15, 725.15

725.8 Wagers — forfeiture.

Property, whether real or personal, offered as a stake, or any moneys, property, or other thing of value staked, paid, bet, wagered, laid, or deposited in connection with or as a part of any game of chance, lottery, gambling scheme or device, gift enterprise, or other trade scheme unlawful under the laws of this state shall be forfeited to the state and said personal property may be seized and disposed of under chapter 809.

[C24, 27, 31, 35, 39, §**13203;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §726.4; C79, 81, §725.8]

Referred to in §725.15

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725.9 Possession of gambling devices prohibited — exception for manufacturing.

1. *"Antique slot machine"* means a slot machine which is twenty-five years old or older.

2. *"Gambling device"* means a device used or adapted or designed to be used for gambling and includes, but is not limited to, roulette wheels, klondike tables, punchboards, faro layouts, keno layouts, numbers tickets, slot machines, pachislo skill-stop machine or any other similar machine or device, push cards, jar tickets and pull-tabs. However, *"gambling device"* does not include an antique slot machine, or any device regularly manufactured and offered for sale and sold as a toy, except that any use of such a toy or antique slot machine for gambling purposes constitutes unlawful gambling.

3. A person who, in any manner or for any purpose, except under a proceeding to destroy the device, has in possession or control a gambling device is guilty of a serious misdemeanor.

4. This chapter does not prohibit the possession of gambling devices by a manufacturer or distributor if the possession is solely for sale out of the state in another jurisdiction where possession of the device is legal or for sale in the state or use in the state if the use is licensed pursuant to either chapter 99B or chapter 99G.

[S13, §4965-a; C24, 27, 31, 35, 39, §**13210;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §726.5; C79, 81, §725.9]

85 Acts, ch 32, §118; 86 Acts, ch 1052, §3; 90 Acts, ch 1062, §2; 2003 Acts, ch 178, §117, 121; 2003 Acts, ch 179, §142; 2007 Acts, ch 38, §9, 10

Referred to in §99A.1, 99B.53, 99B.62, 725.15

Possession of gambling devices, see chapter 99A

725.10 Pool selling — places used.

Any person who records or registers bets or wagers or sells pools upon the result of any trial or contest of skill, speed, or power of endurance of human or beast, or upon the result of any political nomination or election, and any person who keeps a place for the purpose of doing any such thing, and any owner, lessee, or occupant of any premises, who knowingly permits the same, or any part thereof, to be used for any such purpose, and anyone who, as custodian or depositary thereof, for hire or reward, receives any money, property, or thing of value staked, wagered, or bet upon any such result, shall be guilty of a serious misdemeanor.

[C97, §4966; C24, 27, 31, 35, 39, §**13216;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §726.6; C79, 81, §725.10]

Referred to in §709A.1, 725.15

725.11 Bullfights and other contests. Repealed by 2004 Acts, ch 1056, §9, 10. See chapter 717D.

725.12 Lotteries and lottery tickets — definition — prosecution.

1. If any person makes or aids in making or establishing, or advertises or makes public a scheme for a lottery; or advertises, offers for sale, sells, distributes, negotiates, disposes of, purchases, or receives a ticket or part of a ticket in a lottery or number of a ticket in a lottery; or has in the person's possession a ticket, part of a ticket, or paper purporting to be the number of a ticket of a lottery, with the intent to sell or dispose of the ticket, part of a ticket, or paper on the person's own account or as the agent of another, the person commits a serious misdemeanor. However, this section does not prohibit the advertising of a lottery or possession by a person of a lottery ticket, part of a ticket, or number of a lottery ticket from a lottery legally operated or permitted under the laws of another jurisdiction. This section also does not prohibit the advertising of a lottery, game of chance, contest, or activity conducted by a not-for-profit organization that would qualify as tax exempt under section 501 of the Internal Revenue Code, as defined in section 422.3, or conducted by a commercial organization as a promotional activity which is clearly occasional and ancillary to the primary business of that organization, provided that the effective dates on any promotional activity shall be clearly stated on all promotional materials. A lottery, game of chance, contest, or activity shall be presumed to be a promotional activity which is not occasional if the lottery, game of chance, contest, or activity is in effect or available to the public for a period of more than ninety days within a one-year period.

2. A commercial organization shall not conduct a promotional activity that involves the

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sale of pull-tab tickets or instant tickets, as defined in section 99G.3, coupons, or tokens that are not authorized by the Iowa lottery authority and that may represent a chance to win a cash prize to be paid on the premises where the chance to win such prize was obtained. This subsection shall not be construed to prohibit a commercial organization from giving away pull-tab tickets, instant tickets, coupons, or tokens free of charge as part of a promotional activity, provided that the other provisions of this section are complied with. For purposes of this subsection, *"cash"* means United States currency.

3. When used in this section, *"lottery"* shall mean any scheme, arrangement, or plan whereby one or more prizes are awarded by chance or any process involving a substantial element of chance to a participant, and where some or all participants have paid or furnished a consideration for such chance.

4. For the purpose of determining the existence of a lottery under this section, a consideration shall not be deemed to have been paid or furnished where all or substantially all entries representing chances to win are submitted by means of the internet or the United States mail or by similar delivery method to the person or persons conducting the lottery, game of chance, contest, or activity prior to any prize being awarded, and where one or more of such chances to win may be obtained by participants where no purchase or payment is required to enter or win. In all other cases, a consideration shall be deemed to have been paid or furnished only in such cases where as a direct or indirect requirement or condition of obtaining a chance to win one or more prizes, some or all participants make an expenditure of money or something of monetary value through a purchase, payment of an entry or admission fee, or other payment or the participants are required to make a substantial expenditure of effort; provided, however, that no substantial expenditure of effort shall be deemed to have been expended by any participant solely by reason of the registration of the participant's name, address, and related information, the obtaining of an entry blank or participation sheet, by permitting or taking part in a demonstration of any article or commodity, by making a personal examination of posted lists of prize winners, or by acts of a comparable nature, whether performed or accomplished in person at any store, place of business, or other designated location, through the mails, or by telephone; and further provided, that no participant shall be required to be present in person or by representative at any designated location at the time of the determination of the winner of the prize, and that the winner shall be notified either by the same method used to communicate the offering of the prize or by regular mail.

5. Upon request of the Iowa lottery authority or the division of criminal investigation of the department of public safety, the attorney general shall institute in the name of the state the proper proceedings against a person charged in such request with violating this section, and a county attorney may, at the request of the attorney general, appear and prosecute an action when brought in the county attorney's county.

[C51, §2730; R60, §4377; C73, §4043; C97, §5000; C24, 27, 31, 35, 39, §**13218;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §726.8; C79, 81, §725.12]

85 Acts, ch 33, §125; 89 Acts, ch 48, §1; 2005 Acts, ch 81, §1; 2006 Acts, ch 1010, §160

Referred to in §725.15

725.13 Definition of bookmaking.

"Bookmaking" means advancing gambling activity by accepting bets upon the outcome of future contingent events as a business other than as permitted in chapters 99B, 99D, 99E, and 99F. These events include but are not limited to the results of a trial or contest of skill, speed, power, or endurance of a person or beast or between persons, beasts, fowl, motor vehicles, or mechanical apparatus or upon the result of any chance, casualty, unknown, or contingent event.

83 Acts, ch 187, §35; 89 Acts, ch 67, §27; 2019 Acts, ch 132, §41, 45, 46

725.14 Exception for state racing and gaming commission and pari-mutuel betting.

This chapter does not prohibit the establishment and operation of a state racing and gaming commission and pari-mutuel betting on horse or dog races as provided in chapter 99D.

83 Acts, ch 187, §35

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725.15 Exceptions for legal gambling.

Sections 725.5 through 725.10 and 725.12 do not apply to a game, activity, ticket, or device when lawfully possessed, used, conducted, or participated in pursuant to chapter 99B, 99E, 99F, or 99G.

[C75, 77, §726.11; C79, 81, §725.15]

85 Acts, ch 33, §126; 86 Acts, ch 1125, §5; 88 Acts, ch 1136, §2; 89 Acts, ch 67, §28; 2003 Acts, ch 178, §118, 121; 2003 Acts, ch 179, §142; 2016 Acts, ch 1073, §179; 2019 Acts, ch 132, §42, 45, 46

725.16 Gambling penalty.

A person who commits an offense declared in chapter 99B to be a misdemeanor shall be guilty of a serious misdemeanor.

[C51, §2721, 2730; R60, §4363, 4377; C73, §4026, 4043; C97, §4962, 5000; C24, 27, 31, 35, 39, §**13198, 13218;** C46, 50, 54, 58, 62, 66, 71, 73, §726.1, 726.8; C75, §99B.9, 726.1, 726.8; C77, §726.14; C79, 81, §725.16]

92 Acts, ch 1203, §20; 2003 Acts, ch 147, §4, 7

725.17 Protection money prohibited.

Any officer or employee of this state, or of a county, city, or judicial district who asks for, receives or collects any money or other consideration for and with the understanding that the officer or employee will aid, exempt, or otherwise protect another person from detection, arrest or conviction of any violation of this chapter or chapter 99B commits an aggravated misdemeanor.

[C77, §726.15; C79, 81, §725.17]

725.18 Collection service prohibited.

Any person who knowingly offers, gives or sells the person's services for use in collecting or enforcing any debt arising from gambling, whether or not lawful gambling, commits an aggravated misdemeanor.

[C77, §726.16; C79, 81, §725.18]

725.19 Gambling by underage persons.

1. Any person under the age of twenty-one years shall not make or attempt to make a gambling wager, except as permitted under chapter 99B. A person who violates this subsection commits a scheduled violation under section 805.8C, subsection 5, paragraph "*a*".

2. A person who knowingly permits a person under the age of twenty-one years to make or attempt to make a gambling wager, except as permitted under chapter 99B, is guilty of a simple misdemeanor.

2004 Acts, ch 1136, §57; 2009 Acts, ch 88, §4

Referred to in §99B.27, 805.8C(5)(a)

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CHAPTER 726

PROTECTIONS FOR THE FAMILY, DEPENDENT PERSONS, RESIDENTS OF HEALTH CARE FACILITIES, AND OLDER INDIVIDUALS

Referred to in §232.83, 331.307, 364.22, 692A.102, 692A.126, 701.1, 709.13, 901C.3, 915.35, 915.84

Complaint alleging a child is in need of assistance, see §709.13

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SUBCHAPTER I

GENERAL PROVISIONS

726.1 Bigamy.

1. *a.* Any person, having a living husband or wife, who marries another, commits bigamy.

b. Any person who marries another who the person knows has another living husband or wife commits bigamy.

2. Bigamy is a serious misdemeanor.

3. Any of the following is a defense to the charge of bigamy:

a. The prior marriage was terminated in accordance with applicable law, or the person reasonably believes on reasonably convincing evidence that the prior marriage was so terminated.

b. The person believes, on reasonably convincing evidence, that the prior spouse is dead.

c. The person has, for three years, had no evidence by which the person can reasonably believe that the prior spouse is alive.

[C51, §2706 – 2708; R60, §4348 – 4350; C73, §4009 – 4011; C97, §4933 – 4935; C24, 27, 31, 35, 39, §**12975 – 12977;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §703.1 – 703.3; C79, 81, §726.1]

2013 Acts, ch 90, §236

726.2 Incest.

A person, except a child as defined in section 702.5, who performs a sex act with another whom the person knows to be related to the person, either legitimately or illegitimately, as an ancestor, descendant, brother or sister of the whole or half blood, aunt, uncle, niece, or nephew, commits incest. Incest is a class "D" felony.

[R60, §4367 – 4369; C73, §4030; C97, §4936; C24, 27, 31, 35, 39, §**12978;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §704.1; C79, 81, §726.2]

86 Acts, ch 1105, §1

Referred to in §232.68, 232.82, 232E.1, 235B.2, 235E.1, 235F.1, 236A.2, 236A.18, 256.146, 692A.102, 692A.121, 802.2A, 903B.2, 915.36, 915.37

726.3 Neglect or abandonment of a dependent person.

A person who is the father, mother, or some other person having custody of a child, or of any other person who by reason of mental or physical disability is not able to care for the person's self, who knowingly or recklessly exposes such person to a hazard or danger against which such person cannot reasonably be expected to protect such person's self or who deserts or abandons such person, knowing or having reason to believe that the person will be exposed to such hazard or danger, commits a class "C" felony. However, a parent or person authorized by the parent shall not be prosecuted for a violation of this section involving abandonment of

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a newborn infant, if the parent or the person authorized by the parent has voluntarily released custody of the newborn infant in accordance with section 233.2.

[C51, §2589; R60, §4212; C73, §3870; C97, §4766; C24, 27, 31, 35, 39, §**13236;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §731.7; C79, 81, §726.3]

2001 Acts, ch 67, §11, 13; 2002 Acts, ch 1119, §103

Referred to in §135B.34, 135C.33, 152.5A, 233.3, 252B.7, 600B.29, 726.4, 915.37

726.4 Husband or wife may be witness.

In all prosecutions under section 726.3, 726.5 or 726.6, the husband or wife is a competent witness for the state and may testify to relevant acts or communications between them.

[S13, §4775-b; C24, 27, 31, 35, 39, §**13231;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §731.2; C79, 81, §726.4]

83 Acts, ch 37, §6

Referred to in §600B.29

726.5 Nonsupport.

1. *a.* A person, who being able to do so, fails or refuses to provide support for the person's child or protected person under the age of eighteen years for a period longer than one year or in an amount greater than five thousand dollars commits the offense of nonsupport.

b. A person shall not be held to have violated this section if the person fails to support any child or protected person under the age of eighteen who has left the home of the parent or other person having legal custody of the child or protected person without the consent of that parent or person having legal custody of the child or protected person.

2. *"Support"*, for the purposes of this section, means any support which has been fixed by court order, or, in the absence of any such order or decree, the minimal requirements of food, clothing or shelter.

3. Nonsupport is a class "D" felony.

[S13, §4775-a; C24, 27, 31, 35, 39, §**13230;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §731.1; C79, 81, §726.5]

2006 Acts, ch 1119, §8; 2019 Acts, ch 59, §229; 2024 Acts, ch 1009, §98

Referred to in §252B.7, 600B.29, 726.4

726.6 Child endangerment.

1. As used in this section, unless the context otherwise requires, *"child"* means any person under eighteen years of age.

2. A person who is the parent, guardian, or person having custody or control over a child, or a person who is a member of the household in which a child resides, commits child endangerment when the person does any of the following:

a. Knowingly acts in a manner that creates a substantial risk to a child's physical, mental, or emotional health or safety.

b. By an intentional act or series of intentional acts, uses unreasonable force, torture, or cruelty that results in bodily injury, or that is intended to cause serious injury.

c. By an intentional act or series of intentional acts, evidences unreasonable force, torture, or cruelty that causes substantial mental or emotional harm to a child.

d. Willfully deprives a child of necessary food, clothing, shelter, health care, or supervision appropriate to the child's age, when the person is reasonably able to make the necessary provisions and which deprivation substantially harms the child's physical, mental, or emotional health. For purposes of this paragraph, the failure to provide specific medical treatment shall not for that reason alone be considered willful deprivation of health care if the person can show that such treatment would conflict with the tenets and practice of a recognized religious denomination of which the person is an adherent or member. This exception does not in any manner restrict the right of an interested party to petition the court on behalf of the best interest of the child.

e. Knowingly permits the continuing physical or sexual abuse of a child. However, it is an affirmative defense to this subsection if the person had a reasonable apprehension that any action to stop the continuing abuse would result in substantial bodily harm to the person or the child.

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f. Abandons the child to fend for the child's self, knowing that the child is unable to do so.

g. Knowingly permits a child to be present at a location where amphetamine, its salts, isomers, or salts of isomers, or methamphetamine, its salts, isomers, or salts of isomers, is manufactured in violation of section 124.401, subsection 1, or where a product is possessed in violation of section 124.401, subsection 4.

h. Knowingly allows a person custody or control of, or unsupervised access to, a child after knowing the person is required to register or is on the sex offender registry as a sex offender under chapter 692A. However, this paragraph does not apply to a person who is a parent or guardian of a child, who is required to register as a sex offender, or to a person who is married to and living with a person required to register as a sex offender.

i. Knowingly provides direct supervision of a person under section 724.22, subsection 4, while intoxicated as provided under the conditions set out in section 321J.2, subsection 1, paragraph *"a"*, *"b"*, or *"c"*.

3. A person who is required to register as a sex offender under chapter 692A for a sex offense against a child who knowingly has control of a child, or who knowingly has unsupervised access to a child, commits child endangerment. However, this subsection does not apply to any of the following:

a. A person who is required to register as a sex offender under chapter 692A for a sex offense against a child who knowingly has control of a child, or who knowingly has unsupervised access to a child, when the person is the legal parent or guardian of the child and the control or unsupervised access is not otherwise illegal.

b. A person who is required to register as a sex offender under chapter 692A for a sex offense against a child who knowingly has control of a child, or who knowingly has unsupervised access to a child, when the person is married to and living with the legal parent or guardian of the child and the control or unsupervised access is not otherwise illegal.

4. A parent or person authorized by the parent shall not be prosecuted for a violation of subsection 2, paragraph *"f"*, relating to abandonment, if the parent or person authorized by the parent has voluntarily released custody of a newborn infant in accordance with section 233.2.

5. For the purposes of subsection 2, *"person having control over a child "* means any of the following:

a. A person who has accepted, undertaken, or assumed supervision of a child from the parent or guardian of the child.

b. A person who has undertaken or assumed temporary supervision of a child without explicit consent from the parent or guardian of the child.

c. A person who operates a motor vehicle with a child present in the vehicle.

6. A person who commits child endangerment resulting in the death of a child is guilty of a class "B" felony. Notwithstanding section 902.9, subsection 1, paragraph *"b"*, a person convicted of a violation of this subsection shall be confined for no more than fifty years.

7. A person who commits child endangerment resulting in serious injury to a child is guilty of a class "C" felony.

8. A person who commits child endangerment resulting in bodily injury to a child or child endangerment in violation of subsection 2, paragraph *"g"*, that does not result in a serious injury, or a person who commits child endangerment in violation of subsection 3, is guilty of a class "D" felony.

9. A person who commits child endangerment that is not subject to penalty under subsection 6, 7, or 8 is guilty of an aggravated misdemeanor.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §731A.1 – 731A.3; C79, 81, §726.6]

85 Acts, ch 180, §3; 96 Acts, ch 1129, §109; 2001 Acts, ch 3, §2 – 5; 2001 Acts, ch 67, §12, 13; 2002 Acts, ch 1119, §104; 2004 Acts, ch 1004, §1; 2004 Acts, ch 1151, §3, 4; 2005 Acts, ch 158, §31; 2007 Acts, ch 126, §109; 2009 Acts, ch 119, §65; 2013 Acts, ch 30, §252; 2017 Acts, ch 69, §30; 2017 Acts, ch 170, §50, 51, 53, 54; 2021 Acts, ch 78, §1, 2; 2026 Acts, ch 1084, §1

Referred to in §124.401C, 229A.2, 233.3, 252B.7, 702.11, 707.2, 724.22, 726.4, 726.6A, 802.2B, 902.12, 915.37
Definition of forcible felony; §702.11
Section amended

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726.6A Multiple acts of child endangerment — penalty.

A person who engages in a course of conduct including three or more acts of child endangerment as defined in section 726.6 within a period of twelve months involving the same child or a minor with a mental or physical disability, where one or more of the acts results in serious injury to the child or minor or results in a skeletal injury to a child under the age of four years, is guilty of a class "B" felony. Notwithstanding section 902.9, subsection 1, paragraph *"b"*, a person convicted of a violation of this section shall be confined for no more than fifty years.

94 Acts, ch 1172, §59; 96 Acts, ch 1129, §110; 2013 Acts, ch 30, §253

726.7 Wanton neglect of a resident of a health care facility. Transferred to §726.27; 2022 Acts, ch 1132, §8.

726.8 Wanton neglect or nonsupport of a dependent adult. Transferred to §726.28; 2022 Acts, ch 1132, §8.

726.9 Reserved.

726.10 Sexual motivation.

A person convicted of any indictable offense under this subchapter shall be required to register as a sex offender pursuant to the provisions of chapter 692A, if the offense was committed against a minor and the fact finder makes a determination that the offense was sexually motivated pursuant to section 692A.126.

2010 Acts, ch 1104, §22, 23

726.11 through 726.20 Reserved.

SUBCHAPTER II

CHILD IDENTIFICATION
AND PROTECTION ACT

726.21 Short title.

This subchapter shall be known as and may be cited as the *"Child Identification and Protection Act"*.

2005 Acts, ch 132, §1

726.22 Definitions.

As used in this subchapter, unless the context otherwise requires:

1. *"Child"* means any person under eighteen years of age.

2. *"Governmental unit"* means the state, or any county, municipality, or other political subdivision of the state, or any department, board, division, or other agency of any of these entities; an authorized representative of the state, or any county, municipality, or other political subdivision of the state, or of a department, board, division, or other agency of any of these entities; or a school district or an authorized representative of a school district.

2005 Acts, ch 132, §2

726.23 Fingerprinting of children prohibited — exception — conditions.

1. Except as provided in subsection 2, a governmental unit shall not fingerprint a child.

2. A governmental unit may fingerprint a child if one or more of the following conditions apply:

a. (1) A parent or guardian has given written authorization for the taking of the fingerprints for use in the future in case the child becomes a runaway or a missing child. Only one set of prints shall be taken and the completed fingerprint cards and written authorizations shall be given to the parent or guardian. The fingerprints, written authorizations for fingerprinting, or notice of the fingerprints' existence shall not be

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recorded, stored, or kept in any manner by a law enforcement agency, except as provided in this subchapter or except at the request of the parent or guardian if the child becomes a runaway or a missing child. When the child is located or the case is otherwise disposed of, the fingerprint cards shall be returned to the parents or guardian.

(2) Nothing in this paragraph *"a"* shall be construed to prohibit a governmental unit from taking the fingerprints of a child at the Iowa state fair or a county or district fair as defined in section 174.1 as long as the governmental unit complies with the requirements of this paragraph *"a"*.

b. Fingerprints are required to be taken pursuant to section 232.148, 690.2, or 690.4.

c. Fingerprints are required by court order.

d. Fingerprints are voluntarily given with the written permission of the child and parent or guardian, upon request of a law enforcement officer, to aid in a specific criminal investigation. Only one set of prints shall be taken and, upon completion of the investigation, the law enforcement agency shall return the fingerprint cards to the parent or guardian of the child.

e. Fingerprints are voluntarily given with the written permission of the child and parent or guardian for the purpose of allowing the child to work as an employee or substitute at a child care center as defined in section 237A.1.

2005 Acts, ch 132, §3; 2008 Acts, ch 1038, §1; 2022 Acts, ch 1135, §1

SUBCHAPTER III

RESIDENT, DEPENDENT ADULT, AND OLDER INDIVIDUAL PROTECTION ACT

726.24 Elder abuse — initiation of charges — penalty.

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

a. "Abuse" means the infliction of physical harm or the deprivation of goods or services that are necessary to meet essential needs or to avoid physical harm or psychological harm.

b. "Caregiver" means an individual who has the responsibility for the care or custody of an older individual, whether voluntarily, by contract, by receipt of payment for care, or as a result of the operation of law, and includes but is not limited to a family member or other individual who provides, whether on the individual's own behalf or on behalf of a public or private entity, compensated or uncompensated care to an older individual.

c. "Elder abuse" means the abuse, emotional abuse, neglect, isolation, or sexual exploitation of an older individual. *"Elder abuse"* does not include any of the following:

(1) Circumstances in which the older individual declines medical treatment if the older individual holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.

(2) Circumstances in which the older individual's caregiver or fiduciary, acting in accordance with the older individual's stated or implied consent, declines medical treatment if the older individual holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.

(3) The withholding or withdrawing of health care from an older individual who is terminally ill in the opinion of a licensed physician, when the withholding or withdrawing of health care is done at the request of the older individual or at the request of the older individual's next of kin, attorney in fact, or guardian pursuant to the applicable procedures under chapter 125, 144A, 144B, 222, 229, or 633.

d. "*Emotional abuse"* means the willful or reckless infliction of psychological harm, emotional or mental anguish, or the use of physical or chemical restraint, medication, or isolation as punishment or as a substitute for treatment or care.

e. "*Fiduciary"* means a guardian, trustee, executor, administrator, receiver, conservator, attorney in fact, or any person, whether individual or corporate, acting in any fiduciary capacity for or on behalf of any older individual.

f. (1) *"Isolate"* or "*isolation*" means preventing an older individual from having contact with another person by any of the following:

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(a) Intentionally preventing the older individual from receiving visitors, mail, or telephone calls, including, without limitation, communicating to a person who comes to visit the older individual or a person who telephones the older individual that the older individual is not present or does not want to meet with or talk to the visitor or caller while knowing that the statement is false, contrary to the express wishes of the older individual, and intended to prevent the older individual from having contact with the visitor.

(b) Physically restraining the older individual to prevent the older individual from meeting with a person who comes to visit the older individual.

(c) Permitting any of the acts described in subparagraph division (a) or (b) to be committed against an older individual.

(2) *"Isolate"* or *"isolation"* does not mean an act intended to protect the property or physical or mental welfare of the older individual or an act performed pursuant to the instructions of a physician of the older individual.

g. "Neglect" means the failure of a caregiver or fiduciary to provide adequate food, shelter, clothing, supervision, physical or mental health care, and goods or services necessary to maintain the life, health, or safety of an older individual, which if not provided would constitute denial of critical care.

h. "Older individual" means a person sixty years of age or older who is unable to protect himself or herself from elder abuse as a result of a mental or physical condition or because of a personal circumstance which results in an increased risk of harm to the person.

i. "Older individual assault" means the same as defined in section 708.2D.

j. "Physical harm" means bodily injury, bodily pain, impairment, or disease.

k. "Psychological harm" means an injury to the intellectual functioning or emotional state of an older individual as evidenced by an observable or measurable reduction in the older adult's ability to function within that individual's customary range of performance and that individual's behavior.

l. "Serious injury" means the same as defined in section 702.18.

m. "Sexual exploitation" means any sexual contact against an older individual's will. This includes acts in which the older individual is unable to understand the act or is unable to communicate or is under undue influence and includes coerced nudity; fondling, touching, or kissing; making the person fondle someone else's genitals; forcing the person to observe sexual acts; photographing the person in sexually explicit ways whether for purposes of gratification or degradation; and sexual assault.

n. "Undue influence" means when a person uses or knowingly assists or causes another person to use that person's role, relationship, or power to exploit the trust, dependency, or fear of an older individual, or uses or knowingly assists or causes another person to use that person's role, relationship, or power to deceptively gain control over an older individual's decision-making process.

2. It shall be unlawful for any person to abuse, emotionally abuse, neglect, isolate, or sexually exploit any older individual.

3. A charge of elder abuse may be initiated as a result of an investigation by a social services agency, or on the direct initiative of the attorney general, a county attorney, or a law enforcement agency.

4. A person who commits a first offense of elder abuse is guilty of the following, as applicable:

a. A person who intentionally commits elder abuse is guilty of a class "C" felony if the intentional elder abuse results in serious injury.

b. A person who recklessly commits elder abuse is guilty of a class "D" felony if the reckless elder abuse results in serious injury.

c. A person who intentionally commits elder abuse is guilty of a class "D" felony if the intentional elder abuse results in physical injury or psychological harm.

d. A person who recklessly commits elder abuse is guilty of an aggravated misdemeanor if the reckless elder abuse results in physical injury or psychological harm.

e. A person who otherwise intentionally commits elder abuse is guilty of a serious misdemeanor.

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5. On a second or subsequent offense of elder abuse under subsection 4, paragraph *"a"*, a person commits a class "B" felony.

6. On a second or subsequent offense of elder abuse under subsection 4, paragraph *"b"* or *"c"*, a person commits a class "C" felony.

7. On a second or subsequent offense of elder abuse under subsection 4, paragraph *"d"* or *"e"*, a person commits a class "D" felony.

8. It does not constitute a defense to a prosecution for any violation of this section that the alleged perpetrator did not know the age of the victim.

9. In a criminal action in which an older individual is a victim, the state may move the court to advance the trial on the docket. The presiding judge, after consideration of the age and health of the victim, may advance the trial on the docket. The motion may be filed and served with the information or charges at any time.

10. *a.* A conviction or deferred judgment for or plea of guilty to a violation of this section which occurred more than twelve years prior to the date of the violation charged shall not be considered in determining that the violation charged is a second or subsequent offense.

b. For the purpose of determining if a violation charged is a second or subsequent offense, deferred judgments issued pursuant to section 907.3 for violations of this section, or judgments or deferred judgments issued pursuant to sections 708.2D and 714.2A, and convictions or the equivalent of deferred judgments for violations in any other state under statutes substantially corresponding to this section shall be counted as previous offenses. The courts shall judicially notice the statutes of other states which define offenses substantially equivalent to the offenses defined in this section and can therefore be considered corresponding statutes. Each previous violation on which conviction or deferral of judgment was entered prior to the date of the offense charged shall be considered and counted as a separate previous offense.

c. An offense shall be considered a prior offense regardless of whether it was committed upon the same victim.

11. If a person is convicted of, receives a deferred judgment for, or pleads guilty to a violation of this section, the court shall modify the no-contact order issued upon initial appearance in the manner provided in section 664A.5, regardless of whether the person is placed on probation.

12. The clerk of the district court shall provide notice and copies of a judgment entered under this section to the applicable law enforcement agencies and the twenty-four-hour dispatcher for the law enforcement agencies, in the manner provided for protective orders under chapter 235F. The clerk shall provide notice and copies of modifications of the judgment in the same manner.

2022 Acts, ch 1132, §4; 2023 Acts, ch 66, §153
Referred to in §13.2, 633.669, 633.670

726.25 Financial exploitation of an older individual.

1. For the purposes of this section:

a. "Caregiver" means an individual who has the responsibility for the care or custody of an older individual, whether voluntarily, by contract, through employment, or as a result of the operation of law, and includes but is not limited to a family member or other individual who provides compensated or uncompensated care to an older individual.

b. "Coercion" means communication or conduct which compels an older individual to act or refrain from acting against the older individual's will.

c. "Older individual" means an individual who is sixty years of age or older.

d. "Stands in a position of trust or confidence" means the person has any of the following relationships relative to the older individual:

(1) Is a relative by consanguinity or affinity of the older individual.

(2) Is a joint tenant or tenant in common with the older individual.

(3) Has a legal or fiduciary relationship with the older individual. For the purposes of this paragraph, a legal or fiduciary relationship with the older individual does not include a legal or fiduciary relationship an older individual may have with a bank incorporated under the provisions of any state or federal law, any savings and loan association or savings bank

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incorporated under the provisions of any state or federal law, or any credit union organized under the provisions of any state or federal law.

(4) Is a financial planning or investment professional providing or offering to provide financial planning or investment advice to the older individual.

(5) Is a beneficiary of the older individual in a governing instrument.

(6) Is a caregiver for the older individual.

(7) Is a person who has otherwise formed a relationship of trust or reliance with the older individual such that the person should reasonably expect that the older individual would likely rely upon the person to act in good faith for the older individual's interest.

e. "*Undue influence*" means excessive persuasion by a person that causes an older individual to act or refrain from acting by overcoming an older individual's free will and results in inequity. In determining whether a result was produced by undue influence, all of the following shall be considered:

(1) The vulnerability of the older individual. Evidence of vulnerability may include but is not limited to incapacity, illness, disability, injury, age, education, impaired cognitive function, emotional distress, isolation, or dependency, and whether the person knew or should have known of the alleged older individual's vulnerability.

(2) The person's apparent authority. Evidence of apparent authority may include but is not limited to status as a fiduciary, family member, care provider, health care professional, legal professional, spiritual advisor, expert, or other qualifications.

(3) The person's actions or tactics. Evidence of actions or tactics used may include but is not limited to all of the following:

(a) Controlling necessaries of life, medication, the older individual's interactions with others, access to information, or sleep.

(b) Use of affection, intimidation, or coercion.

(c) Initiation of changes in personal or property rights, use of haste or secrecy in effecting those changes, effecting changes at inappropriate times and places, and claims of expertise in effecting changes.

(4) The equity of the result. Evidence of the equity of the result may include but is not limited to the economic consequences to the older individual; any divergence from the older individual's prior intent, course of conduct, or dealing; the relationship of the value conveyed to the value of any services or consideration received; or the appropriateness of the change in light of the length and nature of the relationship. Evidence of an inequitable result, without more, is not sufficient to prove undue influence.

2. A person commits financial exploitation of an older individual when the person stands in a position of trust or confidence with the older individual and knowingly and by undue influence, deception, coercion, fraud, breach of fiduciary duty, or extortion, obtains control over or otherwise uses the benefits, property, resources, belongings, or assets of the older individual, to the detriment of the older individual.

3. A person who commits a first offense of financial exploitation of an older individual is guilty of the following, as applicable:

a. A serious misdemeanor if the value of the benefits, property, resources, belongings, or assets is one hundred dollars or less.

b. An aggravated misdemeanor if the value of the benefits, property, resources, belongings, or assets exceeds one hundred dollars but does not exceed one thousand dollars.

c. A class "D" felony if the value of the benefits, property, resources, belongings, or assets exceeds one thousand dollars but does not exceed ten thousand dollars.

d. A class "C" felony if the value of the benefits, property, resources, belongings, or assets exceeds ten thousand dollars but does not exceed fifty thousand dollars.

e. A class "B" felony if the value of the benefits, property, resources, belongings, or assets exceeds fifty thousand dollars, or if the older individual is seventy years of age to eighty years of age and the value of the benefits, property, resources, belongings, or assets is fifteen thousand dollars or more, or if the older individual is eighty years of age or older and the value of the benefits, property, resources, belongings, or assets is five thousand dollars or more.

4. On a second or subsequent offense of financial exploitation of an older individual, a

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person commits a class "C" felony if the value of the benefits, property, resources, belongings, or assets does not exceed fifty thousand dollars unless subsection 3, paragraph *"e"*, applies.

5. Nothing in this section shall be construed to limit other remedies available to the older individual including those provided under chapters 235F and 236.

6. Nothing in this section shall be construed to alter the competency requirements under section 633.264 relative to a will or under section 633A.2102 relative to a trust.

7. Nothing in this section shall be construed to impose criminal liability on a person who has made a good-faith effort to assist an older individual regarding or in the management of the older individual's benefits, property, resources, belongings, or assets, but who has been, in whole or in part, unable to provide such assistance. *"Management of the older individual's benefits, property, resources, belongings, or assets"* includes estate planning when performed by an attorney licensed to practice law in this state.

8. Nothing in this section shall be construed to impose criminal liability on a person based solely on the sale of a product or service, including legal services, or on the good-faith solicitation of a bona fide charitable donation to a nonprofit organization that qualifies for tax-exempt status under the Internal Revenue Code.

9. Nothing in this section shall be construed to impose criminal liability on a person who has made a good-faith effort to assist an older individual in the management of the older individual's benefits, property, resources, belongings, or assets when the efforts are undertaken for the preservation of the assets of the older individual or the older individual's spouse or for the safety of the older individual or the older individual's spouse.

10. It shall not be a defense to financial exploitation of an older individual that the alleged perpetrator did not know the age of the older individual or reasonably believed that the alleged victim was not an older individual.

11. In a criminal action in which an older individual is a victim, the state may make a motion to the court to advance the trial on the docket. The presiding judge, after consideration of the age and health of the victim, may grant a motion to advance the trial on the docket. The motion may be filed and served with the information or charges at any time.

12. *a.* A conviction or deferred judgment for or plea of guilty to a violation of this section which occurred more than twelve years prior to the date of the violation charged shall not be considered in determining whether the violation charged is a second or subsequent offense.

b. For the purpose of determining if a violation charged is a second or subsequent offense, deferred judgments issued pursuant to section 907.3 for violations of this section or judgments or deferred judgments issued pursuant to sections 708.2D and 714.2A, and convictions or the equivalent of deferred judgments for violations in any other state under statutes substantially corresponding to this section shall be counted as previous offenses. The courts shall judicially notice the statutes of other states which define offenses substantially equivalent to the offenses defined in this section and can therefore be considered corresponding statutes. Each previous violation on which conviction or deferral of judgment was entered prior to the date of the offense charged shall be considered and counted as a separate previous offense.

c. An offense shall be considered a prior offense regardless of whether it was committed upon the same victim.

13. If a person is convicted of, receives a deferred judgment for, or pleads guilty to a violation of this section, the court shall modify the no-contact order issued upon initial appearance in the manner provided in section 664A.5, regardless of whether the person is placed on probation.

14. The clerk of the district court shall provide notice and copies of a judgment entered under this section to the applicable law enforcement agencies and the twenty-four-hour dispatcher for the law enforcement agencies, in the manner provided for protective orders under chapter 235F. The clerk shall provide notice and copies of modifications of the judgment in the same manner.

2022 Acts, ch 1132, §5

Referred to in §13.2, 633.669, 633.670

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726.26 Dependent adult abuse — initiation of charges — penalty.

1. For the purposes of this section, *"caretaker"*, *"dependent adult"*, and *"dependent adult abuse"* mean the same as defined in section 235B.2 or section 235E.1, as applicable.

2. A charge of dependent adult abuse may be initiated upon the complaint of a private individual, as a result of an investigation by a social service agency, or on the direct initiative of the office of the attorney general, a county attorney, or a law enforcement agency.

3. A caretaker who intentionally or recklessly commits dependent adult abuse is guilty of murder in the second degree in violation of section 707.3 if the intentional or reckless dependent adult abuse results in the death of the dependent adult.

4. A caretaker who intentionally commits dependent adult abuse is guilty of a class "C" felony if the intentional dependent adult abuse results in serious injury.

5. A caretaker who recklessly commits dependent adult abuse is guilty of a class "D" felony if the reckless dependent adult abuse results in serious injury.

6. A caretaker who intentionally commits dependent adult abuse is guilty of a class "C" felony if the intentional dependent adult abuse results in physical injury.

7. A caretaker who commits dependent adult abuse by exploitation of a dependent adult is guilty of a class "D" felony if the value of the property, assets, or resources exceeds one hundred dollars.

8. A caretaker who recklessly commits dependent adult abuse is guilty of an aggravated misdemeanor if the reckless dependent adult abuse results in physical injury.

9. A caretaker who otherwise intentionally or knowingly commits dependent adult abuse is guilty of a serious misdemeanor.

10. A caretaker who commits dependent adult abuse by exploitation of a dependent adult is guilty of a simple misdemeanor if the value of the property, assets, or resources is one hundred dollars or less.

11. A caretaker alleged to have committed dependent adult abuse shall be charged with the respective offense cited, unless a charge may be brought based upon a more serious offense, in which case the charge of the more serious offense shall supersede the less serious charge.

2022 Acts, ch 1132, §6; 2022 Acts, ch 1153, §47; 2024 Acts, ch 1073, §8
Referred to in §235E.4, 272C.15, 633.669, 633.670, 671A.2

726.27 Wanton neglect of a resident of a health care facility.

1. A person commits wanton neglect of a resident of a health care facility when the person knowingly acts in a manner likely to be injurious to the physical or mental welfare of a resident of a health care facility as defined in section 135C.1.

2. A person who commits wanton neglect resulting in serious injury to a resident of a health care facility is guilty of a class "C" felony.

3. A person who commits wanton neglect not resulting in serious injury to a resident of a health care facility is guilty of an aggravated misdemeanor.

[C79, 81, §726.7]
91 Acts, ch 107, §13; 2022 Acts, ch 1132, §8
C2023, §726.27
Referred to in §135B.34, 135C.33, 152.5A

726.28 Wanton neglect or nonsupport of a dependent adult.

1. A caretaker commits wanton neglect of a dependent adult if the caretaker knowingly acts in a manner likely to be injurious to the physical, mental, or emotional welfare of a dependent adult. Wanton neglect of a dependent adult is a serious misdemeanor.

2. A person who has legal responsibility either through contract or court order for support of a dependent adult and who fails or refuses to provide support commits nonsupport. Nonsupport is a class "D" felony.

3. A person alleged to have committed wanton neglect or nonsupport of a dependent adult shall be charged with the respective offense unless a charge may be brought based upon a more serious offense, in which case the charge of the more serious offense shall supersede the less serious charge.

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4. For the purposes of this section, *"dependent adult"* means a dependent adult as defined in section 235B.2, subsection 4, and *"caretaker"* means a caretaker as defined in section 235B.2, subsection 1.

87 Acts, ch 182, §10
CS87, §726.8
2022 Acts, ch 1132, §8
C2023, §726.28
Referred to in §135B.34, 135C.33, 152.5A

CHAPTER 727

HEALTH, SAFETY, AND WELFARE

Referred to in §331.307, 364.22, 701.1

727.1	Distributing dangerous substances.	727.8	Electronic and mechanical eavesdropping.
727.2	Fireworks.	727.8A	Cameras or electronic surveillance devices — trespass.
727.3	Abandoned or unattended refrigerators.	727.9	Transacting business without a license.
727.4	Exposing persons to X-ray radiation.	727.10	Exhibiting persons.
727.5	Obstruction of emergency communications.	727.11	Disclosure of information concerning use of videotapes — penalty.
727.6	Falsely claiming emergency.	727.12	Failure to assist.
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727.1 Distributing dangerous substances.

Any person who distributes samples of any drugs or medicine, or any corrosive, caustic, poisonous or other injurious substance, commits a simple misdemeanor unless the person delivers such into the hands of a competent person, or otherwise takes reasonable precautions that the substance will not be taken by children or animals from the place where the substance is deposited.

[S13, §4999-a42, 4999-a43; C24, 27, 31, 35, 39, §**13244, 13245;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §732.8, 732.9; C79, 81, §727.1]

727.2 Fireworks.

1. *Definitions.* For purposes of this section:

a. "Consumer fireworks" includes first-class consumer fireworks and second-class consumer fireworks as those terms are defined in section 10A.519, subsection 1. *"Consumer fireworks"* does not include novelties enumerated in chapter 3 of the American pyrotechnics association's standard 87-1 or display fireworks enumerated in chapter 4 of the American pyrotechnics association's standard 87-1.

b. "Display fireworks" includes any explosive composition, or combination of explosive substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, and includes fireworks containing any explosive or flammable compound, or other device containing any explosive substance. *"Display fireworks"* does not include novelties or consumer fireworks enumerated in chapter 3 of the American pyrotechnics association's standard 87-1.

c. "Novelties" includes all novelties enumerated in chapter 3 of the American pyrotechnics association's standard 87-1, and that comply with the labeling regulations promulgated by the United States consumer product safety commission.

2. *Display fireworks.*

a. A person, firm, partnership, or corporation who offers for sale, exposes for sale, sells at retail, or uses or explodes any display fireworks, commits a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars. However, a city council of a city or a county

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board of supervisors may, upon application in writing, grant a permit for the display of display fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals approved by the city or the county board of supervisors when the display fireworks will be handled by a competent operator, but no such permit shall be required for the display of display fireworks at the Iowa state fairgrounds by the Iowa state fair board, at incorporated county fairs, or at district fairs receiving state aid. Sales of display fireworks for such display may be made for that purpose only.

b. (1) A person who uses or explodes display fireworks while the use of such devices is prohibited or limited by an ordinance or resolution adopted by the county or city in which the firework is used commits a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars.

(2) A person who uses or explodes display fireworks while the use of such devices is suspended by an order of the director of the department of inspections, appeals, and licensing pursuant to section 10A.511, subsection 6, commits a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars.

3. *Consumer fireworks and novelties.*

a. A person or a firm, partnership, or corporation may possess, use, or explode consumer fireworks in accordance with this subsection and subsection 4.

b. A person, firm, partnership, or corporation who sells consumer fireworks to a person who is less than eighteen years of age commits a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars. A person who is less than eighteen years of age who purchases consumer fireworks commits a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars.

c. (1) A person who uses or explodes consumer fireworks or novelties while the use of such devices is prohibited or limited by an ordinance adopted by the county or city in which the fireworks are used commits a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars.

(2) A person who uses or explodes consumer fireworks or novelties while the use of such devices is suspended by an order of the director of the department of inspections, appeals, and licensing pursuant to section 10A.511, subsection 6, commits a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars.

d. Any retailer or community group offering for sale at retail any consumer fireworks shall do so in accordance with the national fire protection association standard 1124, published in the code for the manufacture, transportation, storage, and retail sales of fireworks and pyrotechnic articles, 2006 edition, and shall not be subject to any other standards or requirements unless provided for by the director of the department of inspections, appeals, and licensing under section 10A.519.

4. *Limitations.*

a. A person shall not use or explode consumer fireworks on days other than June 1 through July 8 and December 10 through January 3 of each year, all dates inclusive.

b. A person shall not use or explode consumer fireworks at times other than between the hours of 9:00 a.m. and 10:00 p.m., except that on the following dates consumer fireworks shall not be used at times other than between the hours specified:

(1) Between the hours of 9:00 a.m. and 11:00 p.m. on July 4 and the Saturdays and Sundays immediately preceding and following July 4.

(2) Between the hours of 9:00 a.m. on December 31 and 12:30 a.m. on the immediately following day.

(3) Between the hours of 9:00 a.m. and 11:00 p.m. on the Saturdays and Sundays immediately preceding and following December 31.

c. A person shall not use consumer fireworks on real property other than that person's real property or on the real property of a person who has consented to the use of consumer fireworks on that property.

d. A person who violates this subsection commits a simple misdemeanor. A court shall not order imprisonment for violation of this subsection.

5. *Applicability.*

a. This section does not prohibit the sale by a resident, dealer, manufacturer, or jobber of

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such fireworks as are not prohibited by this section, or the sale of any kind of fireworks if they are to be shipped out of the state, or the sale or use of blank cartridges for a show or the theater, or for signal purposes in athletic sports or by railroads or trucks, for signal purposes, or by a recognized military organization.

b. This section does not apply to any substance or composition prepared and sold for medicinal or fumigation purposes.

c. Unless specifically provided otherwise, this section does not apply to novelties.

[C39, §**13245.08 – 13245.10;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §732.17 – 732.19; C79, 81, §727.2]

92 Acts, ch 1163, §120; 99 Acts, ch 153, §22; 2008 Acts, ch 1032, §106; 2017 Acts, ch 115, §10, 12; 2023 Acts, ch 12, §7, 8; 2023 Acts, ch 19, §1706, 1707; 2023 Acts, ch 119, §29

Referred to in §10A.511, 100.1, 101A.1, 331.301, 331.304, 364.2, 461A.42

727.3 Abandoned or unattended refrigerators.

Any person who abandons or otherwise leaves unattended any refrigerator, icebox, or similar container, with doors that may become locked, outside of buildings and accessible to children, or any person who allows any such refrigerator, ice box, or similar container, to remain outside of buildings on premises in the person's possession or control, abandoned or unattended and so accessible to children, commits a simple misdemeanor.

[C58, 62, 66, 71, 73, 75, 77, §732.20 – 732.23; C79, 81, §727.3]

727.4 Exposing persons to X-ray radiation.

Any person other than one licensed to practice medicine, osteopathic medicine, chiropractic, or dentistry, or one acting under the direction of a person so licensed, who knowingly exposes any other person to X-ray radiation, commits a simple misdemeanor.

[C62, 66, 71, 73, 75, 77, §732.24; C79, 81, §727.4]

727.5 Obstruction of emergency communications.

An emergency communication is any telephone call or radio transmission to a fire department or police department for aid, or a call or transmission for medical aid or ambulance service, when human life or property is in jeopardy and the prompt summoning of aid is essential. A person who fails to relinquish a telephone or telephone line which the person is using when informed that the phone or line is needed for an emergency call or knowingly and intentionally obstructs or interferes with an emergency call or transmission commits a simple misdemeanor.

[C62, 66, 71, 73, 75, 77, §714.33, 714.34; C79, 81, §727.5]

87 Acts, ch 12, §1

Referred to in §727.7

727.6 Falsely claiming emergency.

Any person who secures the use of a telephone or telephone line by falsely stating that such telephone or line is needed for an emergency call commits a simple misdemeanor.

[C62, 66, 71, 73, 75, 77, §714.35; C79, 81, §727.6]

Referred to in §727.7

727.7 Publication required.

Every telephone company doing business in this state shall print a copy of sections 727.5 and 727.6 in a prominent place in every telephone directory published by it. Any person, firm, or corporation providing telephone service which distributes or causes to be distributed in this state copies of a telephone directory which is subject to the provisions of this section which does not contain the notice herein provided for commits a simple misdemeanor.

[C62, 66, 71, 73, 75, 77, §714.36; C79, 81, §727.7]

727.8 Electronic and mechanical eavesdropping.

1. *"Monitoring device"* means a digital video or audio streaming or recording device that records, listens to, or otherwise intercepts video or audio communications in order to provide

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proof of or prevent criminal activity that is placed outside of a person's dwelling or other structure that is not in a shared hallway and is on real property owned or leased by the person.

2. Any person, having no right or authority to do so, who taps into or connects a listening or recording device to any telephone or other communication wire, or who by any electronic or mechanical means listens to, records, or otherwise intercepts a conversation or communication of any kind, commits a serious misdemeanor.

3. This section does not apply to any of the following:

a. The recording by a sender or recipient of a message or one who is openly present and participating in or listening to a communication from recording such message or communication.

b. The use of any radio or television receiver to receive any communication transmitted by radio or wireless signal.

c. The use of a monitoring device.

[C97, §4816; C24, 27, 31, 35, 39, §**13121;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §716.8; C79, 81, §727.8]

2018 Acts, ch 1102, §1

727.8A Cameras or electronic surveillance devices — trespass.

A person committing a trespass as defined in section 716.7 who knowingly places or uses a camera or electronic surveillance device that transmits or records images or data while the device is on the trespassed property commits an aggravated misdemeanor for a first offense and a class "D" felony for a second or subsequent offense.

2021 Acts, ch 83, §2

727.9 Transacting business without a license.

Unless another penalty is specifically provided, any person who without a license carries on or transacts any business or occupation for which a license is required by any law of this state, commits a simple misdemeanor.

[C51, §2737; R60, §4380; C73, §4046; C97, §5010; C24, 27, 31, 35, 39, §**13072;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §713.27; C79, 81, §727.9]

727.10 Exhibiting persons.

A person shall not exhibit, place on exhibition, or cause to be exhibited any person without the permission of the person exhibited or the person's parent or guardian. A parent or guardian of an exhibited person shall not receive compensation from the exhibition. A person who violates this section commits a serious misdemeanor.

[S13, §4975-1a; C24, 27, 31, 35, 39, §**13197;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §725.12; C79, 81, §727.10]

95 Acts, ch 168, §1

727.11 Disclosure of information concerning use of videotapes — penalty.

1. Except as provided in subsection 2, a person engaged in the business of renting, leasing, loaning, or otherwise distributing for a fee videotapes or other like items to individuals for personal use shall not disclose any information which would reveal the identity of an individual renting, leasing, borrowing, or otherwise obtaining through the business a videotape or other like item, except to the extent permitted by the individual as evidenced by the individual's written consent or as otherwise provided in this section.

2. In the absence of consent, the information may be released in any of the following situations:

a. To a criminal or juvenile justice agency only pursuant to an investigation of a particular person or organization suspected of committing a known crime. The information shall be released only upon a judicial determination that a rational connection exists between the requested release of information and a legitimate end and that the need for the information is cogent and compelling.

b. To the extent reasonably necessary to collect payment for the rental, lease, or other distribution fee for the materials, if the individual has been given written notice that the

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payment is due and the individual has failed to pay or arrange for payment within a reasonable time after this notice.

c. If the disclosure is for the exclusive purpose of marketing goods and services directly to the consumer. The person disclosing the information shall inform the customer in writing that the customer may, by written notice, require the person to refrain from disclosing the information pursuant to this paragraph.

3. A person who violates this section commits a simple misdemeanor.

88 Acts, ch 1256, §2; 89 Acts, ch 296, §89; 96 Acts, ch 1034, §64

727.12 Failure to assist.

1. A person who reasonably believes another person is suffering from a risk of serious bodily injury or imminent danger of death shall, if the person is able, attempt to contact local law enforcement or local emergency response authorities, if doing so does not place the person or the other person at risk of serious bodily injury or imminent danger of death. A person shall not be required to contact local law enforcement or emergency response authorities if the person knows or reasonably believes that the other person is not in need of help or assistance.

2. A person who violates this section without lawful cause commits the following:

a. A simple misdemeanor if the failure to assist results in the other person suffering serious bodily injury.

b. An aggravated misdemeanor if the failure to assist results in the death of the other person.

2021 Acts, ch 173, §3

CHAPTER 727A

RESERVED

CHAPTER 728

OBSCENITY

Referred to in §232.83, 234.28, 331.307, 364.22, 701.1, 709.13, 809A.17, 901C.3

Complaint alleging a child in need of assistance, see §709.13

728.1 Definitions.
728.2 Dissemination and exhibition of obscene material to minors.
728.2A Minors distributing obscene material to minors.
728.3 Admitting minors to premises where obscene material is exhibited.
728.4 Rental or sale of hard-core pornography.
728.5 Public indecent exposure in certain establishments.
728.6 Civil suit to determine obscenity.
728.7 Exemptions for public libraries and educational institutions.
728.8 Suspension of licenses or permits.
728.9 Evidence considered.
728.10 Affirmative defense.
728.11 Uniform application.
728.12 Sexual exploitation of a minor.
728.13 Reserved.
728.14 Commercial film and photographic print processor reports of depictions of minors engaged in prohibited sexual acts.
728.15 Telephone dissemination of obscene material to minors.

728.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Disseminate"* means to transfer possession, with or without consideration.
2. *"Knowingly"* means being aware of the character of the matter.

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3. *"Material"* means any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation or any statue or other figure, or any recording, transcription or mechanical, chemical or electrical reproduction or any other articles, equipment, machines or materials.

4. *"Minor"* means any person under the age of eighteen.

5. *"Obscene material"* is any material depicting or describing the genitals, sex acts, masturbation, excretory functions or sadomasochistic abuse which the average person, taking the material as a whole and applying contemporary community standards with respect to what is suitable material for minors, would find appeals to the prurient interest and is patently offensive; and the material, taken as a whole, lacks serious literary, scientific, political or artistic value.

6. *"Place of business"* means the premises of a business required to obtain a sales or use tax permit pursuant to chapter 423, the premises of a nonprofit or not-for-profit organization, and the premises of an establishment which is open to the public at large or where entrance is limited by a cover charge or membership requirement.

7. Unless otherwise provided, *"prohibited sexual act"* means any of the following:

a. A sex act as defined in section 702.17.

b. An act of bestiality involving a minor.

c. Fondling or touching the pubes or genitals of a minor.

d. Fondling or touching the pubes or genitals of a person by a minor.

e. Sadomasochistic abuse of a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the abuse.

f. Sadomasochistic abuse of a person by a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the abuse.

g. Nudity of a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the nude minor.

8. *"Promote"* means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmute, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise, or to offer or agree to do any of these acts.

9. *"Sadomasochistic abuse"* means the infliction of physical or mental pain upon a person or the condition of a person being fettered, bound or otherwise physically restrained.

10. *"Sex act"* means any sexual contact, actual or simulated, either natural or deviate, between two or more persons, or between a person and an animal, by penetration of the penis into the vagina or anus, or by contact between the mouth or tongue and genitalia or anus, or by contact between a finger of one person and the genitalia of another person or by use of artificial sexual organs or substitutes therefor in contact with the genitalia or anus.

11. *"Visual depiction"* means but is not limited to any picture, slide, photograph, digital or electronic image, negative image, undeveloped film, motion picture, videotape, digital or electronic recording, live transmission, or other pictorial or three-dimensional representation.

[C75, 77, §725.1; C79, 81, §728.1]

83 Acts, ch 167, §1; 89 Acts, ch 263, §1; 97 Acts, ch 125, §2; 2005 Acts, ch 3, §111; 2012 Acts, ch 1057, §5, 6; 2022 Acts, ch 1138, §33

Referred to in §232.68, 232.96A, 708.7, 717C.1

728.2 Dissemination and exhibition of obscene material to minors.

Any person eighteen years of age or older, other than the parent or guardian of the minor, who knowingly disseminates or exhibits obscene material to a minor, including the exhibition of obscene material so that it can be observed by a minor on or off the premises where it is displayed, is guilty of a public offense and shall upon conviction be guilty as follows:

1. For a first offense, a serious misdemeanor.

2. For a second offense, an aggravated misdemeanor with a mandatory minimum term of confinement of one year. No portion of the mandatory minimum term of confinement imposed by this subsection shall be deferred or suspended.

3. For a third or subsequent offense, a class "D" felony with a mandatory minimum term

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of confinement of three years. No portion of the mandatory minimum term of confinement imposed by this subsection shall be deferred or suspended.

[C51, §2717; R60, §4359; C73, §4022; C97, §4951, 4955; C24, 27, 31, 35, 39, §**13189, 13193;** C46, 50, 54, 58, 62, 66, 71, 73, §725.4, 725.8; C75, 77, §725.2; C79, 81, §728.2]

2025 Acts, ch 109, §1

Referred to in §256.146, 692A.102, 728.8, 728.9

728.2A Minors distributing obscene material to minors.

Any person under the age of eighteen who knowingly distributes obscene material to another minor is guilty of a public offense and shall upon conviction be guilty of a serious misdemeanor.

2025 Acts, ch 109, §2

728.3 Admitting minors to premises where obscene material is exhibited.

1. A person who knowingly sells, gives, delivers, or provides a minor who is not a child with a pass or admits the minor to premises where obscene material is exhibited is guilty of a public offense and upon conviction is guilty of a serious misdemeanor.

2. A person who knowingly sells, gives, delivers, or provides a child with a pass or admits a child to premises where obscene material is exhibited is guilty of a public offense and upon conviction is guilty of an aggravated misdemeanor.

[C51, §2717; R60, §4359; C73, §4022; C97, §4951; S13, §4944-k; C24, 27, 31, 35, 39, §**13185, 13189;** C46, 50, 54, 58, 62, 66, 71, 73, §725.3, 725.4; C75, 77, §725.3; C79, 81, §728.3]

83 Acts, ch 167, §2

Referred to in §692A.102, 728.8, 728.9

728.4 Rental or sale of hard-core pornography.

A person who knowingly rents, sells, or offers for rental or sale material depicting patently offensive representations of oral, anal, or vaginal intercourse, actual or simulated, involving humans, or depicting patently offensive representations of masturbation, excretory functions, or bestiality, or lewd exhibition of the genitals, which the average adult taking the material as a whole in applying statewide contemporary community standards would find appeals to the prurient interest; and which material, taken as a whole, lacks serious literary, scientific, political, or artistic value, upon conviction is guilty of an aggravated misdemeanor. However, second and subsequent violations of this section by a person who has been previously convicted of violating this section are class "D" felonies. Charges under this section may only be brought by a county attorney or by the attorney general.

[C79, 81, §728.4; 82 Acts, ch 1115, §1]

83 Acts, ch 167, §3; 89 Acts, ch 263, §2

Referred to in §692A.102

728.5 Public indecent exposure in certain establishments.

1. An owner, manager, or person who exercises direct control over a place of business required to obtain a sales or use tax permit shall be guilty of a serious misdemeanor under any of the following circumstances:

a. If such person allows or permits the actual or simulated public performance of any sex act upon or in such place of business.

b. If such person allows or permits the exposure of the genitals or buttocks or female breast of any person who acts as a waiter or waitress.

c. If such person allows or permits the exposure of the genitals or female breast nipple of any person who acts as an entertainer, whether or not the owner of the place of business in which the activity is performed employs or pays any compensation to such person to perform such activity.

d. If such person allows or permits any person to remain in or upon the place of business who exposes to public view the person's genitals, pubic hair, or anus.

e. If such person advertises that any activity prohibited by this section is allowed or permitted in such place of business.

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f. If such person allows or permits a minor to engage in or otherwise perform in a live act intended to arouse or satisfy the sexual desires or appeal to the prurient interests of patrons.

2. However, if such person allows or permits a minor to participate in any act included in subsection 1, paragraphs *"a"* through *"d"*, the person shall be guilty of an aggravated misdemeanor.

3. Except for subsection 1, paragraph *"f"*, the provisions of this section shall not apply to a theater, concert hall, art center, museum, or similar establishment which is primarily devoted to the arts or theatrical performances and in which any of the circumstances contained in this section were permitted or allowed as part of such art exhibits or performances.

[C79, 81, §728.5]

92 Acts, ch 1029, §1; 97 Acts, ch 125, §3; 2010 Acts, ch 1078, §2; 2022 Acts, ch 1138, §34

Referred to in §728.8

728.6 Civil suit to determine obscenity.

Whenever the county attorney of any county has reasonable cause to believe that any person is engaged or plans to engage in the dissemination or exhibition of obscene material within the county attorney's county to minors the county attorney may institute a civil proceeding in the district court of the county to enjoin the dissemination or exhibition of obscene material to minors. Such application for injunction is optional and not mandatory and shall not be construed as a prerequisite to criminal prosecution for a violation of this chapter.

[C75, 77, §725.4; C79, 81, §728.6]

728.7 Exemptions for public libraries and educational institutions.

Nothing in this chapter prohibits the use of appropriate material for educational purposes in any accredited school, or any public library, or in any educational program in which the minor is participating. Nothing in this chapter prohibits the attendance of minors at an exhibition or display of art works or the use of any materials in any public library.

[C75, 77, §725.5; C79, 81, §728.7]

728.8 Suspension of licenses or permits.

Any person who knowingly permits a violation of section 728.2, 728.3, or 728.5, subsection 1, paragraph *"f"*, to occur on premises under the person's control shall have all permits and licenses issued to the person under state or local law as a prerequisite for doing business on such premises revoked for a period of six months. The county attorney shall notify all agencies responsible for issuing licenses and permits of any conviction under section 728.2, 728.3, or 728.5, subsection 1, paragraph *"f"*.

[C75, 77, §725.6; C79, 81, §728.8]

92 Acts, ch 1029, §2; 97 Acts, ch 125, §4; 2011 Acts, ch 34, §148

Referred to in §331.756(66)

728.9 Evidence considered.

At a trial for violation of section 728.2 or 728.3 the court may consider the material, and receive into evidence in addition to other competent evidence, the offered testimony of experts pertaining to:

1. The artistic, literary, political or scientific value, if any, of the challenged material.

2. The degree of public acceptance within the community of the material or material of similar character.

3. The intent of the author, artist, producer, publisher or manufacturer in creating the material.

4. The advertising promotion and other circumstances relating to the sale of the material.

[C75, 77, §725.7; C79, 81, §728.9]

728.10 Affirmative defense.

In any prosecution for disseminating or exhibiting obscene material to minors, it is an affirmative defense that the defendant had reasonable cause to believe that the minor involved was eighteen years old or more and the minor exhibited to the defendant a draft

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card, driver's license, birth certificate or other official or apparently official document purporting to establish that such minor was eighteen years old or more or was accompanied by a parent or spouse eighteen years of age or more.

[C75, 77, §725.8; C79, 81, §728.10]

728.11 Uniform application.

In order to provide for the uniform application of the provisions of this chapter relating to obscene material applicable to minors within this state, it is intended that the sole and only regulation of obscene material shall be under the provisions of this chapter, and no municipality, county or other governmental unit within this state shall make any law, ordinance or regulation relating to the availability of obscene materials. All such laws, ordinances or regulations shall be or become void, unenforceable and of no effect on January 1, 1978. Nothing in this section shall restrict the zoning authority of cities and counties.

[C75, 77, §725.9; C79, 81, §728.11]

728.12 Sexual exploitation of a minor.

1. It shall be unlawful to employ, use, persuade, induce, entice, coerce, solicit, knowingly permit, or otherwise cause or attempt to cause a minor or a law enforcement officer or agent posing as a minor to engage in a prohibited sexual act or in the simulation of a prohibited sexual act. A person must know, or have reason to know, or intend that the act or simulated act may be photographed, filmed, or otherwise preserved in a visual depiction. A person who commits a violation of this subsection commits a class "B" felony. Notwithstanding section 902.9, the court may assess a fine of not more than fifty thousand dollars for each offense under this subsection in addition to imposing any other authorized sentence.

2. It shall be unlawful to knowingly promote any material visually depicting a live performance of a minor engaging in a prohibited sexual act or in the simulation of a prohibited sexual act. A person who commits a violation of this subsection commits a class "C" felony. Notwithstanding section 902.9, the court may assess a fine of not more than twenty-five thousand dollars for each offense under this subsection in addition to imposing any other authorized sentence.

3. *a.* It shall be unlawful to knowingly purchase or possess a visual depiction of a minor engaging in a prohibited sexual act or the simulation of a prohibited sexual act.

b. (1) A visual depiction containing pictorial representations of different minors shall be prosecuted and punished as separate offenses for each pictorial representation of a different minor in the visual depiction.

(2) Violations of this subsection involving multiple visual depictions of the same minor shall be prosecuted and punished as separate offenses for each pictorial representation of the same minor.

c. A person who commits a violation of this subsection commits a class "D" felony for a first offense and a class "C" felony for a second or subsequent offense.

d. For purposes of this subsection, an offense is considered a second or subsequent offense if, prior to the person's having been convicted under this subsection, the person has a prior conviction or deferred judgment under this subsection or has a prior conviction or deferred judgment in another jurisdiction for a substantially similar offense. The court shall judicially notice the statutes of other states that define offenses substantially similar to the offenses defined in this subsection and that therefore can be considered corresponding statutes.

e. Nothing in this subsection shall be construed to require proof of the actual identity of the identifiable minor.

f. For purposes of this subsection, *"visual depiction of a minor"* includes any visual depiction that has been created, adapted, or modified to give the appearance that an identifiable minor is engaged in a prohibited sexual act or the simulation of a prohibited sexual act. An *"identifiable minor"* is a person who was a minor at the time the visual depiction was created, adapted, or modified, or whose image as a minor was used in creating, adapting, or modifying the visual depiction and is recognizable as an actual person by the person's face, likeness, or other distinguishing features.

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4. This section does not apply to law enforcement officers, court personnel, licensed physicians, licensed psychologists, or attorneys in the performance of their official duties.

[C79, 81, §728.12]

83 Acts, ch 167, §4; 86 Acts, ch 1176, §1 – 3; 89 Acts, ch 263, §3; 2001 Acts, ch 17, §4; 2003 Acts, ch 65, §1, 2; 2012 Acts, ch 1057, §7, 8; 2023 Acts, ch 74, §2; 2024 Acts, ch 1015, §1; 2025 Acts, ch 50, §1

Referred to in §152C.10, 229A.2, 232.68, 232E.1, 236A.2, 236A.18, 692A.102, 802.2B, 901A.1, 902.12, 903B.1, 903B.2, 903B.10, 907.3, 915.36, 915.37, 915.100

728.13 Reserved.

728.14 Commercial film and photographic print processor reports of depictions of minors engaged in prohibited sexual acts.

1. A commercial film and photographic print processor who has knowledge of or observes, within the scope of the processor's professional capacity or employment, a visual depiction of a minor whom the processor knows or reasonably should know to be under the age of eighteen, engaged in a prohibited sexual act or in the simulation of a prohibited sexual act, shall report the visual depiction to the county attorney immediately or as soon as possible as required in this section. The processor shall not report to the county attorney visual depictions involving mere nudity of the minor, but shall report visual depictions involving a prohibited sexual act. This section shall not be construed to require a processor to review all visual depictions delivered to the processor within the processor's professional capacity or employment.

2. For purposes of this section, *"prohibited sexual act"* means any of the following:

a. A sex act as defined in section 702.17.

b. An act of bestiality involving a minor.

c. Fondling or touching the pubes or genitals of a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the act.

d. Fondling or touching the pubes or genitals of a person by a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the act.

e. Sadomasochistic abuse of a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the abuse.

f. Sadomasochistic abuse of a person by a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the abuse.

g. Nudity of a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the nude minor.

3. A person who violates this section is guilty of a simple misdemeanor.

89 Acts, ch 263, §4; 94 Acts, ch 1128, §2; 2012 Acts, ch 1057, §9

728.15 Telephone dissemination of obscene material to minors.

1. *a.* As used in this section, *"person"* excludes any information-access service provider that merely provides transmission capacity without control over the content of the transmission.

b. A person shall not knowingly disseminate obscene material by the use of telephones or telephone facilities to a minor or a law enforcement officer or agent posing as a minor.

2. It shall be a defense in any prosecution for a violation of subsection 1 by a person accused of knowingly disseminating obscene material by the use of telephones or telephone facilities to a minor that the person accused has taken either of the following measures to restrict access to the obscene material:

a. The person accused has done all of the following:

(1) Required the person receiving the obscene material to use an authorized access or identification code, as provided by the information provider, before transmission of the obscene material begins.

(2) Previously issued the code by mailing it to the applicant after taking reasonable measures to ascertain that the applicant was eighteen years of age or older.

(3) Established a procedure to immediately cancel the code of any person after receiving

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notice, in writing or by telephone, that the code has been lost, stolen, or used by persons under the age of eighteen years or that the code is no longer desired.

b. The person accused has required payment by credit card before transmission of the obscene material.

3. Any list of applicants or recipients compiled or maintained by an information-access service provider for purposes of compliance with subsection 2 is confidential and shall not be sold or otherwise disseminated except upon order of the court.

4. *a.* A violation of subsection 1 is an aggravated misdemeanor.

b. A violation of subsection 1 by a person who has been previously convicted of a violation of subsection 1 is a class "D" felony.

89 Acts, ch 263, §5; 2009 Acts, ch 133, §184; 2023 Acts, ch 74, §3
Referred to in §256.146, 692A.102

CHAPTER 729

INFRINGEMENT OF INDIVIDUAL RIGHTS

Referred to in §331.307, 364.22

See also chapters 216 and 729A

729.1 Religious test.
729.2 Evidence.
729.3 Penalty.
729.4 Fair employment practices.
729.5 Violation of individual rights — penalty.
729.6 Genetic testing.

729.1 Religious test.

Any violation of Article I, section 4, 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; 2008 Acts, ch 1032, §89
Referred to in §729.2

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]
Referred to in §729.3

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.

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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.

2. 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.

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

4. 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; 2013 Acts, ch 90, §237

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 information"* means the same as defined in 29 U.S.C. §1191b(d)(6).

d. *"Genetic services"* means the same as defined in 29 U.S.C. §1191b(d)(8).

e. *"Genetic testing"* means the same as genetic test as defined in 29 U.S.C. §1191b(d)(7). *"Genetic testing"* does not mean routine physical measurement, a routine chemical, blood, or urine analysis, a biopsy, an autopsy, or clinical specimen obtained solely for the purpose

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of conducting an immediate clinical or diagnostic test to detect an existing disease, illness, impairment, or disorder, or a test for drugs or for human immunodeficiency virus infections.

f. "Health insurance" means a contract, policy, or plan providing for health insurance coverage as defined in section 513B.2.

g. "Health insurer" means a carrier, as defined in section 513B.2.

h. "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.

i. "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.

j. "Third-party administrator" means the same as defined in section 510.11.

k. "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. *a.* A person shall not obtain genetic information or samples for genetic testing from an individual without first obtaining informed and written consent from the individual or the individual's authorized representative.

b. A person shall not perform genetic testing of an individual or collect, retain, transmit, or use genetic information without the informed and written consent of the individual or the individual's authorized representative.

c. The following exceptions apply to the prohibitions in paragraphs *"a"* and *"b"*:

(1) To the extent that genetic information or the results of genetic testing may be collected, retained, transmitted, or used without the individual's written and informed consent pursuant to federal or other state law.

(2) To identify an individual in the course of a criminal investigation by a law enforcement agency.

(3) To identify deceased individuals.

(4) To establish parental identity.

(5) To screen newborns.

(6) For the purposes of medical or scientific research and education and for the use of medical repositories and registries so long as the information does not contain personally identifiable information of an individual.

4. *a.* (1) With respect to health insurance, a third-party administrator or health insurer shall not release genetic information pertaining to an individual without prior written authorization of the individual. Written authorization shall be required for each disclosure and shall include the person to whom the disclosure is being made.

(2) The following exceptions apply to the requirement in subparagraph (1):

(a) Individuals participating in research settings, including individuals governed by the federal policy for the protection of human research subjects.

(b) Tests conducted purely for research, tests for somatic as opposed to heritable mutations, and testing for forensic purposes.

(c) Newborn screening.

(d) Paternity testing.

(e) Criminal investigations.

b. (1) With respect to health insurance, a health insurer shall not discriminate against an individual or a member of the individual's family on the basis of genetic information or genetic testing.

(2) This section shall not require a health insurer to provide particular benefits other than

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those provided under the terms of the health insurer's plan or coverage. With respect to health insurance, a health insurer shall not consider a genetic propensity, susceptibility, or carrier status as a preexisting condition for the purpose of limiting or excluding benefits, establishing rates, or providing coverage.

(3) With respect to health insurance, a health insurer shall not use genetic information or genetic testing for underwriting health insurance in the individual and group markets.

c. The commissioner of insurance shall adopt rules as necessary for the administration of this subsection.

d. A violation of this subsection is an unfair insurance trade practice under section 507B.4.

5. Except as provided in subsection 9, 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.

6. 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.

7. 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.

8. Subsections 2, 3, 5, 6, and 7 of this section may be enforced through a civil action.

a. A person who violates subsection 2, 3, 5, 6, or 7 of this section or who aids in the violation of subsection 2, 3, 5, 6, or 7 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 subsection 2, 3, 5, 6, or 7 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.

c. A person who in good faith brings an action under this subsection alleging that an employer, employment agency, labor organization, or licensing agency has violated subsection 2, 3, 5, 6, or 7 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.

9. 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 chapter 10A, subchapter III, and chapters 85, 85A, and 85B.

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

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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; 2010 Acts, ch 1153, §2 – 6; 2010 Acts, ch 1193, §132, 133; 2023 Acts, ch 19, §2039

Referred to in §507B.4

CHAPTER 729A

VIOLATION OF INDIVIDUAL RIGHTS — HATE CRIMES

Referred to in §331.307, 364.22

See also chapters 216 and 729

729A.1 Violations of an individual's rights prohibited.
729A.2 Violation of individual rights — hate crime.
729A.3 Local ordinances.
729A.4 Violation of individual rights — sensitivity training.
729A.5 Civil remedies.

729A.1 Violations of an individual's rights prohibited.

Persons within the state of Iowa have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of their race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, or disability.

92 Acts, ch 1157, §8

729A.2 Violation of individual rights — hate crime.

"Hate crime" means one of the following public offenses when committed against a person or a person's property because of the person's race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, or disability, or the person's association with a person of a certain race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, or disability:

1. Assault in violation of individual rights under section 708.2C.
2. Violations of individual rights under section 712.9.
3. Criminal mischief in violation of individual rights under section 716.6A.
4. Trespass in violation of individual rights under section 716.8, subsections 3 and 4.

92 Acts, ch 1157, §9

Referred to in §692.15, 708.2C, 712.9, 716.6A, 716.8

729A.3 Local ordinances.

This chapter does not prohibit political subdivisions from enacting ordinances which are consistent with this chapter. Local ordinances reasonably regulating the time, place, or manner of the exercise of constitutional rights are permissible.

92 Acts, ch 1157, §10

729A.4 Violation of individual rights — sensitivity training.

The prosecuting attorneys training coordinator shall develop a course of instruction for law enforcement personnel and prosecuting attorneys designed to sensitize those persons to the existence of violations of individual rights and the criteria for determining whether a violation of individual rights has occurred. The prosecuting attorneys training coordinator shall consult with the civil rights commission, the office of the attorney general, and the department of public safety regarding the content and provision of this course of instruction.

92 Acts, ch 1157, §11

729A.5 Civil remedies.

1. A victim who has suffered physical, emotional, or financial harm as a result of a

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violation of this chapter due to the commission of a hate crime is entitled to and may bring an action for injunctive relief, general and special damages, reasonable attorney fees, and costs.

2. An action brought pursuant to this section must be brought within two years after the date of the violation of this chapter.

3. In an action brought pursuant to this section, the burden of proof shall be the same as in other civil actions for similar relief.

4. This section does not apply to complaints or discriminatory or unfair practices under chapter 216.

92 Acts, ch 1157, §12; 2018 Acts, ch 1041, §127

CHAPTER 730

EMPLOYER-EMPLOYEE OFFENSES

Referred to in §331.307, 364.22

730.1 Statements regarding discharge.
730.2 Blacklisting employees — treble damages.
730.3 False charges concerning honesty.
730.4 Polygraph examination prohibited.
730.5 Private sector drug-free workplaces.

730.1 Statements regarding discharge.

If any person, agent, company, or corporation, after having discharged any employee from service, shall prevent or attempt to prevent, by word or writing of any kind, such discharged employee from obtaining employment with any other person, company, or corporation, except by furnishing in writing on request a truthful statement as to the cause of the person's discharge, such person, agent, company, or corporation shall be guilty of a serious misdemeanor and shall be liable for all damages sustained by any such person.

[C97, §5027; C24, 27, 31, 35, 39, §**13253;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §736.1; C79, 81, §730.1]

Referred to in §730.2

730.2 Blacklisting employees — treble damages.

If any railway company or other company, partnership, or corporation shall authorize or allow any of its or their agents to blacklist any discharged employee, or attempt by word or writing or any other means whatever to prevent such discharged employee, or any employee who may have voluntarily left said company's service, from obtaining employment with any other person or company, except as provided for in section 730.1, such company or partnership shall be liable in treble damages to such employee so prevented from obtaining employment.

[C97, §5028; C24, 27, 31, 35, 39, §**13254;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §736.2; C79, 81, §730.2]

2008 Acts, ch 1032, §106

730.3 False charges concerning honesty.

Every person who shall by any letter, mark, sign, or designation whatever, or by any verbal statement, falsely and without probable cause, report to any railroad or any other company or corporation, or to any person or firm, or to any of the officers, servants, agents, or employees of any such corporation, person, or firm, that any conductor, crew member, engineer, stoker, station agent, or any employee of such railroad company, corporation, person, or firm has received any money or thing of value for the transportation of persons or property or for other service for which the person has not accounted to such corporation, person, or firm, or shall falsely and without probable cause report that any conductor, crew member, engineer, stoker, station agent, or other employee of any railroad company, corporation, firm, or person, neglected, failed, or refused to collect any money or ticket for transportation of persons or

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property or other service when it was their duty so to do, shall, on conviction, be guilty of a simple misdemeanor.

[SS15, §5028-w1; C24, 27, 31, 35, 39, §**13255;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §736.3; C79, 81, §730.3]

730.4 Polygraph examination prohibited.

1. As used in this section, *"polygraph examination"* means any procedure which involves the use of instrumentation or a mechanical or electrical device to enable or assist the detection of deception, the verification of truthfulness, or the rendering of a diagnostic opinion regarding either of these, and includes a lie detector or similar test.

2. An employer shall not as a condition of employment, promotion, or change in status of employment, or as an express or implied condition of a benefit or privilege of employment, knowingly do any of the following:

a. Request or require that an employee or applicant for employment take or submit to a polygraph examination.

b. Administer, cause to be administered, threaten to administer, or attempt to administer a polygraph examination to an employee or applicant for employment.

c. Request or require that an employee or applicant for employment give an express or implied waiver of a practice prohibited by this section.

3. *a.* Subsection 2 does not apply to the state or a political subdivision of the state when in the process of selecting any of the following:

(1) A candidate for employment as a peace officer.

(2) A candidate for employment as a corrections officer.

(3) An applicant for a position with a law enforcement agency of a political subdivision of the state when the applicant is being considered for a position in which the employee filling the position has direct access to prisoner funds, any other cash assets, and confidential information.

b. Polygraph examinations under this subsection shall adhere to the published antidiscrimination policy of the state or political subdivision conducting the examination.

4. An employee 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 discharged, disciplined, or otherwise discriminated against in violation of this section shall be compensated by the employer in the amount of any loss of wages and benefits arising out of the discrimination and shall be restored to the employee's previous position of employment.

5. *a.* This section may be enforced through a civil action.

(1) A person who violates this section or who aids in the violation of this section is liable to an aggrieved employee or applicant for employment for affirmative relief including reinstatement or hiring, with or without back pay, or any other equitable relief as the court deems appropriate including attorney fees and court costs.

(2) When 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 or applicant for employment, the county attorney, or the attorney general.

b. A person who in good faith brings an action under this subsection alleging that an employer has required or requested a polygraph examination 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 has the burden of proving that the requirements of this section were met.

6. A person who violates this section commits a simple misdemeanor. In addition to

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any other penalties, the punishment imposed for a violation of this section shall include assessment of a fine of not less than two hundred fifty dollars.

83 Acts, ch 86, §1 – 3; 88 Acts, ch 1227, §1; 99 Acts, ch 153, §23; 2000 Acts, ch 1059, §1; 2013 Acts, ch 30, §214

Referred to in §80F.1

730.5 Private sector drug-free workplaces.

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

a. "Alcohol" means ethanol, isopropanol, or methanol.

b. "Confirmed positive test result" means, except for alcohol testing conducted pursuant to subsection 7, paragraph *"g"*, subparagraph (2), the results of a hair, blood, urine, or oral fluid test in which the level of controlled substances or metabolites in the sample analyzed meets or exceeds nationally accepted standards for determining detectable levels of controlled substances as adopted by the United States department of health and human services' substance abuse and mental health services administration. If nationally accepted standards for tests on a particular specimen have not been adopted by the United States department of health and human services' substance abuse and mental health services administration, the standards for determining detectable levels of controlled substances for purposes of determining a confirmed positive test result shall be the same standard that has been cleared or approved by the United States department of health and human services' food and drug administration for the particular specimen testing utilized.

c. "Drug" means a substance considered a controlled substance and included in schedule I, II, III, IV, or V under the federal Controlled Substances Act, 21 U.S.C. §801 et seq.

d. "Employee" means a person in the service of an employer in this state and includes the employer, and any chief executive officer, president, vice president, supervisor, manager, and officer of the employer who is actively involved in the day-to-day operations of the business.

e. "Employer" means a person, firm, company, corporation, labor organization, or employment agency, which has one or more full-time employees employed in the same business, or in or about the same establishment, under any contract of hire, express or implied, oral or written, in this state. *"Employer"* does not include the state, a political subdivision of the state, including a city, county, or school district, the United States, the United States postal service, or a Native American tribe.

f. "Good faith" means reasonable reliance on facts, or that which is held out to be factual, without the intent to be deceived, and without reckless, malicious, or negligent disregard for the truth.

g. "Medical review officer" means a licensed physician, osteopathic physician, chiropractor, nurse practitioner, or physician associate authorized to practice in any state of the United States, who is responsible for receiving laboratory results generated by an employer's drug or alcohol testing program, and who has knowledge of substance use disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with the individual's medical history and any other relevant biomedical information.

h. "Prospective employee" means a person who has made application, whether written or oral, to an employer to become an employee.

i. "Reasonable suspicion drug or alcohol testing" means drug or alcohol testing based upon evidence that an employee is using or has used alcohol or other drugs in violation of the employer's written policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. For purposes of this paragraph, facts and inferences may be based upon, but not limited to, any of the following:

(1) Observable phenomena while at work such as direct observation of alcohol or drug use or abuse or of the physical symptoms or manifestations of being impaired due to alcohol or other drug use.

(2) Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.

(3) A report of alcohol or other drug use provided by a reliable and credible source.

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(4) Evidence that an individual has tampered with any drug or alcohol test during the individual's employment with the current employer.

(5) Evidence that an employee has caused an accident while at work which resulted in an injury to a person for which injury, if suffered by an employee, a record or report could be required under chapter 88, or resulted in damage to property, including to equipment, in an amount reasonably estimated at the time of the accident to exceed one thousand dollars.

(6) Evidence that an employee has manufactured, sold, distributed, solicited, possessed, used, or transferred drugs while working or while on the employer's premises or while operating the employer's vehicle, machinery, or equipment.

j. *"Safety-sensitive position"* means a position designated by the employer as one wherein an accident could cause loss of human life, serious bodily injury, or significant property or environmental damage, including a job with duties that include immediate supervision of a person in a job that meets the requirement of this paragraph.

k. *"Sample"* means such sample from the human body capable of revealing the presence of alcohol or other drugs, or their metabolites, which shall include only hair, urine, saliva, breath, and blood. However, *"sample"* does not mean blood except as authorized pursuant to subsection 7, paragraph *"m"*.

l. *"Unannounced drug or alcohol testing"* means testing for the purposes of detecting drugs or alcohol which is conducted on a periodic basis, without advance notice of the test to employees, other than employees whose duties include responsibility for administration of the employer's drug or alcohol testing program, subject to testing prior to the day of testing, and without individualized suspicion. The selection of employees to be tested from the pool of employees subject to testing shall be done based on a neutral and objective selection process by an entity independent from the employer and shall be made by a computer-based random number generator that is matched with employees' social security numbers, payroll identification numbers, or other comparable identifying numbers in which each member of the employee population subject to testing has an equal chance of selection for initial testing, regardless of whether the employee has been selected or tested previously. The random selection process shall be conducted through a computer program that records each selection attempt by date, time, and employee number.

2. *Applicability.* This section does not apply to drug or alcohol tests conducted on employees required to be tested pursuant to federal statutes, federal regulations, or orders issued pursuant to federal law. In addition, an employer, through its written policy, may exclude from the pools of employees subject to unannounced drug or alcohol testing pursuant to subsection 8, paragraph *"a"*, employee populations required to be tested as described in this subsection.

3. *Testing optional.* This section does not require or create a legal duty on an employer to conduct drug or alcohol testing and the requirements of this section shall not be construed to encourage, discourage, restrict, limit, prohibit, or require such testing. In addition, an employer may implement and require drug or alcohol testing at some but not all of the work sites of the employer and the requirements of this section shall only apply to the employer and employees who are at the work sites where drug or alcohol testing pursuant to this section has been implemented. A cause of action shall not arise in favor of any person against an employer or agent of an employer based on the failure of the employer to establish a program or policy on substance use disorder prevention or to implement any component of testing as permitted by this section.

4. *Testing as condition of employment — requirements.* To the extent provided in subsection 8, an employer may test employees and prospective employees for the presence of drugs or alcohol as a condition of continued employment or hiring. An employer shall adhere to the requirements of this section concerning the conduct of such testing and the use and disposition of the results of such testing.

5. *Collection of samples.* In conducting drug or alcohol testing, an employer may require the collection of samples from its employees and prospective employees, and may require presentation of reliable individual identification from the person being tested to the person collecting the samples. Collection of a sample shall be in conformance with the requirements of this section. The employer may designate the type of sample to be used for this testing.

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6. *Scheduling of tests.*

a. Drug or alcohol testing of employees conducted by an employer shall normally occur during, or immediately before or after, a regular work period. The time required for such testing by an employer shall be deemed work time for the purposes of compensation and benefits for employees.

b. An employer shall pay all actual costs for drug or alcohol testing of employees and prospective employees required by the employer.

c. An employer shall provide transportation or pay reasonable transportation costs to employees if drug or alcohol sample collection is conducted at a location other than the employee's normal work site.

7. *Testing procedures.* All sample collection and testing for drugs or alcohol under this section shall be performed in accordance with the following conditions:

a. The collection of samples shall be performed under sanitary conditions and with regard for the privacy of the individual from whom the sample is being obtained and in a manner reasonably calculated to preclude contamination or substitution of the sample. If the sample collected is hair which would entail removal of an article of clothing or urine, procedures shall be established to provide for individual privacy in the collection of the sample unless there is a reasonable suspicion that a particular individual subject to testing may alter or substitute the hair or urine sample to be provided, or has previously altered or substituted a hair or urine sample provided pursuant to a drug or alcohol test. For purposes of this paragraph, "*individual privacy*" means a location at the collection site where hair collection or urination can occur in private, which has been secured by visual inspection to ensure that other persons are not present, which provides that undetected access to the location is not possible during hair collection or urination, and which provides for the ability to effectively restrict access to the location during the time the sample is provided. If an individual is providing a hair or urine sample and collection of the hair or urine sample is directly monitored or observed by another individual, the individual who is directly monitoring or observing the collection shall be of the same gender as the individual from whom the hair or urine sample is being collected.

b. Collection of a sample for testing of current employees shall be performed so that the sample is split into two components at the time of collection in the presence of the individual from whom the sample is collected. The second portion of the sample shall be of sufficient quantity to permit a second, independent confirmatory test as provided in paragraph "*j*". If the sample is urine, the sample shall be split such that the primary sample contains at least thirty milliliters and the secondary sample contains at least fifteen milliliters. Both portions of the sample shall be forwarded to the laboratory conducting the initial confirmatory testing. In addition to any requirements for storage of the initial sample that may be imposed upon the laboratory as a condition for certification or approval, the laboratory shall store the second portion of any sample until receipt of a confirmed negative test result or for a period of at least forty-five calendar days following the completion of the initial confirmatory testing, if the first portion yielded a confirmed positive test result.

c. Sample collections shall be documented, and the procedure for documentation shall include the following:

(1) Samples, except for samples collected for alcohol testing conducted pursuant to paragraph "*g*", subparagraph (2), shall be labeled so as to reasonably preclude the possibility of misidentification of the person tested in relation to the test result provided, and samples shall be handled and tracked in a manner such that control and accountability are maintained from initial collection to each stage in handling, testing, and storage, through final disposition.

(2) An employee or prospective employee shall be provided an opportunity to provide any information which may be considered relevant to the test, including identification of prescription or nonprescription drugs currently or recently used, or other relevant medical information. To assist an employee or prospective employee in providing the information described in this subparagraph, the employer shall provide an employee or prospective employee with a list of the drugs to be tested.

d. Sample collection, storage, and transportation to the place of testing shall be

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performed so as to reasonably preclude the possibility of sample contamination, adulteration, or misidentification.

e. Testing of a hair sample shall be limited to samples not longer than one and one-half inches. Testing of a hair sample shall be limited to the portion of the hair that was closest to the skin.

f. All confirmatory drug testing shall be conducted at a laboratory certified by the United States department of health and human services' substance abuse and mental health services administration or approved under rules adopted by the department of health and human services.

g. Drug or alcohol testing shall include confirmation of any initial positive test results. An employer may take adverse employment action, including refusal to hire a prospective employee, based on a confirmed positive test result for drugs or alcohol.

(1) For drug or alcohol testing, except for alcohol testing conducted pursuant to subparagraph (2), confirmation shall be by use of a different chemical process than was used in the initial screen for drugs or alcohol. The confirmatory drug or alcohol test shall be a chromatographic technique such as gas chromatography/mass spectrometry, or another comparably reliable analytical method.

(2) Notwithstanding any provision of this section to the contrary, alcohol testing, including initial and confirmatory testing, may be conducted pursuant to requirements established by the employer's written policy. The written policy shall include requirements governing evidential breath testing devices, alcohol screening devices, and the qualifications for personnel administering initial and confirmatory testing, which shall be consistent with regulations adopted as of July 1, 2017, by the United States department of transportation governing alcohol testing required to be conducted pursuant to the federal Omnibus Transportation Employee Testing Act of 1991.

(3) Notwithstanding any provision of this section to the contrary, collection of an oral fluid sample for testing shall be performed in the presence of the individual from whom the sample is collected. The sample shall be of sufficient quantity to permit a second, independent, confirmatory test as provided in paragraph *"j"*. In addition to any requirement for storage of the initial sample that may be imposed upon the laboratory as a condition for certification or approval, the laboratory shall store the unused portion of any sample until receipt of a confirmed negative test result or for a period of at least forty-five calendar days following the completion of the initial confirmatory testing, if the portion yielded a confirmed positive test result.

h. A medical review officer shall, prior to the results being reported to an employer, review and interpret any confirmed positive test results, including both quantitative and qualitative test results, to ensure that the chain of custody is complete and sufficient on its face and that any information provided by the individual pursuant to paragraph *"c"*, subparagraph (2), is considered. However, this paragraph shall not apply to alcohol testing conducted pursuant to paragraph *"g"*, subparagraph (2).

i. In conducting drug or alcohol testing pursuant to this section, the laboratory, the medical review officer, and the employer shall ensure, to the extent feasible, that the testing only measures, and the records concerning the testing only show or make use of information regarding, alcohol or drugs in the body.

j. (1) If a confirmed positive test result for drugs or alcohol for a current employee is reported to the employer by the medical review officer, the employer shall notify the employee in writing by certified mail, return receipt requested, of the results of the test, the employee's right to request and obtain a confirmatory test of the second sample collected pursuant to paragraph *"b"* at an approved laboratory of the employee's choice, and the fee payable by the employee to the employer for reimbursement of expenses concerning the test. The fee charged an employee shall be an amount that represents the costs associated with conducting the second confirmatory test, which shall be consistent with the employer's cost for conducting the initial confirmatory test on an employee's sample. If the employee, by certified mail, return receipt requested, requests a second confirmatory test, identifies an approved laboratory to conduct the test, and pays the employer the fee for the test within seven days from the date the employer mails by certified mail, return receipt requested,

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the written notice to the employee of the employee's right to request a test, a second confirmatory test shall be conducted at the laboratory chosen by the employee. The results of the second confirmatory test shall be reported to the medical review officer who reviewed the initial confirmatory test results and the medical review officer shall review the results and issue a report to the employer on whether the results of the second confirmatory test confirmed the initial confirmatory test as to the presence of a specific drug or alcohol. If the results of the second test do not confirm the results of the initial confirmatory test, the employer shall reimburse the employee for the fee paid by the employee for the second test and the initial confirmatory test shall not be considered a confirmed positive test result for drugs or alcohol for purposes of taking disciplinary action pursuant to subsection 10. In lieu of certified mail, return receipt requested, an employer may offer an employee the option to receive notifications and make requests as provided in this subparagraph by in-person exchange of written materials or by electronic notification. The employee may choose to receive notifications and make requests by one of these methods or by certified mail, return receipt requested.

(2) If a confirmed positive test result for drugs or alcohol for a prospective employee is reported to the employer by the medical review officer, the employer shall notify the prospective employee in writing of the results of the test, of the name and address of the medical review officer who made the report, and of the prospective employee's right to request records under subsection 13.

k. A laboratory conducting testing under this section shall dispose of all samples for which a negative test result was reported to an employer within five working days after issuance of the negative test result report.

l. Except as necessary to conduct drug or alcohol testing pursuant to this section and to submit the report required by subsection 16, a laboratory or other medical facility shall only report to an employer or outside entity information relating to the results of a drug or alcohol test conducted pursuant to this section concerning the determination of whether the tested individual has engaged in conduct prohibited by the employer's written policy with regard to alcohol or drug use.

m. Notwithstanding the provisions of this subsection, an employer may rely and take action upon the results of any blood test for drugs or alcohol made on any employee involved in an accident at work if the test is administered by or at the direction of the person providing treatment or care to the employee without request or suggestion by the employer that a test be conducted, and the employer has lawfully obtained the results of the test. For purposes of this paragraph, an employer shall not be deemed to have requested or required a test in conjunction with the provision of medical treatment following a workplace accident by providing information concerning the circumstance of the accident.

8. *Drug or alcohol testing.* Employers may conduct drug or alcohol testing as provided in this subsection:

a. Employers may conduct unannounced drug or alcohol testing of employees who are selected from any of the following pools of employees:

(1) The entire employee population at a particular work site of the employer except for employees not subject to testing pursuant to a collective bargaining agreement, or employees who are not scheduled to be at work at the time the testing is conducted because of the status of the employees or who have been excused from work pursuant to the employer's work policy prior to the time the testing is announced to employees.

(2) The entire full-time active employee population at a particular work site except for employees not subject to testing pursuant to a collective bargaining agreement, or employees who are not scheduled to be at work at the time the testing is to be conducted because of the status of the employee or who have been excused from work pursuant to the employer's working policy.

(3) All employees at a particular work site who are in a pool of employees in a safety-sensitive position and who are scheduled to be at work at the time testing is conducted, other than employees not subject to testing pursuant to a collective bargaining agreement, or employees who are not scheduled to be at work at the time the testing is to be conducted

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or who have been excused from work pursuant to the employer's work policy prior to the time the testing is announced to employees.

b. Employers may conduct drug or alcohol testing of employees during, and after completion of, drug or alcohol rehabilitation.

c. Employers may conduct reasonable suspicion drug or alcohol testing.

d. Employers may conduct drug or alcohol testing of prospective employees.

e. Employers may conduct drug or alcohol testing as required by federal law or regulation or by law enforcement.

f. Employers may conduct drug or alcohol testing in investigating accidents in the workplace in which the accident resulted in an injury to a person for which injury, if suffered by an employee, a record or report could be required under chapter 88, or resulted in damage to property, including to equipment, in an amount reasonably estimated at the time of the accident to exceed one thousand dollars.

g. Employers may conduct hair testing of prospective employees only.

9. *Written policy and other testing requirements.*

a. (1) Drug or alcohol testing or retesting by an employer shall be carried out within the terms of a written policy which has been provided to every employee subject to testing, and is available for review by employees and prospective employees. If an employee or prospective employee is a minor, the employer shall provide a copy of the written policy to a parent of the employee or prospective employee and shall obtain a receipt or acknowledgment from the parent that a copy of the policy has been received. Providing a copy of the written policy to a parent of a minor by certified mail, return receipt requested, shall satisfy the requirements of this subparagraph.

(2) In addition, the written policy shall provide that any notice required by subsection 7, paragraph *"j"*, to be provided to an individual pursuant to a drug or alcohol test conducted pursuant to this section, shall also be provided to the parent of the individual by certified mail, return receipt requested, if the individual tested is a minor.

(3) In providing information or notice to a parent as required by this paragraph, an employer shall rely on the information regarding the identity of a parent as provided by the minor.

(4) For purposes of this paragraph, *"minor"* means an individual who is under eighteen years of age and is not considered by law to be an adult, and *"parent"* means one biological or adoptive parent, a stepparent, or a legal guardian or custodian of the minor.

(5) In lieu of certified mail, return receipt requested, an employer may offer an employee, prospective employee, or parent of a minor who is an employee or prospective employee the option to receive copies and notices as provided in subparagraph (1) or (2) by in-person exchange of written materials or by electronic notification. The employee, prospective employee, or parent of a minor who is an employee or prospective employee may choose to receive copies and notices by one of these methods or by certified mail, return receipt requested.

b. The employer's written policy shall provide uniform requirements for what disciplinary or rehabilitative actions an employer shall take against an employee or prospective employee upon receipt of a confirmed positive test result for drugs or alcohol or upon the refusal of the employee or prospective employee to provide a testing sample. The policy shall provide that any action taken against an employee or prospective employee shall be based only on the results of the drug or alcohol test. The written policy shall also provide that if rehabilitation is required pursuant to paragraph *"g"*, the employer shall not take adverse employment action against the employee so long as the employee complies with the requirements of rehabilitation and successfully completes rehabilitation.

c. Employers shall establish an awareness program to inform employees of the dangers of drug and alcohol use in the workplace and comply with the following requirements in order to conduct drug or alcohol testing under this section:

(1) If an employer has an employee assistance program, the employer must inform the employee of the benefits and services of the employee assistance program. An employer shall post notice of the employee assistance program in conspicuous places and explore alternative routine and reinforcing means of publicizing such services. In addition, the employer must

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provide the employee with notice of the policies and procedures regarding access to and utilization of the program.

(2) If an employer does not have an employee assistance program, the employer must maintain a resource file of alcohol and other substance use disorder programs certified by the department of health and human services, mental health providers, and other persons, entities, or organizations available to assist employees with personal or behavioral problems. The employer shall provide all employees information about the existence of the resource file and a summary of the information contained within the resource file. The summary should contain, but need not be limited to, all information necessary to access the services listed in the resource file.

d. An employee or prospective employee whose drug or alcohol test results are confirmed as positive in accordance with this section shall not, by virtue of those results alone, be considered as a person with a disability for purposes of any state or local law or regulation.

e. If the written policy provides for alcohol testing, the employer shall establish in the written policy a standard for alcohol concentration which shall be deemed to violate the policy. The standard for alcohol concentration shall not be less than .02, expressed in terms of grams of alcohol per two hundred ten liters of breath, or its equivalent.

f. An employee of an employer who is designated by the employer as being in a safety-sensitive position shall be placed in only one pool of safety-sensitive employees subject to drug or alcohol testing pursuant to subsection 8, paragraph "*a*", subparagraph (3). An employer may have more than one pool of safety-sensitive employees subject to drug or alcohol testing pursuant to subsection 8, paragraph "*a*", subparagraph (3), but shall not include an employee in more than one safety-sensitive pool.

g. (1) Upon receipt of a confirmed positive alcohol test which indicates an alcohol concentration greater than the concentration level established by the employer pursuant to this section, and if the employer has at least fifty employees, and if the employee has been employed by the employer for at least twelve of the preceding eighteen months, and if rehabilitation is agreed upon by the employee, and if the employee has not previously violated the employer's substance use disorder prevention policy pursuant to this section, the written policy shall provide for the rehabilitation of the employee pursuant to subsection 10, paragraph "*a*", subparagraph (1), and the apportionment of the costs of rehabilitation as provided by this paragraph "*g*".

(a) If the employer has an employee benefit plan, the costs of rehabilitation shall be apportioned as provided under the employee benefit plan.

(b) If no employee benefit plan exists and the employee has coverage for any portion of the costs of rehabilitation under any health care plan of the employee, the costs of rehabilitation shall be apportioned as provided by the health care plan with any costs not covered by the plan apportioned equally between the employee and the employer. However, the employer shall not be required to pay more than two thousand dollars toward the costs not covered by the employee's health care plan.

(c) If no employee benefit plan exists and the employee does not have coverage for any portion of the costs of rehabilitation under any health care plan of the employee, the costs of rehabilitation shall be apportioned equally between the employee and the employer. However, the employer shall not be required to pay more than two thousand dollars towards the cost of rehabilitation under this subparagraph division.

(2) Rehabilitation required pursuant to this paragraph "*g*" shall not preclude an employer from taking any adverse employment action against the employee during the rehabilitation based on the employee's failure to comply with any requirements of the rehabilitation, including any action by the employee to invalidate a test sample provided by the employee pursuant to the rehabilitation.

h. In order to conduct drug or alcohol testing under this section, an employer shall require supervisory personnel of the employer involved with drug or alcohol testing under this section to attend a minimum of two hours of initial training and to attend, on an annual basis thereafter, a minimum of one hour of subsequent training. The training shall include but is not limited to information concerning the recognition of evidence of employee alcohol and other substance use disorder, the documentation and corroboration of employee

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alcohol and other substance use disorder, and the referral of employees with a substance use disorder to the employee assistance program or to the resource file maintained by the employer pursuant to paragraph "*c*", subparagraph (2).

10. *Disciplinary procedures.*

a. Upon receipt of a confirmed positive test result for drugs or alcohol which indicates a violation of the employer's written policy, or upon the refusal of an employee or prospective employee to provide a testing sample, an employer may use that test result or test refusal as a valid basis for disciplinary or rehabilitative actions pursuant to the requirements of the employer's written policy and the requirements of this section, which may include, among other actions, the following:

(1) A requirement that the employee enroll in an employer-provided or approved rehabilitation, treatment, or counseling program, which may include additional drug or alcohol testing, participation in and successful completion of which may be a condition of continued employment, and the costs of which may or may not be covered by the employer's health plan or policies.

(2) Suspension of the employee, with or without pay, for a designated period of time.

(3) Termination of employment.

(4) Refusal to hire a prospective employee.

(5) Other adverse employment action in conformance with the employer's written policy and procedures, including any relevant collective bargaining agreement provisions.

b. Following a drug or alcohol test, but prior to receipt of the final results of the drug or alcohol test, an employer may suspend a current employee, with or without pay, pending the outcome of the test. An employee who has been suspended shall be reinstated by the employer, with back pay, and interest on such amount at eighteen percent per annum compounded annually, if applicable, if the result of the test is not a confirmed positive test result for drugs or alcohol which indicates a violation of the employer's written policy.

11. *Employer immunity.* A cause of action shall not arise against an employer who has established a policy and initiated a testing program in accordance with the testing and policy safeguards provided for under this section, for any of the following:

a. Testing or taking action based on the results of a positive drug or alcohol test result, indicating the presence of drugs or alcohol, in good faith, or on the refusal of an employee or prospective employee to submit to a drug or alcohol test.

b. Failure to test for drugs or alcohol, or failure to test for a specific drug or controlled substance.

c. Failure to test for, or if tested for, failure to detect, any specific drug or other controlled substance.

d. Termination or suspension of any substance use disorder prevention or testing program or policy.

e. Any action taken related to a false negative drug or alcohol test result.

f. Testing or taking action against an employee or prospective employee with a confirmed positive test result due to the employee's or prospective employee's use of medical cannabidiol as authorized under chapter 124E.

12. *Employer liability — false positive test results.*

a. Except as otherwise provided in paragraph "*b*", a cause of action shall not arise against an employer who has established a program of drug or alcohol testing in accordance with this section, unless all of the following conditions exist:

(1) The employer's action was based on a false positive test result.

(2) The employer knew or clearly should have known that the test result was in error and ignored the correct test result because of reckless, malicious, or negligent disregard for the truth, or the willful intent to deceive or to be deceived.

b. A cause of action for defamation, libel, slander, or damage to reputation shall not arise against an employer establishing a program of drug or alcohol testing in accordance with this section unless all of the following apply:

(1) The employer discloses the test results to a person other than the employer, an authorized employee, agent, or representative of the employer, the tested employee or the tested applicant for employment, an authorized substance use disorder treatment program

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or employee assistance program, or an authorized agent or representative of the tested employee or applicant.

(2) The test results disclosed incorrectly indicate the presence of alcohol or drugs.

(3) The employer negligently discloses the results.

c. In any cause of action based upon a false positive test result, all of the following conditions apply:

(1) The results of a drug or alcohol test conducted in compliance with this section are presumed to be valid.

(2) An employer shall not be liable for monetary damages if the employer's reliance on the false positive test result was reasonable and in good faith.

13. *Confidentiality of results — exception.*

a. All communications received by an employer relevant to employee or prospective employee drug or alcohol test results, or otherwise received through the employer's drug or alcohol testing program, are confidential communications and shall not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceeding, except as otherwise provided or authorized by this section.

b. An employee, or a prospective employee, who is the subject of a drug or alcohol test conducted under this section pursuant to an employer's written policy and for whom a confirmed positive test result is reported shall, upon written request, have access to any records relating to the employee's drug or alcohol test, including records of the laboratory where the testing was conducted and any records relating to the results of any relevant certification or review by a medical review officer. However, a prospective employee shall be entitled to records under this paragraph only if the prospective employee requests the records within fifteen calendar days from the date the employer provided the prospective employee written notice of the results of a drug or alcohol test as provided in subsection 7, paragraph *"j"*, subparagraph (2).

c. Except as provided by this section and as necessary to conduct drug or alcohol testing under this section and to file a report pursuant to subsection 16, a laboratory and a medical review officer conducting drug or alcohol testing under this section shall not use or disclose to any person any personally identifiable information regarding such testing, including the names of individuals tested, even if unaccompanied by the results of the test.

d. (1) An employer may use and disclose information concerning the results of a drug or alcohol test conducted pursuant to this section under any of the following circumstances:

(a) In an arbitration proceeding pursuant to a collective bargaining agreement, or an administrative agency proceeding or judicial proceeding under workers' compensation laws or unemployment compensation laws or under common or statutory laws where action taken by the employer based on the test is relevant or is challenged.

(b) To any federal agency or other unit of the federal government as required under federal law, regulation or order, or in accordance with compliance requirements of a federal government contract.

(c) To any agency of this state authorized to license individuals if the employee tested is licensed by that agency and the rules of that agency require such disclosure.

(d) To a union representing the employee if such disclosure would be required by federal labor laws.

(e) To a substance use disorder evaluation or treatment facility or professional for the purpose of evaluation or treatment of the employee.

(2) However, positive test results from an employer drug or alcohol testing program shall not be used as evidence in any criminal action against the employee or prospective employee tested.

14. *Civil penalties — jurisdiction.*

a. Any laboratory or medical review officer which discloses information in violation of the provisions of subsection 7, paragraph *"i"* or *"l"*, or any employer who, through the selection process described in subsection 1, paragraph *"l"*, improperly targets or exempts employees subject to unannounced drug or alcohol testing, shall be subject to a civil penalty of one thousand dollars for each violation. The attorney general or the attorney general's designee

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may maintain a civil action to enforce this subsection. Any civil penalty recovered shall be deposited in the general fund of the state.

b. A laboratory or medical review officer involved in the conducting of a drug or alcohol test pursuant to this section shall be deemed to have the necessary contact with this state for the purpose of subjecting the laboratory or medical review officer to the jurisdiction of the courts of this state.

15. *Civil remedies.*

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

b. An employer who violates this section or who aids in the violation of this section is liable to an aggrieved employee or prospective employee for affirmative relief including reinstatement or hiring, with or without back pay, or any other equitable relief as the court deems appropriate including reasonable attorney fees and court costs. An aggrieved employee or prospective employee has the burden of proving by a preponderance of the evidence that a violation of this section directly caused any damages for which affirmative relief is sought.

c. When an employer 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 or prospective employee, the county attorney, or the attorney general.

16. *Reports.* A laboratory doing business for an employer who conducts drug or alcohol tests pursuant to this section shall file an annual report with the department of health and human services by March 1 of each year concerning the number of drug or alcohol tests conducted on employees who work in this state pursuant to this section, and the number of positive and negative results of the tests, during the previous calendar year. In addition, the laboratory shall include in its annual report the specific basis for each test as authorized in subsection 8, the type of drug or drugs which were found in the positive drug tests, and all significant available demographic factors relating to the positive test pool.

87 Acts, ch 208, §1; 90 Acts, ch 1188, §1; 90 Acts, ch 1233, §42; 94 Acts, ch 1023, §120; 98 Acts, ch 1011, §1; 98 Acts, ch 1100, §81; 98 Acts, ch 1138, §32, 33, 35; 99 Acts, ch 60, §1 – 8; 99 Acts, ch 114, §56, 59; 2004 Acts, ch 1081, §1 – 11; 2005 Acts, ch 3, §112; 2007 Acts, ch 50, §1; 2013 Acts, ch 30, §215 – 217; 2017 Acts, ch 111, §1 – 5; 2017 Acts, ch 162, §22, 25; 2018 Acts, ch 1026, §178; 2018 Acts, ch 1046, §1; 2023 Acts, ch 19, §1308 – 1317; 2025 Acts, ch 141, §1 – 4; 2026 Acts, ch 1008, §3

Referred to in §96.5, 99F.4, 124E.21, 715A.1
Code editor directive applied

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CHAPTER 731

LABOR UNION MEMBERSHIP

Referred to in §331.307, 364.22

731.1 Right to join union.
731.2 Refusal to employ prohibited.
731.3 Contracts to exclude unlawful.
731.4 Union dues as prerequisite to employment — prohibited.
731.5 Deducting dues from pay unlawful.
731.6 Penalty.
731.7 Injunction.
731.8 Exception.
731.9 Relinquishment of seniority rights as a condition of employment prohibited.

731.1 Right to join union.

It is declared to be the policy of the state of Iowa that no person within its boundaries shall be deprived of the right to work at the person's chosen occupation for any employer because of membership in, affiliation with, withdrawal or expulsion from, or refusal to join, any labor

union, organization, or association, and any contract which contravenes this policy is illegal and void.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §736A.1; C79, 81, §731.1]

731.2 Refusal to employ prohibited.

It shall be unlawful for any person, firm, association or corporation to refuse or deny employment to any person because of membership in, or affiliation with, or resignation or withdrawal from, a labor union, organization or association, or because of refusal to join or affiliate with a labor union, organization or association.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §736A.2; C79, 81, §731.2]

731.3 Contracts to exclude unlawful.

It shall be unlawful for any person, firm, association, corporation or labor organization to enter into any understanding, contract, or agreement, whether written or oral, to exclude from employment members of a labor union, organization or association, or persons who do not belong to, or who refuse to join, a labor union, organization or association, or because of resignation or withdrawal therefrom.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §736A.3; C79, 81, §731.3]

731.4 Union dues as prerequisite to employment — prohibited.

It shall be unlawful for any person, firm, association, labor organization or corporation, or political subdivision, either directly or indirectly, or in any manner or by any means as a prerequisite to or a condition of employment to require any person to pay dues, charges, fees, contributions, fines or assessments to any labor union, labor association or labor organization.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §736A.4; C79, 81, §731.4]

731.5 Deducting dues from pay unlawful.

It shall be unlawful for any person, firm, association, labor organization or corporation to deduct labor organization dues, charges, fees, contributions, fines or assessments from an employee's earnings, wages or compensation, unless the employer has first been presented with an individual written order therefor signed by the employee, which written order shall be terminable at any time by the employee giving at least thirty days' written notice of such termination to the employer.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §736A.5; C79, 81, §731.5]

731.6 Penalty.

Any person, firm, association, labor organization, or corporation or any director, officer, representative, agent or member thereof, who shall violate any of the provisions of this chapter or who shall aid and abet in such violation shall be guilty of a serious misdemeanor.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §736A.6; C79, 81, §731.6]

731.7 Injunction.

Additional to the penal provisions of this chapter, any person, firm, corporation, association, or any labor union, labor association or labor organization, or any officer, representative, agent or member thereof may be restrained by injunction from doing or continuing to do any of the matters and things prohibited by this chapter, and all of the provisions of the law relating to the granting of restraining orders and injunctions, either temporary or permanent, shall be applicable.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §736A.7; C79, 81, §731.7]

731.8 Exception.

The provisions of this chapter shall not apply to employers or employees covered by the federal Railway Labor Act, 45 U.S.C. §151 et seq.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §736A.8; C79, 81, §731.8]

2011 Acts, ch 34, §149

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731.9 Relinquishment of seniority rights as a condition of employment prohibited.

It is unlawful for any person to refuse or deny employment to a person because the person refuses to relinquish seniority rights earned at a prior place of employment.

86 Acts, ch 1089, §1

CHAPTER 731A

RESERVED

CHAPTER 732

LABOR BOYCOTTS AND STRIKES

Referred to in §331.307, 364.22

732.1	Contracting to boycott or strike in sympathy.	732.4	Penalty.
732.2	Carrying out boycott or strike.	732.5	Injunction.
732.3	Jurisdictional strike or slowdown.	732.6	Hiring professional strikebreakers prohibited.

732.1 Contracting to boycott or strike in sympathy.

It shall be unlawful for any labor union, association or organization, or the officers, representatives, agents or members thereof, to enter into any contract, agreement, arrangement, combination or conspiracy for the purpose of, by strikes or threats of strikes, by violence or threats of violence, by coercion, or by concerted refusal to make, manufacture, assemble, or use, handle, transport, deliver or otherwise deal with any articles, products or materials:

1. To force or require any person, firm or corporation to cease using, selling, handling, transporting or dealing in the goods or products of any other person, firm or corporation, or
2. To force or require any person, firm or corporation to cease selling, transporting or delivering goods or products to any other person, firm or corporation, or
3. To force or require any employer other than their own employer to recognize, deal with, comply with the demands of, or employ members of any labor union, association or organization, or
4. To force or require any employer to break an existing collective bargaining agreement which such employer may have with any labor union, association or organization.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §736B.1; C79, 81, §732.1]

Referred to in §20.10, 732.2

732.2 Carrying out boycott or strike.

It shall be unlawful for any labor union, association or organization, or the officers, representatives, agents, or a member or members thereof to carry out or attempt to carry out in this state any contract, agreement, arrangement, combination or conspiracy declared unlawful in section 732.1.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §736B.2; C79, 81, §732.2]

Referred to in §20.10

732.3 Jurisdictional strike or slowdown.

It shall be unlawful for any labor union, group, association or organization, or the officers, representatives, agents or members thereof, to cause a stoppage or slowdown of the work or a part of the work of an employer because of a dispute between labor unions, groups, associations or organizations, or the officers, representatives, agents or members thereof,

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with respect to jurisdiction over, or the right to do the work or a part of the work of such employer.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §736B.3; C79, 81, §732.3]

Referred to in §20.10

732.4 Penalty.

Any person, or any labor union, labor association or labor organization or any officer, representative, agent or member thereof who shall violate any of the provisions of this chapter shall be guilty of a simple misdemeanor.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §736B.4; C79, 81, §732.4]

732.5 Injunction.

Additionally to the penal provisions of this chapter, any person, or any labor union, labor association or labor organization or any officer, representative, agent or member thereof may be restrained by injunction from doing or continuing to do any of the matters and things prohibited by this chapter, and all of the provisions of the law relating to the granting of restraining orders and injunctions, either temporary or permanent, shall be applicable.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §736B.5; C79, 81, §732.5]

732.6 Hiring professional strikebreakers prohibited.

It shall be unlawful for any person, persons, partnership, agency, firm, or corporation, or agent thereof:

1. Unless directly involved in a labor dispute, to knowingly recruit, procure, supply or refer for employment in the place of employees involved in such labor dispute any person or persons who customarily or repeatedly offer themselves as replacements for employees involved in labor disputes.

2. If directly involved in a labor dispute, to knowingly employ in place of employees involved in such dispute persons who customarily or repeatedly offer themselves as replacements for employees involved in labor disputes.

3. To solicit or advertise for employees to replace employees involved in a labor dispute without notice in such solicitation or advertisement that the employment offered is in place of employees engaged in a labor dispute.

4. To enter into an agreement, contract or arrangement with other persons, partnerships, agencies, firms or corporations, or agents thereof, to commit acts prohibited by subsection 1, 2 or 3 of this section.

[C66, 71, 73, 75, 77, §736B.6; C79, 81, §732.6]

CHAPTERS 733 to 747

RESERVED

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SUBTITLE 2

CRIMINAL PROCEDURE

CHAPTERS 748 to 800

RESERVED

CHAPTER 801

CRIMINAL PROCEDURE SCOPE AND DEFINITIONS

801.1 Short title.
801.2 Scope.
801.3 General purposes.
801.4 Definitions.
801.5 Applicability to offenses committed before the effective date.

801.1 Short title.

Chapters 801 through 819 shall be known and may be cited as the *"Iowa Code of Criminal Procedure"*.

[C79, 81, §801.1]
2020 Acts, ch 1063, §378

801.2 Scope.

The provisions of the Iowa code of criminal procedure shall govern procedure in the courts of Iowa in all criminal proceedings except where a different procedure is specifically provided by law.

[C79, 81, §801.2]

801.3 General purposes.

The provisions of the Iowa code of criminal procedure shall be liberally construed to give effect to the general purposes thereof, which shall be to provide for:

1. Simplicity in criminal procedure.
2. Fairness in administration of the criminal laws.
3. Elimination of unjustifiable delay in pretrial, trial, and post-trial proceedings.
4. Just determination of every criminal proceeding by a fair and impartial trial and review.
5. The effective apprehension and trial of persons suspected of committing public offenses without violation of fundamental human rights.

[C79, 81, §801.3]

801.4 Definitions.

For the purposes of Title XVI,* unless the context otherwise requires:

1. The words *"accused person"*, *"accused"*, *"defendant"*, and similar words mean an individual, a public or private corporation, a partnership, or an unincorporated or voluntary association.
2. *"Attorney general"* includes an authorized assistant of the attorney general.
3. *"Charge"* means a written statement presented to a court accusing a person of the commission of a public offense, including but not limited to a complaint, information, or indictment.
4. *"Complaint"* means a statement in writing, under oath or affirmation, made before a magistrate or district court clerk or clerk's designee as the case may be, of the commission of a public offense, and accusing someone of committing the public offense. A complaint shall be substantially in the form provided in the Iowa rules of criminal procedure.

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5. *"County attorney"* includes an authorized assistant of the county attorney.

6. *"Court"* means a place where justice is administered by a magistrate and includes such magistrate while acting in a judicial capacity.

7. *"Criminal proceeding"* is a proceeding in which a person is accused of a public offense.

8. *"Indictable offense"* means an offense other than a simple misdemeanor.

9. *"Indigent person"* means a person who is indigent as determined in accordance with section 815.9.

10. *"Magistrate"* means all judges of the district court, including district associate judges and judicial magistrates throughout the state.

11. *"Peace officers"*, sometimes designated "law enforcement officers", include:

a. Sheriffs and their regular deputies who are subject to mandated law enforcement training.

b. Marshals and police officers of cities.

c. Peace officer members of the department of public safety as defined in chapter 80.

d. Parole officers acting pursuant to section 906.2.

e. Probation officers acting pursuant to section 602.7202, subsection 4, and section 907.2.

f. Special security officers employed by board of regents institutions as set forth in section 262.13.

g. Conservation officers as authorized by section 456A.13.

h. Such employees of the department of transportation as are designated *"peace officers"* by resolution of the department under section 321.477.

i. Employees of an aviation authority designated as *"peace officers"* by the authority under section 330A.8, subsection 16.

j. Such persons as may be otherwise so designated by law.

12. *"Prosecuting attorney"*, sometimes designated *"prosecutor"*, means any attorney who is authorized by law to appear on the behalf of the state in a criminal case, and includes the attorney general, an assistant attorney general, the county attorney, an assistant county attorney, or a special or substitute prosecutor whose appearance is approved by a court having jurisdiction to try the defendant for the offense with which the defendant is charged. In the case of prosecution for a municipal ordinance violation, *"prosecuting attorney"* means a city attorney or an assistant city attorney.

13. *"Prosecution"* means the commencement, including the filing of a complaint, and continuance of a criminal proceeding, and pursuit of that proceeding to final judgment on behalf of the state or other political subdivision.

[C51, §2778, 2822, 2823, 2830; R60, §4439, 4440, 4447, 4530; C73, §4108, 4109, 4111; C97, §5097, 5099, 5101; C24, 27, 31, 35, 39, §**13403, 13405, 13458;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §748.1, 748.3, 754.1; C79, 81, S81, §801.4; 81 Acts, ch 117, §1240]

83 Acts, ch 186, §10129, 10130, 10201; 84 Acts, ch 1019, §1, 2; 89 Acts, ch 182, §11; 90 Acts, ch 1233, §43

Referred to in §7.10, 8A.363, 9E.2, 70A.9, 80F.2, 80G.1, 80H.1, 123.46, 125.2, 135.190A, 147A.1, 169.4, 229.1, 233.1, 235F.1, 279.84, 321.1, 321.176A, 321.178, 321.224, 321.231B, 321.279, 321.484, 321.492, 321.513, 321L.4, 330A.8, 331.604, 331.756(76)(d), 351.45, 351.46, 422.12P, 453A.2, 453A.52C, 509A.13C, 707.11, 721.12, 804.7, 804.7A, 804.7B, 811.1

*This provision does not include chapters 709A, 718A, 822, 904, 913, and 914, which were moved into Title XVI by the Code editor. Chapters 709A, 718A, 822, 904, 913, and 914 contain the applicable provisions pertaining to those chapters.

801.5 Applicability to offenses committed before the effective date.

1. Except as provided in subsections 2 and 3 of this section, Title XVI* does not apply to offenses committed before January 1, 1978. Prosecutions for offenses committed before that date are governed by the prior law, which is continued in effect for that purpose, as if this title* were not in force. For purposes of this section, an offense is committed before said date if any of the elements of the offense occurred before that date.

2. In any case pending on or commenced after said date, involving an offense committed before that date:

a. Upon the request of the defendant a defense or mitigation under this title,* whether specifically provided for herein or based upon the failure of said statutes to define an applicable offense, shall apply; and

b. Upon the request of the defendant and the approval of the court:

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(1) Procedural provisions of this title* shall apply insofar as they are justly applicable; and

(2) The court may impose a sentence or suspended imposition of a sentence under the provisions of this title* applicable to the offense and the offender.

3. Provisions of this title* governing the release or discharge of prisoners, probationers, and parolees shall apply to persons under sentence for offenses committed before January 1, 1978, except that the minimum or maximum period of their detention or supervision shall in no case be increased, nor shall the provisions of this title* affect the substantive or procedural validity of any judgment of conviction entered before said date, regardless of the fact that appeal time has not run or that an appeal is pending.

[C79, 81, §801.5]

*This provision does not include chapters 709A, 718A, 822, 904, 913, and 914, which were moved into Title XVI by the Code editor. Chapters 709A, 718A, 822, 904, 913, and 914 contain the applicable provisions pertaining to those chapters.

CHAPTER 802

LIMITATION OF CRIMINAL ACTIONS

Referred to in §81.13, 801.1, 803.5

Limitations of civil actions, chapter 614

802.1 Murder.
802.2 Sexual abuse — first, second, or third degree.
802.2A Incest — sexual exploitation by a counselor, therapist, school employee, or adult providing training or instruction.
802.2B Other sexual offenses.
802.2C Kidnapping.
802.2D Human trafficking.
802.2E Sexual abuse — fourth degree.
802.2F Robbery — first degree.
802.2G Robbery — second degree.
802.2H Election misconduct in the first degree.
802.3 Felony — aggravated or serious misdemeanor.
802.4 Simple misdemeanor — ordinance.
802.5 Extension for fraud, fiduciary breach.
802.6 Periods excluded from limitation.
802.7 Continuing crimes.
802.8 Time of finding indictment and information.
802.9 Indictment or information where a defect is found.
802.10 DNA profile of accused.

802.1 Murder.

A prosecution for murder in the first or second degree may be commenced at any time after the death of the victim.

[C51, §2811; R60, §4513; C73, §4165; C97, §5163; C24, 27, 31, 35, 39, §**13442;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §752.1; C79, 81, §802.1]

Referred to in §802.3

802.2 Sexual abuse — first, second, or third degree.

1. An information or indictment for sexual abuse in the first, second, or third degree committed on or with a person who is under the age of eighteen years may be commenced at any time after the commission of the offense.

2. An information or indictment for any other sexual abuse in the first, second, or third degree shall be commenced within ten years after its commission, or if the person against whom the information or indictment is sought is identified through the use of a DNA profile, an information or indictment shall be commenced within three years from the date the person is identified by the person's DNA profile, whichever is later.

3. As used in this section, *"identified"* means a person's legal name is known and the person has been determined to be the source of the DNA.

85 Acts, ch 174, §2; 90 Acts, ch 1066, §1; 94 Acts, ch 1128, §3; 2000 Acts, ch 1027, §1; 2005 Acts, ch 158, §36; 2007 Acts, ch 126, §110; 2019 Acts, ch 140, §40; 2021 Acts, ch 102, §8, 12

Referred to in §802.3, 802.10

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802.2A Incest — sexual exploitation by a counselor, therapist, school employee, or adult providing training or instruction.

1. An information or indictment for incest under section 726.2 committed on or with a person who is under the age of eighteen may be commenced at any time after the commission of the offense.

2. An indictment or information for sexual exploitation by a counselor, therapist, school employee, or adult providing training or instruction, under section 709.15 committed on or with a person who is under the age of eighteen may be commenced at any time after the commission of the offense.

2001 Acts, ch 63, §1; 2003 Acts, ch 180, §66; 2019 Acts, ch 140, §41; 2021 Acts, ch 102, §9, 12

Referred to in §802.3

802.2B Other sexual offenses.

An information or indictment for the following offenses committed on or with a person who is under the age of eighteen years may be commenced at any time after the commission of the offense:

1. Lascivious acts with a child in violation of section 709.8.
2. Assault with intent to commit sexual abuse in violation of section 709.11.
3. Indecent contact with a child in violation of section 709.12.
4. Lascivious conduct with a minor in violation of section 709.14.
5. Sexual misconduct with a juvenile in violation of section 709.16, subsection 2.
6. Child endangerment in violation of section 726.6, subsection 6, 7, or 8.
7. Sexual exploitation of a minor in violation of section 728.12.

2014 Acts, ch 1097, §8; 2016 Acts, ch 1104, §5; 2021 Acts, ch 102, §10, 12

Referred to in §802.3, 802.10

Section not amended; internal reference changes applied

802.2C Kidnapping.

An information or indictment for kidnapping in the first, second, or third degree committed on or with a person who is under the age of eighteen years shall be found within ten years after the person upon whom the offense is committed attains eighteen years of age, or if the person against whom the information or indictment is sought is identified through the use of a DNA profile, an information or indictment shall be found within three years from the date the person is identified by the person's DNA profile, whichever is later.

2016 Acts, ch 1035, §1

Referred to in §802.3, 802.10

802.2D Human trafficking.

An information or indictment for human trafficking in violation of section 710A.2, committed on or with a person who is under the age of eighteen years may be commenced at any time after the commission of the offense.

2016 Acts, ch 1035, §2; 2021 Acts, ch 102, §11, 12

Referred to in §802.3, 802.10

802.2E Sexual abuse — fourth degree.

An information or indictment for sexual abuse in the fourth degree may be commenced at any time after the commission of the offense.

2022 Acts, ch 1123, §8

Referred to in §802.3, 802.10

802.2F Robbery — first degree.

An information or indictment for robbery in the first degree in violation of section 711.2 shall be found within five years after the commission of the offense.

2024 Acts, ch 1029, §1

Referred to in §802.3, 802.10

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802.2G Robbery — second degree.

An information or indictment for robbery in the second degree in violation of section 711.3 shall be found within five years after the commission of the offense.

2024 Acts, ch 1029, §2
Referred to in §802.3, 802.10

802.2H Election misconduct in the first degree.

An information or indictment for election misconduct in the first degree in violation of section 39A.2 shall be found within five years after the commission of the offense.

2026 Acts, ch 1156, §30, 35
Referred to in §802.3
NEW section

802.3 Felony — aggravated or serious misdemeanor.

In all cases, except those enumerated in section 802.1, 802.2, 802.2A, 802.2B, 802.2C, 802.2D, 802.2E, 802.2F, 802.2G, 802.2H, or 802.10, an indictment or information for a felony or aggravated or serious misdemeanor shall be found within three years after its commission.

[C51, §2813; R60, §4515; C73, §4167; C97, §5165; C24, 27, 31, 35, 39, §**13444;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §752.3; C79, 81, §802.3; 81 Acts, ch 204, §10]

85 Acts, ch 174, §3; 92 Acts, ch 1199, §7; 2000 Acts, ch 1027, §2; 2001 Acts, ch 63, §2; 2006 Acts, ch 1084, §1; 2014 Acts, ch 1097, §9; 2016 Acts, ch 1035, §3; 2023 Acts, ch 56, §1; 2024 Acts, ch 1029, §3; 2026 Acts, ch 1156, §31, 35
Referred to in §453B.12, 802.5, 802.10
Section amended

802.4 Simple misdemeanor — ordinance.

A prosecution for a simple misdemeanor or violation of a municipal or county rule or ordinance shall be commenced within one year after its commission.

[C73, §4168; C97, §5166; C24, 27, 31, 35, 39, §**13445;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §752.4; C79, 81, §802.4]
Referred to in §802.5

802.5 Extension for fraud, fiduciary breach.

1. If the periods prescribed in sections 802.3 and 802.4 have expired, prosecution may nevertheless be commenced for any offense a material element of which is either fraud or a breach of fiduciary obligation within one year after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is not a party to the offense, but in no case shall this provision extend the period of limitation otherwise applicable by more than five years.

2. A prosecution may be commenced under this section as long as the appropriate law enforcement agency has not delayed the investigation in bad faith. This subsection shall not be construed to require a law enforcement agency to pursue an unknown offender with due diligence.

[C79, 81, §802.5; 81 Acts, ch 204, §11]

2003 Acts, ch 108, §115; 2019 Acts, ch 140, §27

802.6 Periods excluded from limitation.

1. When a person leaves the state, the indictment or information may be found within the period of limitation prescribed in this chapter after the person's coming into the state, and no period during which the party charged was not publicly resident within the state is a part of the limitation.

2. The time within which an indictment or information must be found shall not include the time during which the defendant is a public officer or employee and the offense arises from misconduct relating to the duties and trust of that office or employment.

[C51, §2814; R60, §4516; C73, §4169; C97, §5167; C24, 27, 31, 35, 39, §**13446;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §752.5; C79, 81, §802.6]

2002 Acts, ch 1116, §1; 2020 Acts, ch 1063, §379

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802.7 Continuing crimes.

When an offense is based on a series of acts committed at different times, the period of limitation prescribed by this chapter shall commence upon the commission of the last of such acts.

[C79, 81, §802.7]

2013 Acts, ch 90, §208

802.8 Time of finding indictment and information.

Within the meaning of this chapter:

1. An indictment is found when it is duly presented by the grand jury in open court and filed.

2. An information is found when it is filed.

[C51, §2815; R60, §4517; C73, §4170; C97, §5168; C24, 27, 31, 35, 39, §**13447;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §752.6; C79, 81, §802.8]

802.9 Indictment or information where a defect is found.

If a defect, error, or irregularity is discovered in any indictment or information which, on motion of either party, causes the indictment or information to be dismissed or the prosecution to be set aside or reversed on appeal, a new indictment or information may be found within thirty days after such action notwithstanding the time limitations enumerated in this chapter.

[C51, §2949, 3251, 3252; R60, §4699, 4711, 4712, 5011 – 5013; C73, §4344, 4356, 4357, 4617 – 4619; C97, §5326, 5331, 5539; C24, 27, 31, 35, 39, §**13788, 13796, 13797, 14027;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §776.9, 777.8, 777.9, 795.5; C79, 81, §802.9]

2021 Acts, ch 76, §147

802.10 DNA profile of accused.

1. As used in this section:

a. *"DNA profile"* means the same as defined in section 81.1.

b. *"Identified"* means the same as defined in section 802.2.

2. An indictment or information may be found containing only the DNA profile of the person sought. When an indictment or information is found containing only a DNA profile, the limitation of any action under section 802.3 is tolled.

3. However, notwithstanding subsection 2, an indictment or information shall be found against a person within three years from the date the person is identified by the person's DNA profile. If the action involves sexual abuse, another sexual offense, kidnapping, human trafficking, or fraud in assisted reproduction, the indictment or information shall be found as provided in section 802.2, 802.2B, 802.2C, 802.2D, or 802.2E, if the person is identified by the person's DNA profile. If the action involves robbery in the first degree or robbery in the second degree but does not involve sexual abuse, another sexual offense, kidnapping, human trafficking, or fraud in assisted reproduction, the indictment or information shall be found as provided in section 802.2F or 802.2G, if the person is identified by the person's DNA profile.

2006 Acts, ch 1084, §2; 2007 Acts, ch 126, §111; 2014 Acts, ch 1097, §10; 2016 Acts, ch 1035, §4; 2023 Acts, ch 56, §2; 2024 Acts, ch 1029, §4

Referred to in §802.3

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CHAPTER 803

JURISDICTION OF PUBLIC OFFENSES AND PLACE OF TRIAL

Referred to in §801.1, 809A.2

803.1 State criminal jurisdiction — erroneous filings.
803.2 Place of trial — general.
803.3 Place of trial — special provisions.
803.4 Bar to action.
803.5 Transfer of jurisdiction.
803.6 Transfer of jurisdiction — juvenile.

803.1 State criminal jurisdiction — erroneous filings.

1. A person is subject to prosecution in this state for an offense which the person commits within or outside this state, by the person's own conduct or that of another for which the person is legally accountable, if:

a. The offense is committed either wholly or partly within this state.

b. Conduct of the person outside the state constitutes an attempt to commit an offense within this state.

c. Conduct of the person outside the state constitutes a conspiracy to commit an offense within this state.

d. The offense is based upon a statute that specifically prohibits conduct wholly outside of the state, and the conduct bears a reasonable relation to a legitimate state interest, and the person knows or should know that the conduct is likely to affect that interest.

e. Conduct of the person within this state constitutes an attempt, solicitation, or conspiracy to commit an offense in another jurisdiction, which conduct is punishable under the laws of both this state and such other jurisdiction.

f. The offense is committed by a member of the state military forces against another member of the state military forces, both are in a duty status at the time of the offense, whether inside or outside the state, and the offense is one for which civil courts have jurisdiction under section 29B.116A. However, for those offenses subject to both civilian and military jurisdiction, civilian jurisdiction shall not be declined solely on that basis.

2. An offense may be committed partly within this state if conduct which is an element of the offense, or a result which constitutes an element of the offense, occurs within this state. If the body of a murder victim is found within the state, the death is presumed to have occurred within the state. If a kidnapping victim, or the body of a kidnapping victim, is found within the state, the confinement or removal of the victim from one place to another is presumed to have occurred within the state.

3. An offense which is based on an omission to perform a duty imposed upon a person by the law of this state is committed within the state, regardless of the location of the person at the time of the omission.

4. The jurisdiction of the criminal court includes the prosecution of any individual arrested who is eighteen years of age or older and who is charged with committing a criminal offense. If the individual is alleged to have committed the offense prior to having reached the age of eighteen, that individual or the county attorney may petition the criminal court to transfer the matter to juvenile court, pursuant to section 803.5.

5. If it is determined that charges were erroneously filed in district court against an individual under the age of eighteen and the juvenile court holds exclusive jurisdiction, the court shall file an order dismissing the charge in district court and directing the clerk of court to seal all records of the charge initiated in district court.

[C51, §2803; R60, §4500; C73, §4155; C97, §5153; C24, 27, 31, 35, 39, §**13448;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §753.1; C79, 81, §803.1]

88 Acts, ch 1167, §4; 95 Acts, ch 178, §1; 2000 Acts, ch 1037, §3; 2014 Acts, ch 1069, §6; 2018 Acts, ch 1153, §13

Referred to in §710.10

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803.2 Place of trial — general.

1. A criminal action shall be tried in the county in which the crime is committed, except as otherwise provided by law.

2. The court, may on its own motion or on the motion of any of the parties to the proceeding reconsider and grant a pretrial motion for change of venue whenever it appears during jury selection that sufficient grounds would exist for granting the motion under the provisions of rule of criminal procedure 2.11.

3. All objections to venue are waived by a defendant unless the defendant objects thereto and secures a ruling by the trial court on a pretrial motion for change of venue. However, if venue is changed pursuant to subsection 2, all objections to venue in the county to which the action is transferred are waived by a defendant unless the defendant objects by a motion for change of venue filed within five days after entry of the order transferring the action and secures a ruling by the trial court on the motion before a jury has been impaneled and sworn.

[R60, §4502; C73, §4156; C97, §5154; C24, 27, 31, 35, 39, §**13449;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §753.2; C79, 81, §803.2; 82 Acts, ch 1021, §7, 12(1)]

Referred to in §803.3

803.3 Place of trial — special provisions.

The following special provisions apply:

1. If conduct or results which constitute elements of an offense occur in two or more counties, prosecution of the offense may be had in any of such counties. In such cases, where a dominant number of elements occur in one county, that county shall have the primary right to proceed with prosecution of the offender.

2. If an offense commenced outside the state is consummated within this state, trial of the offense shall be held in the county or counties in which the offense is consummated or the interest protected by the involved penal statute is impaired.

3. If an offense is committed in or upon any conveyance in transit, and it cannot readily be determined in which county the offense was committed, trial of the offense may be held in any county through or over which the conveyance passed in the course of its journey.

4. If an offense is committed on the boundary of two or more counties, and it cannot readily be determined within which county the commission took place, trial of the offense may be held in any of the counties concerned.

5. If a simple misdemeanor is committed in a city which is located in two or more counties, venue shall be in the county in which the seat of government of the city is located. However, if the simple misdemeanor is committed in conjunction with an offense greater than a simple misdemeanor, the trial of the simple misdemeanor shall be in the county where the greater offense was committed as provided in section 803.2.

6. If the offense is a traffic offense, or a scheduled offense under section 805.8A, 805.8B, or 805.8C, section 805.13 shall apply.

7. *a.* If a person is charged with a violation of the tax laws arising out of individual tax liability, venue is in the county of residence of the person charged with the offense, unless the person is a nonresident of this state or the residence of the person cannot be established, in which event venue is in Polk county.

b. If a person is charged with a violation of the tax laws arising out of a business, venue is in any county where business was conducted. If a specific county cannot be established as a situs, venue is in Polk county.

c. If a person is charged with a violation of section 453B.12, venue is in the county of the residence of the person charged with the offense or the county in which the drugs were found.

d. If a person is charged with a violation of the tax laws in which venue is set under multiple provisions of this section, venue is in any county in which one of the charges may be prosecuted.

8. *a.* Except as otherwise provided in this section, if the county in which an offense was committed cannot be readily determined, trial of the offense shall be held in the county of residence of the victim.

b. If there is no victim, the victim is not a resident of this state, or the residence of the

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victim cannot be established, trial of the offense shall be held in the county of residence of the person charged with the offense.

c. If the victim is not a natural person, venue for trial of the offense is proper in any county where the victim has a physical presence.

d. If there is more than one victim, trial of the offenses may be held in any county in which a victim resides with the county of residence of a natural person taking priority over the county of residence of other victims.

[C51, §2804, 2806 – 2808; R60, §4505, 4507 – 4509; C73, §4157, 4159 – 4161; C97, §5155, 5157 – 5159; C24, 27, 31, 35, 39, §**13450, 13451 – 13453;** C46, 50, 54, 58, 62, 66, 71, §753.3 – 753.6; C73, 75, 77, §753.3; C79, 81, §803.3]

99 Acts, ch 152, §37, 40; 2001 Acts, ch 137, §5; 2003 Acts, ch 113, §2; 2004 Acts, ch 1041, §1; 2025 Acts, ch 24, §1

Referred to in §124.401, 805.13

803.4 Bar to action.

A conviction or acquittal of an offense in a court having jurisdiction thereof is a bar to a prosecution of the offense in another court.

[R60, §4512; C73, §4164; C97, §5162; C24, 27, 31, 35, 39, §**13457;** C46, 50, 54, 58, 62, 66, 71, §753.10; C73, 75, 77, §753.4; C79, 81, §803.4]

803.5 Transfer of jurisdiction.

1. An adult who is alleged to have committed a criminal offense prior to having reached the age of eighteen may be transferred to juvenile court for adjudication and disposition as a juvenile, provided that the taking of that person into custody for the alleged act or the filing of a complaint, information, or indictment alleging the act, occurs within the time periods and under the conditions specified in chapter 802 and further provided that the juvenile court has not already waived its jurisdiction over the person and the alleged offense.

2. The defendant or the county attorney may file a motion for the transfer any time within ten days of the initial appearance.

3. The court shall hold a transfer hearing on all such motions. A notice of the time and place of the transfer hearing shall be given to all parties to the hearing.

4. Prior to the transfer hearing, the juvenile probation officer, or other person or agency designated by the court, shall conduct an investigation for the purpose of collecting information relevant to the court's decision to waive its jurisdiction over the defendant for the alleged commission of the public offense and shall submit a report concerning the investigation to the court. The report shall include any recommendations made concerning transfer. Prior to the hearing the court shall provide the defendant's counsel and the county attorney with access to the report and to all written material to be considered by the court.

5. After the hearing, the court may transfer jurisdiction to the juvenile court if the court determines that there is probable cause to believe that the adult committed an offense while still a juvenile, and waiver to the criminal court would be inappropriate under the criteria set forth in section 232.45, subsection 6, paragraph "*c*", and section 232.45, subsection 8, if the adult were still a child.

6. If after the hearing the court transfers jurisdiction over the adult to the juvenile court for the alleged commission of the public offense, the court shall forward the transfer order together with all papers, documents, and a transcript of all testimony filed or admitted into evidence in connection with the case to the clerk of the juvenile court in the same manner as provided in section 232.8, subsection 2.

88 Acts, ch 1167, §5

Referred to in §232.8, 803.1

803.6 Transfer of jurisdiction — juvenile.

1. The court, in the case of a juvenile who is alleged to have committed a criminal offense listed in section 232.8, subsection 1, paragraph "*c*", may direct a juvenile court officer to provide a report regarding whether the child should be transferred to juvenile court for adjudication and disposition as a juvenile.

2. If the court believes that transfer may be appropriate the court shall hold a hearing

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on whether the child should be transferred. A notice of the time and place of the transfer hearing shall be given to all parties to the case. Prior to the hearing, the court shall provide the defendant's counsel and the county attorney with access to the report provided by the juvenile court officer and to all written material to be considered by the court.

3. After the hearing, the court may transfer jurisdiction to the juvenile court if the court determines that waiver to the criminal court would be inappropriate under the criteria set forth in section 232.45, subsection 6, paragraph "*c*", and section 232.45, subsection 8.

4. If after the hearing the court transfers jurisdiction over the defendant to the juvenile court for the alleged commission of the public offense, the court shall forward the transfer order together with all papers, documents, and a transcript of all testimony filed or admitted into evidence in connection with the case to the clerk of the juvenile court in the same manner as provided in section 232.8, subsection 2, and the clerk shall seal all records initiated in district court.

5. A defendant transferred to the jurisdiction of the juvenile court shall be placed in detention under section 232.22.

95 Acts, ch 191, §54; 2018 Acts, ch 1153, §14
Referred to in §232.8, 232.149

CHAPTER 804

COMMENCEMENT OF ACTIONS — ARREST — DISPOSITIONS OF PRISONERS

Referred to in §602.6405, 664A.3, 801.1, 805.1, 805.6, 805.9

804.1 Arrest by warrant — complaint and citation defined.
804.2 Contents of arrest warrant.
804.3 Order for bail — endorsed on warrant.
804.4 Manner of executing warrant.
804.5 Arrest defined.
804.6 Persons authorized to make an arrest.
804.7 Arrests by peace officers.
804.7A Arrests by federal law enforcement officers.
804.7B Arrests by out-of-state peace officers.
804.8 Use of force by peace officer making an arrest.
804.9 Arrests by private persons.
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804.14 Manner of making arrest — warrant.
804.15 Breaking and entering premises — demand to enter.
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804.24 Arrests by private persons — disposition of prisoner.
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804.26 Officer's return.
804.27 Conveying prisoner to jail — fees and expenses.
804.28 Department of public safety prisoners.
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804.30 Strip searches and visual strip searches of persons arrested for scheduled violations or simple misdemeanors.
804.31 Arrest of deaf or hard-of-hearing person — use of interpreters — fee.
804.32 Warrant resolution clinics prohibited.

804.1 Arrest by warrant — complaint and citation defined.

1. A criminal proceeding may be commenced by the filing of a complaint before a magistrate. When such complaint is made, charging the commission of some designated public offense in which such magistrate has jurisdiction, and it appears from the complaint

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or from affidavits filed with it that there is probable cause to believe an offense has been committed and a designated person has committed it, the magistrate shall, except as otherwise provided, issue a warrant for the arrest of such person.

2. If the complaint charges a public offense, the magistrate may issue a citation instead of a warrant of arrest. The citation shall set forth substantially the nature of the offense and shall command the person against whom the complaint was made to appear before the magistrate issuing the citation at a time and place stated in the citation. The magistrate shall prescribe the manner of service for the citation at the time the citation is issued.

3. The citation may be served in the same manner as an original notice in a civil action.

4. If the person named in the citation is actually served as provided herein and willfully fails without good cause to appear as commanded by the citation, the person shall be guilty of a simple misdemeanor and the magistrate may issue a warrant of arrest for the offense originally charged.

5. If after issuing a citation the magistrate becomes satisfied that the person to whom such citation has been directed will not appear, the magistrate may at once issue a warrant of arrest without waiting for the date mentioned in the citation.

[C51, §2822; R60, §4530; C73, §4111, 4185; C97, §5101, 5182; C24, 27, 31, 35, 39, §**13458 – 13460;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §754.1 – 754.3; C79, 81, §804.1]

83 Acts, ch 50, §1, 7; 2016 Acts, ch 1011, §121

Referred to in §708.11, 805.8C(3)(a)

804.2 Contents of arrest warrant.

The warrant must be directed to any peace officer in the state; give the name of the defendant, if known to the magistrate; if unknown, may designate "name unknown"; and must state by name or general description an offense which authorizes a warrant to issue, the date of issuing it, the county or city where issued, and be signed by the magistrate with the magistrate's name of office.

[C51, §2828, 2829; R60, §4535, 4536; C73, §4187, 4188; C97, §5184; C24, 27, 31, 35, 39, §**13462;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §754.5; C79, 81, §804.2]

Arrest warrant forms, see R.Cr.P. 2.36 – Forms 5, 6, 7

804.3 Order for bail — endorsed on warrant.

If the offense stated in the warrant be bailable, the magistrate issuing it must make an endorsement thereon as follows:

Let the defendant, when arrested, be (admitted to bail in the sum of ..... dollars) or (stating other conditions of release).

[R60, §4537; C73, §4189; C97, §5185; C24 27, 31, 35, 39, §**13463;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §754.6; C79, 81, §804.3]

Addition to warrant for bail, see R.Cr.P. 2.36 – Form 6

804.4 Manner of executing warrant.

The warrant may be delivered to any peace officer for execution, and served in any county in the state.

[R60, §4538; C73, §4190; C97, §5186; C24, 27, 31, 35, 39, §**13464;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §754.7; C79, 81, §804.4]

804.5 Arrest defined.

Arrest is the taking of a person into custody when and in the manner authorized by law, including restraint of the person or the person's submission to custody.

[C51, §2837, 2838, 2850; R60, §4545, 4551, 4557 – 4559; C73, §4197, 4203, 4209 – 4211; C97, §5193, 5194; C24, 27, 31, 35, 39, §**13465, 13466;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §755.1, 755.2; C79, 81, §804.5]

Referred to in §123.46

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804.6 Persons authorized to make an arrest.

An arrest pursuant to a warrant shall be made only by a peace officer; in other cases, an arrest may be made by a peace officer or by a private person as provided in this chapter.

[R60, §4546; C73, §4198; C97, §5195; C24, 27, 31, 35, 39, §**13467;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §755.3; C79, 81, §804.6]

804.7 Arrests by peace officers.

1. A peace officer may make an arrest under any of the following circumstances:

a. For a public offense committed or attempted in the peace officer's presence.

b. Where a public offense has in fact been committed, and the peace officer has reasonable grounds for believing that the person to be arrested has committed it.

c. Where the peace officer has reasonable grounds for believing that an indictable public offense has been committed and has reasonable grounds for believing that the person to be arrested has committed it.

d. Where the peace officer has received from the department of public safety, or from any other peace officer of this state or any other state or the United States an official communication by bulletin, radio, telegraph, telephone, or otherwise, informing the peace officer that a warrant has been issued and is being held for the arrest of the person to be arrested on a designated charge.

e. If the peace officer has reasonable grounds for believing that domestic abuse, as defined in section 236.2, has occurred and has reasonable grounds for believing that the person to be arrested has committed it.

f. As required by section 236.12, subsection 2.

2. A peace officer, as defined in section 801.4, shall have the authority to make an arrest pursuant to subsection 1 anywhere within the state. However, a peace officer shall not establish routine patrol outside of the jurisdiction of the peace officer's employing agency.

[C51, §2840; R60, §4547, 4548; C73, §4199, 4200; C97, §5196; C24, 27, 31, 35, 39, §**13468;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §755.4; C79, 81, §804.7]

85 Acts, ch 175, §12; 86 Acts, ch 1179, §7; 2023 Acts, ch 42, §7

Referred to in §28J.7, 804.7A, 805.9

804.7A Arrests by federal law enforcement officers.

1. For purposes of this section, *"federal law enforcement officer"* means a person employed full time by the United States government who is empowered to effect an arrest with or without a warrant for a violation of the United States Code and who is authorized to carry a firearm in the performance of the person's duties as a federal law enforcement officer.

2. A federal law enforcement officer has the same authority, as provided in section 804.7, subsection 1, paragraph *"c"*, and has the same immunity from suit in this state as a peace officer, as defined in section 801.4, subsection 11, when making an arrest in this state for a nonfederal crime if either of the following exists:

a. The federal law enforcement officer has reasonable grounds for believing that an indictable public offense has been committed and has reasonable grounds for believing that the person to be arrested has committed it.

b. The federal law enforcement officer is rendering assistance to a peace officer of this state in an emergency or at the request of the peace officer.

90 Acts, ch 1014, §1; 2023 Acts, ch 42, §8

Referred to in §804.7B

804.7B Arrests by out-of-state peace officers.

1. For purposes of this section, *"out-of-state peace officer"* means a person employed full time as a peace officer by a state other than Iowa or a political subdivision of a state other than Iowa who is empowered to effect an arrest with or without a warrant under the laws of that jurisdiction, who is authorized to carry a firearm in the performance of the person's duties, and who is certified or licensed as a regular peace officer in the jurisdiction in which the person's employing agency or appointing authority is located. Notwithstanding section 804.7A, for purposes of this section *"out-of-state peace officer"* also means a person employed full time by the United States government who is empowered to effect an arrest with or

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without a warrant for a violation of the United States Code and who is authorized to carry a firearm in the performance of the person's duties as a federal law enforcement officer.

2. *a.* An out-of-state peace officer may make arrests and conduct other law enforcement activities in this state pursuant to an agreement entered into under chapter 28E by the peace officer's employing agency or appointing authority and the state of Iowa or a political subdivision of the state of Iowa. Any arrests made or activities conducted by an out-of-state peace officer shall be in accordance with any conditions and specifications contained in the agreement and shall be in accordance with Iowa law. An out-of-state peace officer who makes an arrest or conducts an activity in this state shall immediately contact and cooperate with a law enforcement agency having jurisdiction over the area in which the activities have occurred. An out-of-state peace officer who acts in accordance with an agreement entered into pursuant to this section and Iowa law has the same immunity from suit in this state as a peace officer, as defined in section 801.4.

b. Out-of-state peace officers making arrests or conducting law enforcement activities in this state pursuant to a chapter 28E agreement are not employees or agents of the state of Iowa or any political subdivision of the state of Iowa. To the extent permitted by law, the employing agency or appointing agency of the out-of-state peace officer and the out-of-state peace officer are liable for any acts or omissions which arise out of the arrests or law enforcement activities of the out-of-state peace officer.

c. Agreements made under this section shall not exceed any jurisdictional limitations to which the state or the political subdivision of this state are subject. Agreements made under this section shall not permit out-of-state peace officers to perform regularly scheduled or routine patrol functions. This section shall not be construed to limit the authority of an employing agency or appointing authority to restrict the exercise of power or authority of peace officers who are employed by or are the agents of the agency or authority.

98 Acts, ch 1140, §1

804.8 Use of force by peace officer making an arrest.

1. A peace officer, while making a lawful arrest, is justified in the use of any force which the peace officer reasonably believes to be necessary to effect the arrest or to defend any person from bodily harm while making the arrest. However, the use of deadly force or a chokehold is only justified when a person cannot be captured any other way and either of the following apply:

a. The person has used or threatened to use deadly force in committing a felony.

b. The peace officer reasonably believes the person would use deadly force against any person unless immediately apprehended.

2. A peace officer making an arrest pursuant to an invalid warrant is justified in the use of any force which the peace officer would be justified in using if the warrant were valid, unless the peace officer knows that the warrant is invalid.

3. For purposes of this section, *"chokehold"* means the intentional and prolonged application of force to the throat or windpipe that prevents or hinders breathing or reduces the intake of air.

[C51, §2844; R60, §4553; C73, §4205; C97, §5200; C24, 27, 31, 35, 39, §**13472;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §755.8; C79, 81, §804.8]

2013 Acts, ch 90, §238; 2020 Acts, ch 1037, §2

Referred to in §704.12

Reasonable or deadly force, see chapter 704

804.9 Arrests by private persons.

A private person may make an arrest:

1. For a public offense committed or attempted in the person's presence.

2. When a felony has been committed, and the person has reasonable ground for believing that the person to be arrested has committed it.

[C51, §2846; R60, §4549; C73, §4201; C97, §5197; C24, 27, 31, 35, 39, §**13469;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §755.5; C79, 81, §804.9]

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804.10 Use of force in arrest by private person.

1. A private person who makes or assists another private person in making a lawful arrest is justified in using any force which the person reasonably believes to be necessary to make the arrest or which the person reasonably believes to be necessary to prevent serious injury to any person.

2. A private person who is summoned or directed by a peace officer to assist in making an arrest may use whatever force the peace officer could use under the circumstances, provided that, if the arrest is unlawful, the private person assisting the officer shall be justified as if the arrest were a lawful arrest, unless the person knows that the arrest is unlawful.

[C79, 81, §804.10]

2018 Acts, ch 1041, §127

Referred to in §704.12

Reasonable or deadly force, see chapter 704

804.11 Arrest of material witness.

1. When a law enforcement officer has probable cause to believe that a person is a necessary and material witness to a felony and that such person might be unavailable for service of a subpoena, the officer may arrest such person as a material witness with or without an arrest warrant.

2. At the time of the arrest, the law enforcement officer shall inform the person of:

a. The officer's identity as a law enforcement officer.

b. The reason for the arrest which is that the person is believed to be a material witness to an identified felony and that the person might be unavailable for service of a subpoena.

[C51, §2876 – 2879; R60, §4601 – 4604; C73, §4248 – 4251; C97, §5232 – 5235; C24, 27, 31, 35, 39, §**13547 – 13550;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §761.21 – 761.24; C79, 81, §804.11]

2013 Acts, ch 90, §239

Referred to in §804.23

Fees to material witnesses, §815.6

804.12 Use of force in resisting arrest.

A person is not authorized to use force to resist an arrest, either of the person's self, or another which the person knows is being made either by a peace officer or by a private person summoned and directed by a peace officer to make the arrest, even if the person believes that the arrest is unlawful or the arrest is in fact unlawful.

[C51, §2669; R60, §4296; C73, §3960; C97, §4899; C24, 27, 31, 35, 39, §**13331;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §742.1; C79, 81, §804.12]

804.13 Use of force in preventing an escape.

A peace officer or other person who has an arrested person in custody is justified in the use of such force to prevent the escape of the arrested person from custody as the officer or other person would be justified in using if the officer or other person were arresting such person.

[C51, §2844; R60, §4553; C73, §4205; C97, §5200; C24, 27, 31, 35, 39, §**13472;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §755.8; C79, 81, §804.13]

Referred to in §704.12

804.14 Manner of making arrest — warrant.

1. A person making an arrest must inform the person to be arrested of the intention to arrest the person, the reason for arrest, and that the person making the arrest is a peace officer, if such be the case, and require the person being arrested to submit to the person's custody, except when the person to be arrested is actually engaged in the commission of or attempt to commit an offense, or escapes, so that there is no time or opportunity to do so.

2. If acting under the authority of a warrant, a law enforcement officer need not have the warrant in the officer's possession at the time of the arrest, but, upon request, the officer shall show the warrant to the person being arrested as soon as possible. If the officer does

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not have the warrant in the officer's possession at the time of arrest, the officer shall inform the person being arrested of the fact that a warrant has been issued.

[C51, §2839, 2841, 2847; R60, §4552; C73, §4204; C97, §5199; C24, 27, 31, 35, 39, §**13471;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §755.7; C79, 81, §804.14]

2013 Acts, ch 90, §209

804.15 Breaking and entering premises — demand to enter.

If a law enforcement officer has reasonable cause to believe that a person whom the officer is authorized to arrest is present on any private premises, the officer may upon identifying the officer as such, demand that the officer be admitted to such premises for the purpose of making the arrest. If such demand is not promptly complied with, the officer may thereupon enter such premises to make the arrest, using such force as is reasonably necessary.

[C51, §2843, 2848; R60, §4554; C73, §4206; C97, §5201; C24, 27, 31, 35, 39, §**13473;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §755.9; C79, 81, §804.15]

Referred to in §704.12

804.16 Time of arrest.

An arrest may be made on any day and at any time of the day or night.

[C51, §2837, 2850; R60, §4545, 4551; C73, §4197, 4203; C97, §5193; C24, 27, 31, 35, 39, §**13465;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §755.1; C79, 81, §804.16]

804.17 Summoning aid.

Any peace officer making a legal arrest may orally summon as many persons as the officer reasonably finds necessary to aid the officer in making the arrest.

[R60, §4556; C73, §4208; C97, §5203; C24, 27, 31, 35, 39, §**13475;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §755.11; C79, 81, §804.17]

804.18 Taking weapons.

Any person who makes an arrest may take from the person arrested all items which are capable of causing bodily harm which the arrested person may have within the arrested person's control to be disposed of according to law.

[R60, §4560; C73, §4212; C97, §5204; C24, 27, 31, 35, 39, §**13476;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §755.12; C79, 81, §804.18]

804.19 Receipt given.

When money or other property is taken from the defendant arrested on a charge of a public offense, the officer taking it shall, at the time, give duplicate receipts therefor, specifying particularly the amount of money and the kind of property taken. The officer shall deliver one of the receipts to the defendant, and shall retain the other receipt with the defendant's file.

[C79, 81, §804.19]

94 Acts, ch 1047, §1

804.20 Communications by arrested persons.

Any peace officer or other person having custody of any person arrested or restrained of the person's liberty for any reason whatever, shall permit that person, without unnecessary delay after arrival at the place of detention, to call, consult, and see a member of the person's family or an attorney of the person's choice, or both. Such person shall be permitted to make a reasonable number of telephone calls as may be required to secure an attorney. If a call is made, it shall be made in the presence of the person having custody of the one arrested or restrained. If such person is intoxicated, or a person under eighteen years of age, the call may be made by the person having custody. An attorney shall be permitted to see and consult confidentially with such person alone and in private at the jail or other place of custody without unreasonable delay. A violation of this section shall constitute a simple misdemeanor.

[C62, 66, 71, 73, 75, 77, §755.17; C79, 81, §804.20]

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804.21 Initial appearance before magistrate — arrest by warrant — release — bond schedule.

1. A person arrested in obedience to a warrant shall be taken without unnecessary delay before the nearest or most accessible magistrate. The officer shall at the same time deliver to the magistrate the warrant with the officer's return endorsed on it and subscribed by the officer with the officer's official title. However, this section, and sections 804.22 and 804.23, do not preclude the release of an arrested person within the period of time the person would otherwise remain incarcerated while waiting to be taken before a magistrate if the release is pursuant to pretrial release guidelines or a bond schedule promulgated by the judicial council, unless the person is charged with manufacture, delivery, possession with intent to manufacture or deliver, or distribution of methamphetamine. If, however, a person is released pursuant to pretrial release guidelines, a magistrate must, within twenty-four hours of the release, or as soon as practicable on the next subsequent working day of the court, either approve in writing of the release, or disapprove of the release and issue a warrant for the person's arrest.

2. *a.* When the offense is bailable, the magistrate shall fix bail at the amount endorsed on the warrant unless the bail set on the warrant is less than that specified on the bond schedule, and shall give due consideration to other conditions stipulated on the warrant for the defendant's appearance in the court that issued the warrant; if such person is not released on bail, the magistrate must redeliver the warrant to the officer, and the officer shall retain custody of the arrested person until the person's removal to appear before the magistrate who issued the warrant.

b. In fixing bail, the magistrate shall not set bail at an amount that is less than, or a percentage of, that on the uniform bond schedule, unless the magistrate provides justification, pursuant to section 811.2, subsection 2, for the deviation in writing.

3. If the magistrate who issued the warrant is absent or unable to act, the arrested person shall be taken to the nearest or most accessible magistrate in the judicial district where the offense occurred or a magistrate in an approved judicial district, and all documents on which the warrant was issued must be sent to such magistrate, or if they cannot be procured, the informant and the informant's witnesses must be subpoenaed to make new affidavits. For purposes of this subsection, an *"approved judicial district"* means, as to any particular arrest of a person described in this subsection, any judicial district in this state in which the chief judge of that judicial district and the chief judge of the judicial district in which the offense occurred have previously entered an order permitting a person arrested or described in this subsection to be taken to a magistrate from any judicial district subject to the order.

4. A defendant is only eligible to be released on the defendant's own recognizance if the defendant has been charged with a nonviolent, nondrug simple or serious misdemeanor or to receive necessary medical attention. A defendant released for necessary medical attention shall be returned to the custody of a law enforcement agency once the defendant is medically cleared and fit for confinement.

5. *a.* The judicial council shall promulgate rules and bond levels to be contained within a bond schedule for the release of an arrested person.

b. The bond schedule shall not be used if the person was arrested for a violation of section 708.6, section 724.26, subsection 1, or a forcible felony. In determining any conditions of release, a magistrate shall provide justification pursuant to section 811.2, subsection 2, in writing.

6. This section does not prevent the release of the arrested person pending initial appearance upon the furnishing of bail in the amount endorsed on the warrant. The initial

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appearance of a person so released shall be scheduled for a time not more than thirty days after the date of release.

[C51, §2831 – 2836; R60, §4539 – 4544, 4565; C73, §4191 – 4196, 4217; C97, §5187 – 5192, 5207; C24, 27, 31, 35, 39, §**13480 – 13487;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §757.1 – 757.8; C79, 81, §804.21]

83 Acts, ch 50, §2, 3, 7; 83 Acts, ch 51, §5, 9; 89 Acts, ch 83, §85; 98 Acts, ch 1115, §18; 2000 Acts, ch 1032, §4; 2005 Acts, ch 15, §7, 14; 2005 Acts, ch 174, §21, 25; 2017 Acts, ch 69, §49; 2026 Acts, ch 1159, §1, 2

Referred to in §708.11, 804.25, 811.2
Subsections 2 and 4 amended
Subsection 5, paragraph b amended

804.22 Initial appearance before magistrate — arrest without warrant.

1. When an arrest is made without a warrant, the person arrested shall, without unnecessary delay, be taken before the nearest or most accessible magistrate in the judicial district in which such arrest was made or before a magistrate in an approved judicial district, and the grounds on which the arrest was made shall be stated to the magistrate by complaint, subscribed and sworn to by the complainant, or supported by the complainant's affirmation, and such magistrate shall proceed as follows:

a. If the magistrate believes from such complaint that the offense charged is triable in the magistrate's court, the magistrate shall proceed with the case.

b. If the magistrate believes from such complaint that the offense charged is triable in another court, the magistrate shall by written order, commit the person arrested to a peace officer, to be taken before the appropriate magistrate in the district in which the offense is triable, and shall fix the amount of bail or other conditions of release which the person arrested may give for the person's appearance at the other court.

2. *a.* In determining conditions of release, a magistrate shall not set bail at an amount that is less than, or a percentage of, that on the uniform bond schedule, or otherwise release a defendant, unless the magistrate provides justification pursuant to section 811.2, subsection 2, in writing.

b. This section and the rules of criminal procedure do not affect the provisions of chapter 805 authorizing the release of a person on citation or bail prior to initial appearance, unless the person is charged with manufacture, delivery, possession with intent to manufacture or deliver, or distribution of methamphetamine. The initial appearance of a person so released shall be scheduled for a time not more than thirty days after the date of release.

3. For purposes of this section, an "*approved judicial district*" means, as to any particular arrest of a person made without a warrant, any judicial district in this state in which the chief judge of that judicial district and the chief judge of the judicial district in which the arrest was made have previously entered an order permitting a person arrested without warrant to be taken to a magistrate from any judicial district subject to the order.

[R60, §4566, 4567, 4569; C73, §4218, 4219, 4221; C97, §5208, 5209, 5211; C24, 27, 31, 35, 39, §**13488, 13489, 13492;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §758.1, 758.2, 758.5; C79, 81, §804.22]

83 Acts, ch 50, §4, 7; 98 Acts, ch 1115, §19, 20; 2000 Acts, ch 1032, §5; 2005 Acts, ch 15, §8, 14; 2005 Acts, ch 174, §22, 25; 2013 Acts, ch 30, §218; 2026 Acts, ch 1159, §3

Referred to in §804.21, 804.25
Proceedings before magistrate, see R.Cr.P. 2.2
Subsection 2 amended

804.23 Initial appearance of arrested material witness before magistrate.

1. The officer shall, without unnecessary delay, take the person arrested pursuant to section 804.11 before the nearest or most accessible magistrate to the place where the arrest occurred.

2. At the appearance before the magistrate, the law enforcement officer shall make a showing to the magistrate, by sworn affidavit, that probable cause exists to believe that a person is a necessary and material witness to a felony and that such person might be

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unavailable for service of a subpoena. The magistrate may order the person released pursuant to section 811.2.

[C51, §2876 – 2879; R60, §4601 – 4604; C73, §4248 – 4251; C97, §5232 – 5235; C24, 27, 31, 35, 39, §**13547 – 13550;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §761.21 – 761.24; C79, 81, §804.23]

2018 Acts, ch 1041, §127

Referred to in §804.21

Proceedings before magistrate, see R.Cr.P. 2.2

804.24 Arrests by private persons — disposition of prisoner.

A private citizen who has arrested another for the commission of an offense must, without unnecessary delay, take the arrested person before a magistrate, or deliver the arrested person to a peace officer, who may take the arrested person before a magistrate, but the person making the arrest must also accompany the officer before the magistrate.

[C51, §2842, 2849; R60, §4562 – 4564; C73, §4214-4216; C97, §5206; C24, 27, 31, 35, 39, §**13478;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §755.14; C79, 81, §804.24]

Referred to in §815.8

804.25 Bail — discharge.

Any magistrate who receives bail as provided for in sections 804.21, subsection 2, and 804.22, subsection 1, paragraph *"b"*, shall endorse, on the order of commitment or on the warrant, an order for the discharge from custody of the arrested person, who shall forthwith be discharged, and shall transmit by mail, or otherwise, as soon as it can be conveniently done, to the court at which the person is bound to appear, the affidavits, order of commitment or warrant, and discharge, together with the undertaking of bail.

[C51, §2833; R60, §4541, 4570; C73, §4193, 4222; C97, §5189, 5212; C24, 27, 31, 35, 39, §**13483, 13493;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §757.4, 758.6; C79, 81, §804.25]

2013 Acts, ch 30, §254

Order for discharge upon bail, see R.Cr.P. 2.37 – Forms 2 and 3

804.26 Officer's return.

In all cases, the peace officer, when the officer takes a person committed to the officer under an order as provided in this chapter before a magistrate, either for the purpose of giving bail, if bail be taken, or for trial or preliminary examination, must make a return on such order, and sign such return with the officer's name of office, and deliver the same to the magistrate.

[R60, §4573; C73, §4225; C97, §5215; C24, 27, 31, 35, 39, §**13496;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §758.9; C79, 81, §804.26]

804.27 Conveying prisoner to jail — fees and expenses.

Every officer or person who shall arrest anyone with a warrant or order issued by any court or officer, or who shall be required to convey a prisoner to such jail on an order of commitment, may be allowed the same fees and expenses as provided for in case of such services by the sheriff.

[C73, §3820; C97, §1292; C24, 27, 31, 35, 39, §**13479;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §755.15; C79, 81, §804.27]

804.28 Department of public safety prisoners.

The sheriff of any county shall accept for custody in the county jail of the sheriff's respective county any person handed over to the sheriff for safekeeping and lodging by any member of the department of public safety. The county shall not be liable for medical treatment for injuries incurred by a person before the person is transferred to the custody of the sheriff. Any expenses payable by the state pursuant to this section shall be paid out of any moneys in the state treasury not otherwise appropriated. The expenses shall be paid on claims filed with the department of administrative services.

[C39, §**13479.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §755.16; C79, 81, §804.28]

98 Acts, ch 1086, §4; 2003 Acts, ch 145, §286

Referred to in §331.653, 356.15

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804.29 Confidentiality.

1. Unless otherwise ordered by the court, all information filed with the court for the purpose of securing a warrant for an arrest, including but not limited to a citation and affidavits, shall be a confidential record until such time as a peace officer has made the arrest and has made the officer's return on the warrant, or the defendant has made an initial appearance in court. During the period of time that information is confidential, the record shall be sealed by the court and the information contained in the record shall not be disseminated to any person unless otherwise ordered by the court.

2. However, during the period of confidentiality in subsection 1, the information in the record may be disseminated, without court order, during the course of official duties to the following persons unless access to such information is expressly denied by court order:

a. A peace officer, or any other employee of a law enforcement agency if allowed access pursuant to section 692.14 and if authorized in writing by the head of the agency.

b. An employee of the county attorney's office.

c. A judicial officer or other court employees.

d. An employee of the department of corrections, if authorized by the director of the department of corrections, or an employee of a judicial district department of correctional services, if authorized by the director of the judicial district department of correctional services.

e. A court-appointed attorney in a specific case where an arrest warrant has been issued but not served, provided the defendant is in custody and subject to a hold for that arrest warrant.

f. A probation officer employed by the United States, acting pursuant to 18 U.S.C. §3602.

[C79, 81, §804.29]

2006 Acts, ch 1048, §1; 2012 Acts, ch 1075, §1; 2013 Acts, ch 4, §1; 2020 Acts, ch 1060, §1; 2021 Acts, ch 11, §3; 2024 Acts, ch 1017, §1

Confidentiality of search warrant information, see §808.13

804.30 Strip searches and visual strip searches of persons arrested for scheduled violations or simple misdemeanors.

1. *a.* A person arrested for a simple misdemeanor who is housed in the general population of a county jail or municipal holding facility may be subject to a visual strip search. Such a person may be subject to a strip search if there is probable cause to believe that the person is concealing a weapon or contraband and written authorization of the supervisor on duty is obtained.

b. (1) A person arrested for a simple misdemeanor who is not housed in the general population of a county jail or municipal holding facility shall not be subjected to either a strip search or a visual strip search unless there is probable cause to believe that the person is concealing a weapon or contraband, and written authorization of the supervisor on duty is obtained.

(2) A person arrested for a scheduled violation who is not housed in the general population of a county jail or municipal holding facility shall not be subject to either a strip search or a visual strip search unless there is probable cause to believe that the person is concealing a weapon or contraband, and a search warrant is obtained.

c. A strip search conducted pursuant to this section that involves the physical probing of a body cavity, other than the mouth, ears, or nose, shall require a search warrant and shall only be performed by a licensed physician unless voluntarily waived in writing by the arrested person.

2. Any person arrested for a scheduled violation or a simple misdemeanor may be subjected to a search probing the mouth, ears, or nose.

3. All searches conducted pursuant to this section shall be performed under sanitary conditions.

4. All searches conducted pursuant to this section, except for the probing of the mouth, ears, or nose, shall be conducted in a place where the search cannot be observed by persons not conducting the search.

5. All searches conducted pursuant to this section shall be conducted by a person of the

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same sex as the arrested person, except for the probing of the mouth, ears, or nose, unless the search is conducted by a physician.

6. Subsequent to a strip search pursuant to this section, a written report shall be prepared which includes the written authorization required by this section, the name of the person subjected to the search, the names of the persons conducting the search, the time, date, and place of the search, and a copy of the search warrant, if applicable authorizing the search. A copy of the report shall be provided to the person searched.

[C81, §804.30]

2013 Acts, ch 30, §219; 2015 Acts, ch 71, §2

804.31 Arrest of deaf or hard-of-hearing person — use of interpreters — fee.

1. When a person is detained for questioning or arrested for an alleged violation of a law or ordinance and there is reason to believe that the person is deaf or hard of hearing, the peace officer making the arrest or taking the person into custody or any other officer detaining the person shall determine if the person is a deaf or hard-of-hearing person as defined in section 622B.1. If the officer so determines, the officer, at the earliest possible time and prior to commencing any custodial interrogation of the person, shall procure a qualified interpreter in accordance with section 622B.2 and the rules adopted by the supreme court under section 622B.1 unless the deaf or hard-of-hearing person knowingly, voluntarily, and intelligently waives the right to an interpreter in writing by executing a form prescribed by the department of health and human services and the Iowa county attorneys association. The interpreter shall interpret the officer's warnings of constitutional rights and protections and all other warnings, statements, and questions spoken or written by any officer, attorney, or other person present and all statements and questions communicated in sign language by the deaf or hard-of-hearing person.

2. This section does not prohibit the request for and administration of a preliminary breath screening test or the request for and administration of a chemical test of a body substance or substances under chapter 321J prior to the arrival of a qualified interpreter for a deaf or hard-of-hearing person who is believed to have committed a violation of section 321J.2. However, upon the arrival of the interpreter the officer who requested the chemical test shall explain through the interpreter the reason for the testing, the consequences of the person's consent or refusal, and the ramifications of the results of the test, if one was administered.

3. When an interpreter is not readily available and the deaf or hard-of-hearing person's identity is known, the person may be released by the law enforcement agency into the temporary custody of a reliable family member or other reliable person to await the arrival of the interpreter, if the person is eligible for release on bail and is not believed to be an immediate threat to the person's own safety or the safety of others.

4. An answer, statement, or admission, oral or written, made by a deaf or hard-of-hearing person in reply to a question of a law enforcement officer or any other person having a prosecutorial function in a criminal proceeding is not admissible in court and shall not be used against the deaf or hard-of-hearing person if that answer, statement, or admission was not made or elicited through a qualified interpreter, unless the deaf or hard-of-hearing person had waived the right to an interpreter pursuant to this section. In the event of a waiver and criminal proceeding, the court shall determine whether the waiver and any subsequent answer, statement, or admission made by the deaf or hard-of-hearing person were knowingly, voluntarily, and intelligently made.

5. When communication occurs with a person through an interpreter pursuant to this section, all questions or statements and responses shall be relayed through the interpreter. The role of the interpreter is to facilitate communication between the hearing and deaf or hard-of-hearing parties. An interpreter shall not be compelled to answer any question or respond to any statement that serves to violate that role at the time of questioning or arrest or at any subsequent administrative or judicial proceeding.

6. An interpreter procured under this section shall be paid a reasonable fee and expenses

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by the governmental subdivision funding the law enforcement agency that procured the interpreter.

84 Acts, ch 1264, §1; 85 Acts, ch 131, §2; 86 Acts, ch 1220, §42; 88 Acts, ch 1134, §115; 93 Acts, ch 75, §14; 2016 Acts, ch 1011, §121; 2023 Acts, ch 19, §1318; 2023 Acts, ch 64, §100

804.32 Warrant resolution clinics prohibited.

1. As used in this section, *"warrant resolution clinic"* means a prearranged, formal or informal, advertised event designed to allow individuals with outstanding arrest warrants to appear and resolve such warrants without being subject to immediate arrest and custodial processing.

2. An entity, organization, county attorney, law enforcement agency, judicial officer, nonprofit organization, or any other person shall not organize, sponsor, host, fund, promote, or participate in a warrant resolution clinic.

3. A person who has an outstanding warrant for the person's arrest shall only resolve such warrant by any of the following:

a. Surrendering to a peace officer or at a law enforcement agency.

b. Appearing at a scheduled court hearing as directed by a magistrate or judge under standard judicial procedures.

c. Through a written or oral motion made in an individual, pending case, with notice provided to the prosecuting attorney, and ruled on by the court under standard judicial procedures in the ordinary course of the case, and not as part of any event, program, or arrangement prohibited by this section.

4. The use of public funds or facilities for the purpose of hosting a warrant resolution clinic is strictly prohibited.

5. A person shall not evade or attempt to evade the prohibitions of this section by conducting a substantially equivalent program, event, or arrangement under a different name, structure, or designation. A program, event, or arrangement is substantially equivalent if its primary purpose or practical effect is to allow individuals with outstanding arrest warrants to appear and resolve those warrants without being subject to immediate arrest and custodial processing. Evidence that a program is substantially equivalent includes but is not limited to:

a. Block-scheduling or clustering warrant cases on a single docket day with an explicit or implicit understanding that attending individuals will not be subject to immediate arrest.

b. Advertising or communicating to individuals with outstanding warrants that they may appear at a particular time and place to resolve warrants without risk of arrest.

c. Coordinating between law enforcement, court personnel, attorneys, or community organizations to facilitate noncustodial warrant resolution outside of standard judicial procedures.

6. A violation of this section is subject to the following penalties:

a. (1) A public official or employee who knowingly violates this section commits a simple misdemeanor.

(2) In addition to the penalty provided in subparagraph (1), a public official or employee who knowingly violates this section is also subject to removal from office or employment pursuant to applicable law.

b. A private person that knowingly organizes, sponsors, hosts, or funds a warrant resolution clinic or substantially equivalent program in violation of this section commits a simple misdemeanor and is also subject to a civil penalty of not more than ten thousand dollars per violation, recoverable by the attorney general in an action in district court.

7. Any person may report a suspected violation of this section to the office of the attorney general. Upon receipt of a report or upon the attorney general's own initiative, the attorney general may investigate suspected violations and may bring a civil enforcement action in district court seeking injunctive relief, civil penalties as provided in subsection 6, and recovery of costs and reasonable attorney fees. The attorney general shall establish a procedure for receiving and reviewing reports under this subsection and shall make such procedure publicly available.

8. Any resident of a county in which a warrant resolution clinic or substantially equivalent

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program is conducted or planned in violation of this section may bring a civil action in district court to do any of the following:

a. Obtain injunctive or declaratory relief to prevent or restrain the violation.

b. Recover actual damages, if any.

c. Recover reasonable attorney fees and court costs if the plaintiff substantially prevails.

9. In addition to any other penalty, any county organizing, sponsoring, hosting, funding, promoting, or participating in a warrant resolution clinic shall not receive any funds having their origin in court debt, as defined in section 602.8107, including but not limited to fees or remittances arising from or related to the collection of past due fines and fees constituting court debt.

10. This section preempts and supersedes any ordinance, resolution, policy, rule, or other action by a city, county, or other political subdivision of this state that authorizes, permits, funds, or facilitates a warrant resolution clinic or any substantially equivalent program, event, or arrangement as described in this section. No political subdivision of this state shall enact or enforce any provision that conflicts with or purports to authorize conduct prohibited by this section.

2026 Acts, ch 1197, §1, 2
NEW section

CHAPTER 805

CITATIONS IN LIEU OF ARREST

Referred to in §100.41, 664A.3, 801.1, 804.22

POLICE CITATIONS

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POLICE CITATIONS

805.1 Issuance of citation — release.

1. Except for an offense for which an accused would not be eligible for bail under section 811.1 or a violation of section 708.11, a peace officer having grounds to make an arrest may issue a citation in lieu of making an arrest without a warrant or, if a warrantless arrest has been made, a citation may be issued in lieu of continued custody.

2. The citation procedure for traffic and other violations designated as scheduled violations is governed by sections 805.6 through 805.15.

3. *a.* State and local law enforcement agencies in the state of Iowa may cooperate to formulate uniform guidelines that will provide for the maximum possible use of citations in lieu of arrest and in lieu of continued custody for offenses for which citations are authorized. These guidelines shall be submitted to the Iowa law enforcement academy council for

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review. The Iowa law enforcement academy council shall then submit recommendations to the general assembly no later than January 1, 1984.

b. Factors to be considered by the agencies in formulating the guidelines relating to the issuance of citations for simple misdemeanors not governed by subsection 2, shall include but shall not be limited to all of the following:

(1) Whether a person refuses or fails to produce means for a satisfactory identification.

(2) Whether a person refuses to sign the citation.

(3) Whether detention appears reasonably necessary in order to halt a continuing offense or disturbance or to prevent harm to a person or persons.

(4) Whether a person appears to be under the influence of intoxicants or drugs and no one is available to take custody of the person and be responsible for the person's safety.

(5) Whether a person has insufficient ties to the jurisdiction to assure that the person will appear or it reasonably appears that there is a substantial likelihood that the person will refuse to appear in response to a citation.

(6) Whether a person has previously failed to appear in response to a citation or after release on pretrial release guidelines.

c. Additional factors to be considered in the formulation of guidelines relating to the issuance of citations for other offenses for which citations are authorized shall include but shall not be limited to all of the following concerning the person:

(1) Place and length of residence.

(2) Family relationships.

(3) References.

(4) Present and past employment.

(5) Criminal record.

(6) Nature and circumstances of the alleged offense.

(7) Other facts relevant to the likelihood of the person's response to a citation.

4. The issuance of a citation in lieu of arrest or in lieu of continued custody does not affect the officer's authority to conduct an otherwise lawful search. The issuance of a citation in lieu of arrest shall be deemed an arrest for the purpose of the speedy indictment requirements of rule of criminal procedure 2.33(2)(a), Iowa court rules.

5. Even if a citation is issued, the officer may take the cited person to an appropriate medical facility if it reasonably appears that the person needs care.

6. When a citation is not issued for an offense for which a citation is authorized, the arrested person may be released pending initial appearance on bail or on other conditions determined by pretrial release guidelines. When an arrested person furnishes bail, the officer then in charge of the place of detention shall secure it in safekeeping and shall see that it is forwarded to the office of the clerk of court during the clerk's next regular business day.

7. When the offense is one for which a citation is not authorized, the person does not qualify for release under pretrial release guidelines and the person cannot be released under a bond schedule, the person may be released on bail or otherwise only after initial appearance before a magistrate as provided in chapter 804 and the rules of criminal procedure.

[C73, 75, 77, §753.5; C79, 81, §805.1]

83 Acts, ch 51, §6, 9; 87 Acts, ch 149, §6; 88 Acts, ch 1158, §99; 88 Acts, ch 1167, §6; 94 Acts, ch 1093, §5; 2001 Acts, ch 24, §60; 2002 Acts, ch 1119, §109

Referred to in §364.17
Arrest, see §804.1, 804.7
Uniform citation, see §805.6
Persons under eighteen years; see §805.16

805.2 Form.

The citation shall include the name and address of the person, the nature of the offense, the time and place at which the person is to appear in court, and the penalty for nonappearance.

[C73, 75, 77, §753.6; C79, 81, §805.2]

Referred to in §364.17, 805.6

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805.3 Procedure.

Before the cited person is released, the person shall sign the citation, either in a paper or electronic format, under penalty of providing false identification information under section 719.1A, properly identifying the person cited. The person's signature shall also serve as a written promise to appear in court at the time and place specified. A copy of the citation shall be given to the person.

[C73, 75, 77, §753.7; C79, 81, §805.3]

95 Acts, ch 81, §1; 95 Acts, ch 118, §34; 2010 Acts, ch 1078, §3

Referred to in §364.17, 805.6

805.4 Complaint.

The law enforcement officer issuing the citation shall cause to be filed a complaint in the court in which the cited person is required to appear, as soon as practicable, charging the crime stated in said notice.

[C73, 75, 77, §753.8; C79, 81, §805.4]

Referred to in §364.17

Contents and procedures, see §804.1; R.Cr.P. 2.54 – 2.56

805.5 Failure to appear.

Any person who willfully fails to appear in court as specified by the citation shall be guilty of a simple misdemeanor. Where a defendant fails to make a required court appearance, the court shall issue an arrest warrant for the offense of failure to appear, and shall forward the warrant and the original or electronically produced citation to the clerk. The clerk shall enter a transfer to the issuing agency on the docket, and shall return the warrant with the original or electronically produced citation attached to the law enforcement agency which issued the citation for enforcement of the warrant. Upon arrest of the defendant, the warrant and the original or electronically produced citation shall be returned to the court, and the offenses shall be heard and disposed of simultaneously.

[C73, 75, 77, §753.9; C79, 81, §805.5]

95 Acts, ch 118, §35; 96 Acts, ch 1034, §65

Referred to in §364.17, 602.8102(126)

TRAFFIC AND SCHEDULED VIOLATIONS

Surcharge on penalty, chapter 911

805.6 Uniform citation and complaint.

1. *a.* The commissioner of public safety, the director of transportation, and the director of the department of natural resources, acting jointly, shall adopt a uniform, combined citation and complaint which shall be used for charging all traffic violations in Iowa under state law or local regulation or ordinance, and which shall be used for charging all other violations which are designated by sections 805.8A, 805.8B, and 805.8C to be scheduled violations. This subsection does not prevent the charging of any of those violations by information, by private complaint filed under chapter 804, or by a simple notice of fine where permitted by section 321.236, subsection 1.

b. In addition to those violations which are required by paragraph *"a"* to be charged upon a uniform citation and complaint, a violation of chapter 321 which is punishable as a simple, serious, or aggravated misdemeanor may be charged upon a uniform citation and complaint, whether or not the alleged offender is arrested by the officer making the charge.

2. Each uniform citation and complaint shall be serially numbered and shall be in quintuplicate, and the officer shall deliver the original and a copy to the court where the defendant is to appear, two copies to the defendant, and a copy to the law enforcement agency of the officer. Notwithstanding other contrary requirements of this section, a uniform citation and complaint may be originated from a computerized device. The officer issuing the citation through a computerized device shall electronically sign and date the citation or complaint and shall obtain electronically the signature of the person cited as provided in section 805.3 and shall give two copies of the citation to the person cited and shall provide

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a record of the citation to the court where the person cited is to appear and to the law enforcement agency of the officer by an electronic process which accurately reproduces or forms a durable medium for accurately and legibly reproducing an unaltered image or copy of the citation. If the uniform citation and complaint is created electronically, the issuing agency shall cause the uniform citation and complaint to be transmitted to the court, and the officer shall deliver a document to the defendant which contains a section for the defendant and a section which may be sent to the court. The court shall forward an abstract of the uniform citation and complaint in accordance with section 321.491 when applicable.

3. *a.* (1) The uniform citation and complaint shall contain spaces for the following:

(a) The parties' names.

(b) The address of the alleged offender.

(c) The registration number of the offender's vehicle.

(d) The information required by section 805.2.

(e) A warning which states:

> I hereby swear and affirm that the information provided by me on this citation is true under penalty of providing false information.

(f) A statement that providing false identification information is a violation of section 719.1A.

(g) A list of the scheduled fines prescribed by sections 805.8A, 805.8B, and 805.8C, either separately or by group, and a statement of the court costs payable in scheduled violation cases, whether or not a court appearance is required or is demanded.

(h) A brief explanation of sections 805.9 and 805.10.

(i) A space where the defendant may sign an admission of the violation when permitted by section 805.9.

(2) The uniform citation and complaint shall require that the defendant appear before a court at a specified time and place.

(3) The uniform citation and complaint also may contain a space for the imprint of a credit card, and may contain any other information which the commissioner of public safety, the director of transportation, and the director of the department of natural resources may determine.

b. The uniform citation and complaint shall also contain the following:

(1) A promise to appear as provided in section 805.3.

(2) The following statement:

> I hereby give my unsecured appearance bond in the amount of ..... dollars and enter my written appearance. I agree that if I fail to appear in person or by counsel to defend against the offense charged in this citation the court is authorized to enter a conviction and render judgment against me for the amount of my appearance bond in satisfaction of the penalty plus court costs.

(3) A space immediately below the items in subparagraphs (1) and (2) for the signature of the person being charged which shall serve for each of the items in subparagraphs (1) and (2).

(4) A place for citing a person in violation of section 453A.2, subsection 2.

c. The uniform citation and complaint shall contain a place for the verification of the officer issuing the complaint. The complaint may be verified before the chief officer of the law enforcement agency, or the chief officer's designee. The chief officer of each law enforcement agency of the state may designate specific individuals to administer oaths and certify verifications.

4. Unless the officer issuing the citation arrests the alleged offender, or permits admission or requires submission of bail as provided in section 805.9, subsection 3, the officer shall enter in the blank contained in the statement required by subsection 3, paragraph *"b"*, one of the following amounts and shall require the person to sign the written appearance:

a. If the offense is one to which an assessment of a minimum fine is applicable and the entry is otherwise not prohibited by this section, an amount equal to one and one-half times

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the minimum fine and applicable surcharge assessed pursuant to chapter 911, plus court costs.

b. If the offense is one to which a scheduled fine is applicable, an amount equal to one and one-half times the scheduled fine and applicable surcharge assessed pursuant to chapter 911, plus court costs.

c. If the violation is for any offense for which a court appearance is mandatory, and an assessment of a minimum fine is not applicable, the amount of one hundred dollars and applicable surcharge assessed pursuant to chapter 911, plus court costs.

5. The written appearance defined in subsection 3, paragraph *"b"*, shall not be used for any offense other than a simple misdemeanor.

6. The filing fees and court costs in cases of parking meter and overtime parking violations which are denied are as stated in section 602.8106, subsection 1. The court costs in scheduled violation cases where a court appearance is not required are as stated in section 602.8106, subsection 1. The court costs in scheduled violation cases where a court appearance is required are as stated in section 602.8106, subsection 1.

7. Supplies of the uniform citation and complaint for municipal corporations and county agencies shall be paid for out of the budget of the municipal corporation or county receiving the fine resulting from use of the citation and complaint. Supplies of the uniform citation and complaint form used by other agencies shall be paid for out of the budget of the agency concerned and not out of the budget of the judicial branch.

8. The commissioner of public safety and the director of the department of natural resources, acting jointly, shall design and publish a compendium of scheduled violations and scheduled fines, containing other information which they deem appropriate, and shall distribute copies to all courts and law enforcement officers and agencies of the state upon request. The cost of the publication shall be paid out of the budget of the department of public safety and out of the budget of the department of natural resources, each budget being liable for half of those costs. Copies shall be made available to individuals upon request, and a charge may be collected which does not exceed the cost of printing.

9. Supplies of uniform citation and complaint forms existing or on order on July 1, 2010, may be used until exhausted.

[C73, 75, 77, §753.13; C79, 81, §805.6]

83 Acts, ch 123, §201, 209; 83 Acts, ch 204, §8, 9; 85 Acts, ch 197, §40, 41; 86 Acts, ch 1237, §44; 86 Acts, ch 1238, §31; 89 Acts, ch 167, §1; 89 Acts, ch 296, §90; 90 Acts, ch 1170, §5; 90 Acts, ch 1230, §93; 91 Acts, ch 116, §21; 94 Acts, ch 1074, §15, 16; 95 Acts, ch 81, §2 – 5; 95 Acts, ch 118, §36; 98 Acts, ch 1047, §66; 98 Acts, ch 1178, §13; 2000 Acts, ch 1105, §9; 2000 Acts, ch 1131, §1 – 3; 2001 Acts, ch 6, §1; 2001 Acts, ch 137, §5; 2003 Acts, ch 6, §5; 2007 Acts, ch 33, §3; 2007 Acts, ch 215, §259; 2009 Acts, ch 130, §16, 42; 2010 Acts, ch 1069, §63; 2010 Acts, ch 1078, §4, 5; 2010 Acts, ch 1193, §66, 67, 79; 2013 Acts, ch 30, §168; 2017 Acts, ch 167, §23

Referred to in §9B.17, 321.236, 321.485, 331.424, 602.8102(126A), 805.1, 805.8A(1)(a), 805.8A(12)(e), 805.15

805.7 Traffic and scheduled violations offices — fine collection boxes.

1. *Offices.* Each district court clerk's office shall constitute a traffic and scheduled violations office of the district court. Additional offices may be established at other locations, as needed, if authorized by the chief judge of the district.

2. *Collection boxes.* The chief judge of the district may permit the maintenance of locked collection boxes to be used at weigh stations and other locations where vehicles are inspected and weighed with portable scales. The boxes shall be used solely for the deposit of fines, costs, and guaranteed arrest bond certificates received for scheduled violations applicable to commercial carriers. The collection boxes shall remain locked at all times and shall be opened only by the clerk of the district court or the clerk's designee. The chief judge of the district may prescribe procedures for the system and may discontinue its use if necessary.

[C73, 75, 77, §753.14; C79, 81, §805.7]

89 Acts, ch 296, §91

Referred to in §602.8102(127), 805.1, 805.8A(12)(e), 805.15

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805.8 Scheduled violations.

1. *Application.* Except as otherwise indicated, violations of sections of the Code specified in sections 805.8A, 805.8B, and 805.8C are scheduled violations, and the scheduled fine for each of those violations is as provided in those sections, whether the violation is of state law or of a county or city ordinance. The crime services surcharge required by section 911.1 shall be added to the scheduled fine.

2. *Description of violations.* The descriptions of offenses used in sections 805.8A, 805.8B, and 805.8C are for convenience only and shall not be construed to define any offense or to include or exclude any offense other than those specifically included or excluded by reference to the Code. A reference to a section or subsection of the Code without further limitation includes every offense defined by that section or subsection.

[C73, 75, 77, §753.15; C79, 81, §805.8; 81 Acts, ch 49, §14, ch 103, §9, ch 109, §2, ch 110, §4; 82 Acts, ch 1028, §37 – 39, ch 1104, §26]

82 Acts, ch 1062, §33, 38; 83 Acts, ch 58, §2; 83 Acts, ch 125, §6 – 8; 84 Acts, ch 1016, §5; 84 Acts, ch 1174, §5; 84 Acts, ch 1219, §37; 85 Acts, ch 40, §5; 85 Acts, ch 195, §62; 86 Acts, ch 1007, §41; 86 Acts, ch 1116, §6; 86 Acts, ch 1221, §3; 87 Acts, ch 120, §9; 87 Acts, ch 170, §19; 87 Acts, ch 219, §6; 88 Acts, ch 1222, §11; 89 Acts, ch 84, §3; 89 Acts, ch 184, §2, 3; 89 Acts, ch 247, §19; 90 Acts, ch 1102, §2; 90 Acts, ch 1151, §9; 90 Acts, ch 1170, §6; 90 Acts, ch 1189, §4; 90 Acts, ch 1216, §1 – 4; 90 Acts, ch 1230, §94; 92 Acts, ch 1122, §3; 92 Acts, ch 1149, §3; 92 Acts, ch 1175, §40, 41; 92 Acts, ch 1216, §12; 92 Acts, ch 1231, §64; 93 Acts, ch 38, §3; 93 Acts, ch 47, §10 – 13; 93 Acts, ch 114, §3; 94 Acts, ch 1023, §121; 94 Acts, ch 1147, §2; 94 Acts, ch 1172, §60, 61; 95 Acts, ch 48, §22; 96 Acts, ch 1042, §2; 96 Acts, ch 1079, §20, 21; 96 Acts, ch 1090, §14 – 18; 97 Acts, ch 74, §4; 97 Acts, ch 104, §58, 59; 97 Acts, ch 108, §47, 48; 97 Acts, ch 126, §48; 97 Acts, ch 139, §15, 17 – 19; 97 Acts, ch 141, §2; 97 Acts, ch 147, §8, 9; 98 Acts, ch 1073, §9, 12; 98 Acts, ch 1075, §31; 98 Acts, ch 1100, §82 – 86; 98 Acts, ch 1112, §13, 16; 98 Acts, ch 1121, §7 – 9; 98 Acts, ch 1178, §14; 98 Acts, ch 1204, §4 – 6; 97 Acts, ch 139, §16, 19; 99 Acts, ch 13, §26; 99 Acts, ch 77, §3; 2000 Acts, ch 1016, §28; 2000 Acts, ch 1105, §10, 11; 2000 Acts, ch 1134, §6; 2000 Acts, ch 1203, §25 – 35; 2000 Acts, ch 1206, §6; 2001 Acts, ch 24, §61; 2001 Acts, ch 137, §1; 2004 Acts, ch 1111, §4; 2004 Acts, ch 1119, §6; 2020 Acts, ch 1074, §15, 93

Referred to in §232.8, 805.1, 805.8A(12)(e), 805.9, 805.15, 903.1

805.8A Motor vehicle and transportation scheduled violations.

1. *Parking violations.*

a. For parking violations under sections 321.236, 321.239, 321.358, 321.360, and 321.361, the scheduled fine is five dollars, except if the local authority has established the fine by ordinance. The scheduled fine for a parking violation pursuant to section 321.236 increases by five dollars if authorized by ordinance and if the parking violation is not paid within thirty days of the date upon which the violation occurred. For purposes of calculating the unsecured appearance bond required under section 805.6, the scheduled fine shall be five dollars, or if the amount of the fine is greater than five dollars, the unsecured appearance bond shall be the amount of the fine established by the local authority. However, violations charged by a city or county upon simple notice of a fine instead of a uniform citation and complaint required by section 321.236, subsection 1, paragraph *"b"*, are not scheduled violations, and this section shall not apply to any offense charged in that manner. For a parking violation under section 461A.38, the scheduled fine is ten dollars. For a parking violation under section 321.362, the scheduled fine is twenty dollars.

b. For a parking violation under section 321L.2A, subsection 2, the scheduled fine is twenty dollars.

c. For violations under section 321L.2A, subsection 3, section 321L.3, section 321L.4, subsection 2, and section 321L.7, the scheduled fine is two hundred dollars.

2. *Title and registration violations.* For title or registration violations under the following sections, the scheduled fine is as follows:

a. Section 321.17 ..... $ 70.
b. Section 321.24 ..... $135.
c. Section 321.25 ..... $135.

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d. Section 321.32 ..... $ 30.
e. Section 321.34 ..... $ 30.
f. Section 321.37 ..... $ 30.
g. Section 321.38 ..... $ 30.
h. Section 321.41 ..... $ 30.
i. Section 321.45 ..... $135.
j. Section 321.46 ..... $135.
k. Section 321.47 ..... $135.
l. Section 321.48 ..... $135.
m. Section 321.52 ..... $135.
n. Section 321.55 ..... $ 70.
o. Section 321.57 ..... $135.
p. Section 321.62 ..... $135.
q. Section 321.67 ..... $135.
r. Section 321.98 ..... $ 70.
s. Section 321.99 ..... $260.
t. Section 321.104 ..... $135.
u. Section 321.115 ..... $ 45.
v. Section 321.115A ..... $ 45.

3. *Equipment violations.* For equipment violations under the following sections, the scheduled fine is as follows:

a. Section 321.234A ..... $ 70.
b. Section 321.247 ..... $135.
c. Section 321.317 ..... $ 30.
d. Section 321.381 ..... $135.
e. Section 321.381A ..... $135.
f. Section 321.382 ..... $ 35.
g. Section 321.383, subsection 4 ..... $ 45.
h. Section 321.384 ..... $ 45.
i. Section 321.385 ..... $ 45.
j. Section 321.386 ..... $ 45.
k. Section 321.387 ..... $ 30.
l. Section 321.388 ..... $ 30.
m. Section 321.389 ..... $ 30.
n. Section 321.390 ..... $ 30.
o. Section 321.392 ..... $ 30.
p. Section 321.393 ..... $ 30.
q. Section 321.398 ..... $ 45.
r. Section 321.402 ..... $ 45.
s. Section 321.403 ..... $ 45.
t. Section 321.404 ..... $ 45.
u. Section 321.404A ..... $ 35.
v. Section 321.409 ..... $ 45.
w. Section 321.415 ..... $ 45.
x. Section 321.419 ..... $ 45.
y. Section 321.420 ..... $ 45.
z. Section 321.421 ..... $ 45.
aa. Section 321.422 ..... $ 30.
ab. Section 321.423 ..... $ 45.
ac. Section 321.424 ..... $ 45.
ad. Section 321.430 ..... $135.
ae. Section 321.431 ..... $135.
af. Section 321.432 ..... $ 30.
ag. Section 321.433 ..... $ 45.
ah. Section 321.436 ..... $ 30.
ai. Section 321.438 ..... $ 70.

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aj. Section 321.439 ..... $ 30.
ak. Section 321.440 ..... $ 30.
al. Section 321.441 ..... $ 30.
am. Section 321.442 ..... $ 30.
an. Section 321.444 ..... $ 30.

4. *Driver's license violations.* For driver's license violations under the following sections, the scheduled fine is as follows:

a. Section 321.174 ..... $260.
b. Section 321.174A ..... $ 70.
c. Section 321.180 ..... $ 70.
d. Section 321.180B ..... $ 70.
e. Section 321.193 ..... $ 70.
f. Section 321.194 ..... $ 70.
g. Section 321.216 ..... $135.
h. Section 321.216B ..... $260.
i. Section 321.216C ..... $260.
j. Section 321.219 ..... $260.
k. Section 321.220 ..... $260.

5. *Speed violations.*

a. For excessive speed violations in excess of the limit under section 321.236, subsections 5 and 11, section 321.285, section 321.383, subsection 5, section 321O.5, subsection 1, and section 461A.36, the scheduled fine shall be the following:

(1) Thirty dollars for speed not more than five miles per hour in excess of the limit.

(2) Fifty-five dollars for speed greater than five but not more than ten miles per hour in excess of the limit.

(3) One hundred five dollars for speed greater than ten but not more than fifteen miles per hour in excess of the limit.

(4) One hundred twenty dollars for speed greater than fifteen but not more than twenty miles per hour in excess of the limit.

(5) One hundred thirty-five dollars plus five dollars for each mile per hour of excessive speed over twenty miles per hour over the limit.

b. Excessive speed by a school bus is punishable as provided in subsection 10.

c. Excessive speed in conjunction with a violation of section 321.278 is not a scheduled violation, whatever the amount of excess speed.

d. For a violation under section 321.295, the scheduled fine is seventy dollars.

6. *Operating violations.* For operating violations under the following sections, the scheduled fine is as follows:

a. Section 321.236, subsections 3, 4, 9, and 12 ..... $ 30.
b. Section 321.275, subsections 1 through 7 ..... $ 50.
c. Section 321.277A ..... $ 50.
d. Section 321.288 ..... $135.
e. Section 321.297 ..... $135.
f. Section 321.299 ..... $135.
g. Section 321.302 ..... $135.
h. Section 321.303 ..... $135.
i. Section 321.304, subsections 1 and 2 ..... $135.
j. Section 321.305 ..... $135.
k. Section 321.306 ..... $135.
l. Section 321.311 ..... $135.
m. Section 321.312 ..... $135.
n. Section 321.314 ..... $135.
o. Section 321.315 ..... $ 50.
p. Section 321.316 ..... $ 50.

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q. Section 321.318 ..... $ 50.
r. Section 321.323 ..... $135.
s. Section 321.324A ..... $135.
t. Section 321.340 ..... $135.
u. Section 321.353 ..... $135.
v. Section 321.354 ..... $135.
w. Section 321.363 ..... $ 50.
x. Section 321.365 ..... $ 50.
y. Section 321.366 ..... $135.
z. Section 321.395 ..... $135.

7. *Failure to yield or obey violations.* For failure to yield or obey violations under the following sections, the scheduled fine is as follows:

a. Section 321.257, subsection 2, for a violation by an operator of a motor vehicle ..... $135.
b. Section 321.298 ..... $135.
c. Section 321.307 ..... $135.
d. Section 321.313 ..... $135.
e. Section 321.319 ..... $135.
f. Section 321.320 ..... $135.
g. Section 321.321 ..... $135.
h. Section 321.327 ..... $135.
i. Section 321.329 ..... $135.
j. Section 321.333 ..... $135.

8. *Traffic sign or signal violations.* For traffic sign or signal violations under the following sections, the scheduled fine is as follows:

a. Section 321.236, subsections 2 and 6 ..... $ 50.
b. Section 321.256 ..... $135.
c. Section 321.260, subsection 2 ..... $455.
d. Section 321.294 ..... $135.
e. Section 321.304, subsection 3 ..... $135.
f. Section 321.322 ..... $135.

9. *Bicycle or pedestrian violations.* For bicycle or pedestrian violations under the following sections, the scheduled fine for a pedestrian or bicyclist is as follows:

a. Section 321.234, subsections 3 and 4 ..... $ 35.
b. Section 321.236, subsection 10 ..... $ 25.
c. Section 321.257, subsection 2 ..... $ 35.
d. Section 321.275, subsection 8 ..... $ 35.
e. Section 321.325 ..... $ 35.
f. Section 321.326 ..... $ 35.
g. Section 321.328 ..... $ 35.
h. Section 321.331 ..... $ 35.
i. Section 321.332 ..... $ 35.
j. Section 321.397 ..... $ 35.
k. Section 321.434 ..... $ 35.

9A. *Electric device violations.* For electric device violations under the following sections, the scheduled fine is as follows:

a. Section 321.235A ..... $ 25.
b. Section 321.235B ..... $ 25.

9B. *Personal delivery device violations.*

a. For violations under section 321O.4, the scheduled fine is thirty-five dollars.

b. For violations under section 321O.6, subsection 2, the scheduled fine is forty-five dollars.

10. *School bus violations.* For violations by an operator of a school bus under sections 321.285 and 321.372, subsections 1 and 2, the scheduled fine is one hundred thirty-five dollars. However, an excessive speed violation by a school bus of more than ten miles per hour in excess of the limit is not a scheduled violation.

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11. *a. Emergency vehicle and equipment-related violations.* For violations relating to authorized emergency vehicles, fire apparatus and equipment, and police bicycles under the following sections, the scheduled fine is as follows:

(1) Section 321.231 ..... $135.
(2) Section 321.323A, subsection 1 ..... $135.
(3) Section 321.324 ..... $135.
(4) Section 321.367 ..... $135.
(5) Section 321.368 ..... $135.

b. Violations relating to stationary nonemergency vehicles. For violations relating to the approach of certain stationary nonemergency vehicles under section 321.323A, subsections 2 and 3, the scheduled fine is one hundred thirty-five dollars.

12. *Restrictions on vehicles.*

a. For violations under sections 321.309, 321.310, 321.394, 321.461, and 321.462, the scheduled fine is fifty dollars.

b. For violations under section 321.437, the scheduled fine is fifty dollars.

c. For height, length, width, and load violations under sections 321.454, 321.455, 321.456, 321.457, and 321.458, the scheduled fine is two hundred sixty dollars.

d. For violations under section 321.466, the scheduled fine is twenty-five dollars for each two thousand pounds or fraction thereof of overweight.

e. (1) Violations of the schedule of axle, tandem axle, group of axles, and gross weight limits in section 321.463 shall be scheduled violations subject to the uniform citation and complaint provisions, procedures, and exceptions contained in sections 805.6 through 805.11, irrespective of the amount of the scheduled fine.

(2) In all cases of charges under the schedule of weight violations, the citation and complaint shall specify the amount of fine charged under the schedule.

f. For a violation under section 321E.16, other than the provisions relating to weight, the scheduled fine is two hundred sixty dollars.

13. *Motor carrier and other operator violations.*

a. (1) For a violation under section 321.54, the scheduled fine is forty-five dollars.

(2) For violations under sections 326.22 and 326.23, the scheduled fine is seventy dollars.

b. For a violation under section 321.449, 321.449A, or 321.449B, the scheduled fine is seventy dollars.

c. For each violation of section 321.449C, subsection 2, paragraph "*a*", the scheduled fine is ten thousand dollars.

d. For violations under sections 321.364, 321.450, 321.460, and 452A.52, the scheduled fine is two hundred sixty dollars.

e. For violations of section 325A.3, subsection 6, or section 325A.8, the scheduled fine is one hundred thirty-five dollars.

f. For violations of chapter 325A, other than a violation of section 325A.3, subsection 6, or section 325A.8, the scheduled fine is three hundred twenty-five dollars.

g. For violations of section 327B.1, subsection 1 or 3, the scheduled fine is three hundred twenty-five dollars.

14. *Miscellaneous violations.*

a. Failure to obey a peace officer. For a violation under section 321.229, the scheduled fine is one hundred thirty-five dollars.

b. Abandoning a motor vehicle. For a violation under section 321.91, the scheduled fine is two hundred sixty dollars.

c. Seat belt or restraint violations.

(1) For a violation under section 321.445, the scheduled fine is seventy dollars.

(2) For a violation under section 321.446, the scheduled fine is one hundred thirty-five dollars.

d. Litter and debris violations. For violations under sections 321.369 and 321.370, the scheduled fine is ninety dollars.

e. Open container violations. For violations under sections 321.284 and 321.284A, the scheduled fine is two hundred sixty dollars.

f. Proof of financial responsibility. If, in connection with a motor vehicle accident, a

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person is charged and found guilty of a violation of section 321.20B, subsection 1, the scheduled fine is six hundred forty-five dollars; otherwise, the scheduled fine for a violation of section 321.20B, subsection 1, is three hundred twenty-five dollars. Notwithstanding section 805.12, fines collected pursuant to this paragraph shall be submitted to the state court administrator and distributed fifty percent to the victim compensation fund established in section 915.94, twenty-five percent to the county in which such fine is imposed, and twenty-five percent to the general fund of the state.

g. Speed detection jamming devices. For a violation under section 321.232, the scheduled fine is one hundred thirty-five dollars.

h. Railroad crossing violations.

(1) For violations under sections 321.341, 321.342, 321.343, 321.344, and 321.344B, the scheduled fine is two hundred sixty dollars.

(2) However, for violations of section 321.341 that occur at a railroad grade crossing that has a median barrier and that is established as a quiet zone in accordance with 49 C.F.R. pt. 222, subpt. C, the scheduled fine is five hundred twenty dollars.

i. Road work zone violations. The scheduled fine for any moving traffic violation under chapter 321, as provided in this section, shall be doubled if the violation occurs within any road work zone, as defined in section 321.1. However, notwithstanding subsection 5, the scheduled fine for violating the speed limit in a road work zone is as follows:

(1) One hundred ninety-five dollars for speed not more than ten miles per hour over the posted speed limit.

(2) Three hundred ninety dollars for speed greater than ten but not more than twenty miles per hour over the posted speed limit.

(3) Six hundred forty-five dollars for speed greater than twenty but not more than twenty-five miles per hour over the posted speed limit.

(4) One thousand two hundred eighty-five dollars for speed greater than twenty-five miles per hour over the posted speed limit.

j. Vehicle component parts records violations. For violations under section 321.95, the scheduled fine is seventy dollars.

k. Actions against a person on a bicycle. For violations under section 321.281, the scheduled fine is three hundred twenty-five dollars.

l. Use of electronic device while driving violations. For violations under section 321.276, the scheduled fine is one hundred dollars.

m. Leaving scene of traffic accident. For violations under section 321.262, the scheduled fine is one hundred thirty-five dollars.

n. Striking unattended vehicle. For violations under section 321.264, the scheduled fine is one hundred thirty-five dollars.

o. Striking fixtures upon highway. For violations under section 321.265, the scheduled fine is one hundred thirty-five dollars.

p. Clearing up wrecks. For violations under section 321.371, the scheduled fine is thirty-five dollars.

2001 Acts, ch 137, §2; 2002 Acts, ch 1013, §2; 2002 Acts, ch 1063, §53; 2003 Acts, ch 108, §116 – 118; 2003 Acts, ch 178, §15; 2004 Acts, ch 1101, §91; 2005 Acts, ch 165, §8; 2006 Acts, ch 1087, §4; 2008 Acts, ch 1021, §13; 2008 Acts, ch 1044, §7, 8; 2008 Acts, ch 1124, §36; 2009 Acts, ch 21, §14; 2009 Acts, ch 41, §261; 2009 Acts, ch 130, §43; 2009 Acts, ch 133, §226; 2010 Acts, ch 1105, §9, 10; 2010 Acts, ch 1190, §18; 2010 Acts, ch 1193, §144; 2011 Acts, ch 34, §150 – 154; 2011 Acts, ch 38, §28, 29; 2012 Acts, ch 1015, §4; 2012 Acts, ch 1021, §116; 2013 Acts, ch 47, §5; 2013 Acts, ch 140, §159; 2016 Acts, ch 1073, §180; 2017 Acts, ch 75, §6; 2018 Acts, ch 1017, §3; 2018 Acts, ch 1026, §179; 2018 Acts, ch 1079, §6; 2019 Acts, ch 79, §3; 2020 Acts, ch 1074, §42, 93; 2021 Acts, ch 97, §8, 9; 2021 Acts, ch 119, §11, 12; 2021 Acts, ch 125, §7; 2023 Acts, ch 26, §1; 2024 Acts, ch 1055, §2; 2025 Acts, ch 14, §14, 15; 2026 Acts, ch 1040, §113; 2026 Acts, ch 1069, §4

Referred to in §321.17, 321.20B, 321.24, 321.47, 321.91, 321.98, 321.99, 321.104, 321.115, 321.115A, 321.193, 321.216, 321.216B, 321.216C, 321.219, 321.220, 321.234A, 321.235A, 321.247, 321.260, 321.262, 321.264, 321.265, 321.276, 321.281, 321.284, 321.284A, 321.285, 321.294, 321.302, 321.323A, 321.324A, 321.327, 321.341, 321.344B, 321.366, 321.369, 321.371, 321.372, 321.381, 321.383, 321.404A, 321.421, 321.431, 321.446, 321.449A, 321.449B, 321.449C, 321.482A, 321.486, 321E.16, 321L.2A, 321L.3, 321L.4, 321L.7, 321O.4, 321O.5, 321O.6, 325A.8, 325A.24, 327B.5, 452A.52, 803.3, 805.1, 805.6, 805.8, 805.11, 805.14, 805.15

For additional penalties applicable to certain motor vehicle violations causing serious injury or death, see §321.482A, 707.6A

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Subsection 1, paragraph c amended
Subsection 13, NEW paragraph c and former paragraphs c – f redesignated as d – g

805.8B Navigation, recreation, hunting, and fishing scheduled violations.

1. *Navigation violations.*

a. For violations of registration, inspections, identification, and record provisions under sections 462A.5, 462A.35, and 462A.37, and for unused or improper or defective lights and warning devices under section 462A.9, subsections 3, 4, 5, 9, and 10, the scheduled fine is twenty dollars.

b. For violations of registration, identification, and record provisions under sections 462A.4 and 462A.10, and for unused or improper or defective equipment under section 462A.9, subsections 2, 6, 7, 8, 13, and 14, and section 462A.11, and for operation violations under sections 462A.26, 462A.31, and 462A.33, the scheduled fine is thirty dollars.

c. For operating violations under sections 462A.12, 462A.15, subsection 1, sections 462A.24, and 462A.34, the scheduled fine is thirty-five dollars. However, a violation of section 462A.12, subsection 2, is not a scheduled violation.

d. For violations of use, location, and storage of vessels, devices, and structures under sections 462A.27, 462A.28, and 462A.32, the scheduled fine is twenty-five dollars.

e. For violations of all subdivision ordinances under section 462A.17, subsection 2, except those relating to matters subject to regulation by authority of section 462A.31, subsection 5, the scheduled fine is the same as prescribed for similar violations of state law. For violations of subdivision ordinances for which there is no comparable state law, the scheduled fine is twenty dollars.

2. *Snowmobile violations.*

a. For registration or nonresident user permit violations under section 321G.3, subsection 1, or section 321G.4B, the scheduled fine is sixty-five dollars.

b. (1) For operating violations under section 321G.9, the scheduled fine is seventy dollars.

(2) For operating violations under sections 321G.11 and 321G.13, subsection 1, paragraph *"d"*, the scheduled fine is thirty dollars.

(3) For operating violations under section 321G.13, subsection 1, paragraphs *"a"*, *"b"*, *"e"*, *"f"*, *"g"*, *"h"*, and *"i"*, and section 321G.13, subsections 2 and 3, the scheduled fine is one hundred thirty-five dollars.

c. For improper or defective equipment under section 321G.12, the scheduled fine is thirty dollars.

d. For violations of section 321G.19, the scheduled fine is thirty dollars.

e. For decal violations under section 321G.5, the scheduled fine is thirty dollars.

f. For stop signal violations under section 321G.17, the scheduled fine is one hundred thirty-five dollars.

g. For violations of section 321G.20 and for education certificate violations under section 321G.24, subsection 1, the scheduled fine is seventy dollars.

h. For violations of section 321G.21, the scheduled fine is one hundred thirty-five dollars.

2A. *All-terrain vehicle violations.*

a. For registration or user permit violations under section 321I.3, subsection 1, the scheduled fine is seventy dollars.

b. (1) For operating violations under sections 321I.12 and 321I.14, subsection 1, paragraph *"d"*, the scheduled fine is thirty dollars.

(2) For operating violations under section 321I.10, subsections 1 and 6, the scheduled fine is seventy dollars.

(3) For operating violations under section 321I.14, subsection 1, paragraphs *"a"*, *"e"*, *"f"*, *"g"*, and *"h"*, and section 321I.14, subsections 2, 3, 4, and 5, the scheduled fine is one hundred thirty-five dollars.

c. For improper or defective equipment under section 321I.13, the scheduled fine is thirty dollars.

d. For violations of section 321I.20, the scheduled fine is thirty dollars.

e. For decal violations under section 321I.6, the scheduled fine is thirty dollars.

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f. For stop signal violations under section 321I.18, the scheduled fine is one hundred thirty-five dollars.

g. For violations of section 321I.21 and for education certificate violations under section 321I.26, subsection 1, the scheduled fine is seventy dollars.

h. For violations of section 321I.22, the scheduled fine is one hundred thirty-five dollars.

3. *Hunting and fishing violations.*

a. For violations of section 484A.2, the scheduled fine is twenty dollars.

b. For violations of section 481A.41, subsection 1, sections 481A.54, 481A.69, 481A.71, 481A.72, 482.6, 483A.3, 483A.6, 483A.8A, 483A.19, 483A.27, and 483A.27A, the scheduled fine is thirty dollars.

c. For violations of sections 481A.6, 481A.21, 481A.22, 481A.26, 481A.50, 481A.56, 481A.60 through 481A.62, 481A.83, 481A.84, 481A.92, 481A.123, 481A.145, subsection 3, sections 483A.6A, 483A.7, 483A.8, 483A.23, 483A.24, and 483A.28, the scheduled fine is thirty-five dollars.

d. For violations of sections 481A.7, 481A.24, 481A.47, 481A.52, 481A.53, 481A.55, 481A.58, 481A.76, 481A.90, 481A.91, 481A.97, 481A.122, 481A.126, 481A.142, 481A.145, subsection 2, sections 482.5, 482.7, 482.8, 482.10, and 483A.37, the scheduled fine is seventy dollars.

e. For violations of sections 481A.57, 481A.85, 481A.93, 481A.95, 481A.120, 481A.137, 481B.5, 482.3, 482.9, 482.15, and 483A.42, the scheduled fine is one hundred thirty-five dollars.

f. For violations of section 481A.38 relating to the taking, pursuing, killing, trapping or ensnaring, buying, selling, possessing, or transporting any game, protected nongame animals, fur-bearing animals, or fur or skin of the animals, mussels, frogs, or fish or part of them, the scheduled fines are as follows:

(1) For deer or turkey, the scheduled fine is one hundred thirty-five dollars.

(2) For protected nongame, the scheduled fine is one hundred thirty-five dollars.

(3) For mussels, frogs, spawn, or fish, the scheduled fine is thirty-five dollars.

(4) For other game, the scheduled fine is seventy dollars.

(5) For fur-bearing animals, the scheduled fine is one hundred dollars.

g. For violations of section 481A.38 relating to an attempt to take, pursue, kill, trap, buy, sell, possess, or transport any game, protected nongame animals, fur-bearing animals, or fur or skin of the animals, mussels, frogs, or fish or part of them, the scheduled fines are as follows:

(1) For game or fur-bearing animals, the scheduled fine is seventy dollars.

(2) For protected nongame, the scheduled fine is seventy dollars.

(3) For mussels, frogs, spawn, or fish, the scheduled fine is twenty dollars.

h. For violations of section 481A.48 relating to restrictions on game birds and animals, the scheduled fines are as follows:

(1) For out-of-season, the scheduled fine is one hundred thirty-five dollars.

(2) For over limit, the scheduled fine is one hundred thirty-five dollars.

(3) For attempt to take, the scheduled fine is seventy dollars.

(4) For general waterfowl restrictions, the scheduled fine is seventy dollars.

(a) For no federal stamp, the scheduled fine is seventy dollars.

(b) For unplugged shotgun, the scheduled fine is twenty dollars.

(c) For possession of other than steel shot, the scheduled fine is thirty-five dollars.

(d) For early or late shooting, the scheduled fine is thirty-five dollars.

(5) For possession of a prohibited pistol or revolver while hunting deer, the scheduled fine is one hundred thirty-five dollars.

(6) For possession of a prohibited rifle while hunting deer, the scheduled fine is three hundred twenty-five dollars.

i. For violations of section 481A.67 relating to general violations of fishing laws, the scheduled fine is thirty-five dollars.

(1) For over limit catch, the scheduled fine is forty-five dollars.

(2) For under minimum length or weight, the scheduled fine is thirty dollars.

(3) For out-of-season fishing, the scheduled fine is seventy dollars.

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j. For violations of section 481A.73 relating to trotlines and throwlines:

(1) For trotline or throwline violations in legal waters, the scheduled fine is thirty-five dollars.

(2) For trotline or throwline violations in illegal waters, the scheduled fine is seventy dollars.

k. For violations of section 481A.144, subsection 4, or section 481A.145, subsections 4, 5, and 6, relating to minnows:

(1) For general minnow violations, the scheduled fine is thirty-five dollars.

(2) For commercial purposes, the scheduled fine is seventy dollars.

l. For violations of section 481A.87 relating to the taking or possessing of fur-bearing animals out of season:

(1) For red fox, gray fox, or mink, the scheduled fine is one hundred thirty-five dollars.

(2) For all other furbearers, the scheduled fine is seventy dollars.

m. For violations of section 482.4 relating to gear tags:

(1) For commercial license violations, the scheduled fine is one hundred thirty-five dollars.

(2) For no gear tags, the scheduled fine is thirty-five dollars.

n. For violations of section 482.11, the scheduled fine is one hundred thirty-five dollars.

o. For violations of rules adopted pursuant to section 483A.1 relating to licenses and permits, the scheduled fines are as follows:

(1) For a license or permit costing ten dollars or less, the scheduled fine is thirty dollars.

(2) For a license or permit costing more than ten dollars but not more than twenty dollars, the scheduled fine is forty-five dollars.

(3) For a license or permit costing more than twenty dollars but not more than forty dollars, the scheduled fine is seventy dollars.

(4) For a license or permit costing more than forty dollars but not more than fifty dollars, the scheduled fine is ninety-five dollars.

(5) For a license or permit costing more than fifty dollars but less than one hundred dollars, the scheduled fine is one hundred thirty-five dollars.

(6) For a license or permit costing one hundred dollars or more, the scheduled fine is two times the cost of the original license or permit.

p. For violations of section 483A.26 relating to false claims for licenses:

(1) For making a false claim for a license by a resident, the scheduled fine is seventy dollars.

(2) For making a false claim for a license by a nonresident, the scheduled fine is one hundred thirty-five dollars.

q. For violations of section 481A.56A, the scheduled fine is two hundred fifty dollars.

4. *Ginseng violations.* For a violation of section 456A.24, subsection 11, the scheduled fine is one hundred thirty-five dollars.

5. *Aquatic invasive species violations.* For violations of section 456A.37, subsection 3, the scheduled fine is as follows:

a. For violations of section 456A.37, subsection 3, paragraph *"a"*, the scheduled fine is six hundred forty-five dollars.

b. For violations of section 456A.37, subsection 3, paragraph *"b"*, the scheduled fine is one hundred dollars.

c. For repeat violations of section 456A.37, subsection 3, paragraph *"a"* or *"b"*, within the same twelve-month period, the scheduled fine shall include an additional fine of six hundred forty-five dollars for each violation.

6. *Misuse of parks and preserves.*

a. For violations under sections 461A.39, 461A.45, and 461A.50, the scheduled fine is twenty dollars.

b. For violations under sections 461A.40, 461A.46, and 461A.49, the scheduled fine is twenty-five dollars.

c. For violations of sections 461A.35, 461A.42, and 461A.44, the scheduled fine is seventy dollars.

d. For violations of section 461A.48, the scheduled fine is thirty-five dollars.

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e. For violations under section 461A.43, the scheduled fine is forty-five dollars.

2001 Acts, ch 137, §3; 2002 Acts, ch 1001, §3; 2002 Acts, ch 1147, §3; 2004 Acts, ch 1132, §93; 2004 Acts, ch 1137, §2; 2006 Acts, ch 1087, §5, 6; 2007 Acts, ch 28, §22; 2007 Acts, ch 141, §54, 55; 2008 Acts, ch 1161, §22; 2009 Acts, ch 133, §185, 186; 2009 Acts, ch 144, §45 – 47; 2012 Acts, ch 1100, §65 – 68; 2012 Acts, ch 1118, §19; 2013 Acts, ch 30, §169, 170; 2013 Acts, ch 67, §2; 2014 Acts, ch 1058, §5; 2014 Acts, ch 1141, §58; 2015 Acts, ch 26, §10; 2015 Acts, ch 49, §1; 2017 Acts, ch 68, §2; 2018 Acts, ch 1041, §116; 2018 Acts, ch 1159, §26, 28; 2020 Acts, ch 1074, §43, 93; 2020 Acts, ch 1096, §2; 2024 Acts, ch 1093, §13; 2025 Acts, ch 48, §3; 2026 Acts, ch 1153, §7

Referred to in §321.486, 321G.3, 321G.4B, 321I.3, 456A.24, 456A.37, 461A.35, 461A.42, 481A.41, 481A.48, 481A.52, 481A.137, 481A.142, 482.15, 483A.42, 803.3, 805.1, 805.6, 805.8, 805.8A(12)(e), 805.11, 805.15

Subsection 3, paragraph b amended

805.8C Miscellaneous scheduled violations.

1. *Energy emergency violations.* For violations of an executive order issued by the governor under the provisions of section 473.8, the scheduled fine is seventy dollars.

2. *Alcoholic beverage violations.* For violations of section 123.49, subsection 2, paragraph *"h"*, the scheduled fine for a licensee or permittee is one thousand nine hundred twenty-five dollars, and the scheduled fine for a person who is employed by a licensee or permittee is six hundred forty-five dollars.

3. *Violations related to smoking, tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes.*

a. For violations described in section 142D.9, subsection 1, the scheduled fine is fifty dollars, and is a civil penalty, and the crime services surcharge under section 911.1 shall not be added to the penalty, and the court costs pursuant to section 805.9, subsection 6, shall not be imposed. If the civil penalty assessed for a violation described in section 142D.9, subsection 1, is not paid in a timely manner, a citation shall be issued for the violation in the manner provided in section 804.1. However, a person under age eighteen shall not be detained in a secure facility for failure to pay the civil penalty. The complainant shall not be charged a filing fee.

b. For violations of section 453A.2, subsection 1, by an employee of a retailer, the scheduled fine is as follows:

(1) If the violation is a first offense, the scheduled fine is one hundred thirty-five dollars.

(2) If the violation is a second offense, the scheduled fine is three hundred twenty-five dollars.

(3) If the violation is a third or subsequent offense, the scheduled fine is six hundred forty-five dollars.

c. For violations of section 453A.2, subsection 2, the scheduled fine is as follows and is a civil penalty, and the crime services surcharge under section 911.1 shall not be added to the penalty, and the court costs pursuant to section 805.9, subsection 6, shall not be imposed:

(1) If the violation is a first offense, the scheduled fine is seventy dollars.

(2) If the violation is a second offense, the scheduled fine is one hundred thirty-five dollars.

(3) If the violation is a third or subsequent offense, the scheduled fine is three hundred twenty-five dollars.

d. (1) For violations of section 204.14E, the scheduled fine is as follows:

(a) If the violation is a first offense, the scheduled fine is seventy dollars.

(b) If the violation is a second offense, the scheduled fine is one hundred thirty-five dollars.

(c) If the violation is a third or subsequent offense, the scheduled fine is three hundred twenty-five dollars.

(2) The fine shall be imposed as a civil penalty.

(3) The crime services surcharge under section 911.1 shall not be added to the penalty, and the court costs pursuant to section 805.9, subsection 6, shall not be imposed.

(4) Notwithstanding section 805.12, any civil penalty paid under this paragraph shall be retained by the city or county enforcing the violation.

4. *Electrical or mechanical amusement device violations.*

a. For violations of legal age for operating an electrical or mechanical amusement device required to be registered as provided in section 99B.53, pursuant to section 99B.57, subsection

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1, the scheduled fine is three hundred twenty-five dollars. Failure to pay the fine by a person under the age of eighteen shall not result in the person being detained in a secure facility.

b. For first offense violations concerning electrical or mechanical amusement devices as provided in section 99B.54, subsection 2, the scheduled fine is three hundred twenty-five dollars.

5. *Gambling violations.*

a. For violations of legal age for gambling wagering under section 99D.11, subsection 7, section 99F.9, subsection 5, and section 725.19, subsection 1, the scheduled fine is six hundred forty-five dollars. Failure to pay the fine by a person under the age of eighteen shall not result in the person being detained in a secure facility.

b. For legal age violations for entering or attempting to enter a facility under section 99F.9, subsection 6, the scheduled fine is six hundred forty-five dollars. Failure to pay the fine by a person under the age of eighteen shall not result in the person being detained in a secure facility.

6. *Pseudoephedrine sales violations.* For violations of section 126.23A, subsection 1, by an employee of a retailer, or for violations of section 126.23A, subsection 2, paragraph *"a"*, by a purchaser, the scheduled fine is as follows:

a. If the violation is a first offense, the scheduled fine is two hundred sixty dollars.

b. If the violation is a second offense, the scheduled fine is three hundred twenty-five dollars.

c. If the violation is a third or subsequent offense, the scheduled fine is six hundred forty-five dollars.

7. *Alcoholic beverage violations by persons eighteen, nineteen, or twenty years of age.* For first offense violations of section 123.47, subsection 4, the scheduled fine is two hundred sixty dollars.

8. *Unlicensed premises owner — under eighteen years of age consumption or possession.* For first offense violations of section 123.47, subsection 2, the scheduled fine is two hundred sixty dollars.

9. *Notification violations.* For violations of section 229.22, subsection 6, the scheduled fine is one thousand dollars for a first violation and two thousand dollars for a second or subsequent violation. The scheduled fine under this subsection is a civil penalty, and the crime services surcharge under section 911.1 shall not be added to the penalty.

10. *Scrap metal transaction violations.* For violations of section 714.27, the scheduled fine is one hundred dollars for a first violation, five hundred dollars for a second violation within two years, and one thousand dollars for a third or subsequent violation within two years. The scheduled fine under this subsection is a civil penalty which shall be deposited into the general fund of the county or city if imposed by a designated officer or employee of a county or city, or deposited in the general fund of the state if imposed by a state agency, and the crime services surcharge under section 911.1 shall not be added to the penalty.

11. *Used catalytic converter transaction violations.* For violations of section 714.27A, the scheduled fine is one thousand dollars for a first violation, five thousand dollars for a second violation within two years, and ten thousand dollars for a third or subsequent violation within two years. The scheduled fine under this subsection is a civil penalty which shall be deposited into the general fund of the county or city if imposed by a designated officer or employee of a county or city, or deposited in the general fund of the state if imposed by a state agency, and the crime services surcharge under section 911.1 shall not be added to the penalty.

12. *Trespassing violations.* For trespasses punishable under section 716.8, subsection 1 or 5, the scheduled fine is five hundred dollars for a first violation, one thousand dollars for a second violation, and one thousand five hundred dollars for a third or subsequent violation.

13. *Internet fantasy sports contest violations.* For violations of legal age for entering an internet fantasy sports contest under section 99E.7, the scheduled fine is five hundred dollars. Failure to pay the fine by a person under the age of eighteen shall not result in the person being detained in a secure facility.

2001 Acts, ch 137, §4; 2004 Acts, ch 1111, §5, 6; 2004 Acts, ch 1118, §7, 11; 2004 Acts, ch 1127, §4; 2004 Acts, ch 1136, §58; 2005 Acts, ch 15, §9, 14; 2005 Acts, ch 105, §2; 2005 Acts, ch 179, §140; 2007 Acts, ch 173, §9; 2008 Acts, ch 1084, §15; 2009 Acts, ch 88, §5; 2010 Acts, ch

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1103, §3; 2010 Acts, ch 1128, §7; 2010 Acts, ch 1190, §19; 2012 Acts, ch 1099, §2; 2014 Acts, ch 1026, §142; 2014 Acts, ch 1096, §7; 2014 Acts, ch 1109, §13; 2015 Acts, ch 99, §55; 2017 Acts, ch 140, §4; 2019 Acts, ch 132, §43, 45, 46; 2020 Acts, ch 1074, §44, 57, 93; 2022 Acts, ch 1092, §6; 2024 Acts, ch 1070, §2; 2024 Acts, ch 1154, §24; 2024 Acts, ch 1176, §16; 2026 Acts, ch 1016, §8

Referred to in §99B.54, 99B.57, 99D.11, 99E.7, 99F.9, 123.47, 123.50, 126.23A, 142D.9, 204.14E, 229.22, 321.486, 453A.3, 473.8, 716.8, 725.19, 803.3, 805.1, 805.6, 805.8, 805.8A(12)(e), 805.11, 805.15

Subsection 14 stricken

805.9 Admission of scheduled violations.

1. In cases of scheduled violations, the defendant, before the time specified in the citation and complaint for appearance before the court, may sign the admission of violation on the citation and complaint and deliver or mail a copy of the citation and complaint, together with the minimum fine for the violation, plus court costs, to a scheduled violations office in the county. The office shall, if the offense is a moving violation under chapter 321, forward an abstract of the citation and complaint and admission to the state department of transportation as required by section 321.491. In this case the defendant is not required to appear before the court. The admission constitutes a conviction.

2. A defendant charged with a scheduled violation by information may obtain two copies of the information from the court and, before the time the defendant is required to appear before the court, deliver or mail the copies, together with the defendant's admission, fine, and court costs, to the scheduled violations office in the county. The procedure, fine, and costs are the same as when the charge is by citation and complaint, with the admission and the number of the defendant's driver's license as defined in section 321.1 placed upon the information when the violation involves the use of a motor vehicle.

3. When section 805.8 and this section are applicable but the officer does not deem it advisable to release the defendant and no court in the county is in session:

a. If the defendant wishes to admit the violation, the officer may release the defendant upon observing the person mail the citation and complaint, admission, and minimum fine, together with court costs, to a traffic violations office in the county, in an envelope furnished by the officer. The admission constitutes a conviction and judgment in the amount of the scheduled fine plus court costs. The officer may allow the defendant to use a credit card pursuant to rules adopted under section 805.14 by the department of public safety or to mail a check in the proper amount in lieu of cash. If the check is not paid by the drawee for any reason, the defendant may be held in contempt of court. The officer shall advise the defendant of the penalty for nonpayment of the check.

b. If the defendant does not comply with paragraph *"a"*, the officer may release the defendant upon observing the defendant mail to a court in the county the citation and complaint and one and one-half times the minimum fine together with court costs, or in lieu of one and one-half times the fine and the court costs, a guaranteed arrest bond certificate as provided in section 321.1, subsection 30, as bail together with the following statement signed by the defendant:

> I agree that either (1) I will appear pursuant to this citation or (2) if I do not appear in person or by counsel to defend against the offense charged in this citation the court is authorized to enter a conviction and render judgment against me for the amount of one and one-half times the scheduled fine plus court costs.

c. If the defendant does not comply with paragraph *"a"* or *"b"*, or when section 804.7 is applicable, the officer may arrest and confine the defendant if authorized by the latter section, and proceed according to chapter 804.

4. A defendant who admits a scheduled violation may appear before court. The procedure, costs, and fine, without suspension of the fine, after the hearing are the same as in the traffic violations office.

5. A defendant charged with a scheduled violation who does not fully comply with subsection 1, 2, 3, or 4 of this section before the time required to appear before the court must, at that time, appear before the court. If the defendant admits the violation, the

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procedure, costs, and fine, without suspension of the fine, after the hearing are the same before the court as before the traffic violations office, and are without prejudice, when applicable, to proceedings under section 321.487.

6. The court costs imposed by this section are the total costs collectible from a defendant upon either an admission of a violation without hearing, or upon a hearing pursuant to subsection 4.

[C73, 75, 77, §753.16; C79, 81, §805.9; 82 Acts, ch 1104, §27]

83 Acts, ch 186, §10131, 10201; 83 Acts, ch 204, §10; 85 Acts, ch 195, §63; 85 Acts, ch 197, §42; 90 Acts, ch 1230, §95; 98 Acts, ch 1073, §9

Referred to in §716.8, 805.1, 805.6, 805.8A(12)(e), 805.8C(3)(a), 805.8C(3)(c), 805.8C(3)(d), 805.10, 805.15

805.10 Required court appearance.

1. Section 805.9 shall not apply to a scheduled violation in any of the following circumstances:

a. When the violation charged involved or resulted in a death or caused serious injury to person as defined under section 702.18.

b. When the violation charged involved or resulted in an accident or injury to property and based upon the violator's driving record, or failure to pay any fine, surcharge, or court costs, or any other circumstances involving the accident, the officer determines a court appearance is necessary.

c. When the violation created an immediate threat to the safety of other persons or property because of highway conditions, visibility, traffic, repetition, or other circumstances.

d. When the violation charged involves the taking of an animal for which there is a civil damage assessment in addition to a criminal penalty.

e. When a violation charged involves the consumption, possession, purchase, or attempt to purchase of a consumable hemp product as provided in section 204.14E, for which there is a community service sentence.

2. In such cases, the defendant shall appear before the court and regular procedure shall apply. If an information is used, the officer shall endorse thereon, "Court appearance required". If a citation and complaint is used, the officer shall strike out the space in which the defendant may admit the violation before a scheduled violations office and shall endorse thereon "Court appearance required" and the defendant shall appear before the court either in person or by attorney.

[C73, 75, 77, §753.17; C79, 81, §805.10]

83 Acts, ch 125, §9; 84 Acts, ch 1067, §50; 89 Acts, ch 296, §92; 90 Acts, ch 1216, §5; 98 Acts, ch 1178, §15; 2000 Acts, ch 1131, §4, 5; 2000 Acts, ch 1154, §42; 2024 Acts, ch 1176, §17

Referred to in §204.14E, 805.1, 805.6, 805.8A(12)(e), 805.11, 805.13, 805.15

805.11 Other penalties.

If the defendant is convicted of a scheduled violation, the penalty is the scheduled fine, without suspension of the fine prescribed in section 805.8A, 805.8B, or 805.8C together with costs assessed and distributed as prescribed by section 602.8106, unless it appears from the evidence that the violation was of the type set forth in section 805.10, subsection 1, paragraph *"a"* or *"c"*, in which event the scheduled fine does not apply and the penalty shall be increased within the limits provided by law for the offense.

[C73, 75, 77, §753.18; C79, 81, §805.11; 82 Acts, ch 1104, §28]

83 Acts, ch 186, §10132, 10201; 85 Acts, ch 195, §64; 2000 Acts, ch 1154, §43; 2001 Acts, ch 137, §5

Referred to in §805.1, 805.8A(12)(e), 805.15

805.12 Disposition of traffic fines and costs.

Fines, forfeiture of bail, fees, and costs collected for all traffic violations, whether or not scheduled, and for all other scheduled violations shall be distributed in accordance with section 602.8106.

[C73, 75, 77, §753.19; C79, 81, §805.12]

83 Acts, ch 186, §10133, 10201

Referred to in §805.1, 805.8A(14)(f), 805.8C(3)(d), 805.15

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805.13 Venue.

1. Traffic violations, whether or not scheduled, and all other scheduled violations may be tried before the nearest magistrate in the judicial district in which the offense is committed, or if the offense occurred in a city which is located in two counties, the violation shall be tried as provided in section 803.3, subsection 5.

2. Upon written consent of the defendant and the officer issuing the citation, traffic violations, whether or not scheduled, and any other scheduled violations, other than those for which a court appearance is required under section 805.10 may be prosecuted in any county in the state irrespective of where committed, and in such event the documents in the case shall be sent to the court or traffic and scheduled violations office designated by the defendant and the officer.

[C73, 75, 77, §753.20; C79, 81, §805.13]
2003 Acts, ch 113, §3; 2004 Acts, ch 1041, §2
Referred to in §803.3, 805.1, 805.15

805.14 Credit cards.

Fines for scheduled traffic violations enumerated in section 805.8A may be paid by credit cards, as defined in section 537.1301, subsection 17, approved for that purpose by the commissioner of public safety. The commissioner shall enter agreements with financial institutions extending credit through the use of credit cards to insure reimbursement of the amount of the fine plus appropriate costs to the proper traffic violations office in the state. The commissioner shall adopt rules pursuant to chapter 17A to implement the provisions of this section.

[C77, §753.21; C79, 81, §805.14]
2001 Acts, ch 137, §5
Referred to in §805.1, 805.9, 805.15, 811.9

805.15 Other citation forms.

The provisions of sections 321.485 through 321.487 shall govern with respect to offenses charged in the manner provided in section 321.485. The provisions of sections 805.6 through 805.14 shall govern with respect to offenses chargeable upon a uniform citation and complaint.

[C79, 81, §805.15]
2020 Acts, ch 1063, §380
Referred to in §805.1

805.16 Citations to persons under eighteen years of age — arrest — nonsecure custody.

1. Except as provided in subsection 2 of this section, a peace officer shall issue a police citation or uniform citation and complaint, in lieu of making a warrantless arrest, to a person under eighteen years of age accused of committing a simple misdemeanor under chapter 321, 321G, 321I, 461A, 461B, 462A, 481A, 481B, 483A, 484A, 484B, or a local ordinance not subject to the jurisdiction of the juvenile court, and shall not detain or confine the person in a facility regulated under chapter 356 or 356A.

2. A person under the age of eighteen who refuses to sign the citation without qualification, who persists in engaging in the conduct for which the citation was issued, who refuses to provide proper identification or to identify the person's self, or who constitutes an immediate threat to the person's own safety or the safety of the public may be arrested in the manner provided in subsection 3. In addition, or alternatively, the peace officer may require that person to surrender the person's driver's license as defined in section 321.1 until the time of the person's initial court appearance. The peace officer shall immediately send the person's driver's license along with a copy of the unsigned citation indicating the juvenile's refusal to sign to the clerk of the district court for the district in which the peace officer issued the citation.

3. *a.* A person arrested pursuant to subsection 2 shall only be arrested for the limited purpose of holding the person in nonsecure custody in an area not intended for secure detention while awaiting transfer to an appropriate juvenile facility or to court, for booking,

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for implied consent testing, for contacting and release to the person's parents, or for other administrative purposes.

b. For purposes of this subsection, "*nonsecure custody*" means custody in an unlocked multipurpose area, such as a lobby, office, or interrogation room which is not designed, set aside, or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area, the person is physically accompanied by a peace officer or a person employed by the facility where the person arrested is being held, and the use of the area is limited to providing nonsecure custody only long enough for the purposes stated in paragraph "*a*" and not for a period of time in excess of six hours without the oral or written order of a judge or magistrate authorizing the detention. A judge shall not extend the period of time in excess of six hours beyond the initial six-hour period.

4. This section does not prohibit the execution of an arrest warrant by a peace officer.

88 Acts, ch 1167, §7; 90 Acts, ch 1230, §96; 92 Acts, ch 1160, §24; 97 Acts, ch 126, §49; 98 Acts, ch 1073, §9; 2004 Acts, ch 1132, §94; 2013 Acts, ch 30, §220

CHAPTER 806

UNIFORM FRESH PURSUIT LAW

Referred to in §602.6405, 724.4B, 801.1

806.1	Authority of officers from another state.	806.4	Officers from District of Columbia.
806.2	Procedure following arrest.	806.5	Definitions of terms.
806.3	Construction of statute.	806.6	Chapter title.

806.1 Authority of officers from another state.

Any member of a duly organized state, county, or municipal law enforcing unit of another state of the United States who enters this state in fresh pursuit, and continues within this state in such fresh pursuit, of a person in order to arrest the person on the ground that the person is believed to have committed a felony in such other state, shall have the same authority to arrest and hold such person in custody, as has any member of any duly organized state, county, or municipal law enforcing unit of this state, to arrest and hold in custody a person on the ground that the person is believed to have committed a felony in this state.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §756.1; C79, 81, §806.1]

Referred to in §806.2, 806.3

806.2 Procedure following arrest.

If an arrest is made in this state by an officer of another state in accordance with the provisions of section 806.1, the officer shall without unnecessary delay take the person arrested before a magistrate in the county in which the arrest was made, who shall conduct a hearing for the purpose of determining the lawfulness of the arrest. If the magistrate determines that the arrest was lawful, the magistrate shall commit the person arrested to await for a reasonable time the issuance of an extradition warrant by the governor of this state or admit the person to bail for such purpose. If the magistrate determines that the arrest was unlawful, the magistrate shall discharge the person arrested.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §756.2; C79, 81, §806.2]

2026 Acts, ch 1063, §23, 25

2026 amendment effective November 1, 2026; 2026 Acts, ch 1063, §25

Section amended

806.3 Construction of statute.

Section 806.1 shall not be construed so as to make unlawful any arrest in this state which would otherwise be lawful.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §756.3; C79, 81, §806.3]

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806.4 Officers from District of Columbia.
For the purpose of this chapter the word *"state"* shall include the District of Columbia.
[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §756.4; C79, 81, §806.4]

806.5 Definitions of terms.
The term *"fresh pursuit"* as used in this chapter shall include fresh pursuit as defined by the common law, and also the pursuit of a person who has committed a felony or who is reasonably suspected of having committed a felony. It shall also include the pursuit of a person suspected of having committed a supposed felony, though no felony has actually been committed, if there is reasonable ground for believing that a felony has been committed. Fresh pursuit as used herein shall not necessarily imply instant pursuit, but pursuit without unreasonable delay.
[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §756.5; C79, 81, §806.5]

806.6 Chapter title.
This chapter may be cited as the *"Uniform Act on Fresh Pursuit"*.
[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §756.6; C79, 81, §806.6]

CHAPTER 807

PROCEEDINGS AGAINST CORPORATIONS

Referred to in §801.1

807.1 Summons upon a complaint against a corporation, by whom issued, and when returnable.
807.2 Form of the summons.
807.3 When and how served.
807.4 Examination of the charge.
807.5 Bringing an indicted corporation into court.
807.6 Collection of fines.
807.7 Attachment.

807.1 Summons upon a complaint against a corporation, by whom issued, and when returnable.
Upon the filing of a complaint against a corporation, the magistrate shall issue a summons, signed by the magistrate, requiring the corporation to appear before the magistrate, at a specified time and place, to answer the charge, the time to be not less than twenty days after the issuing of the summons.
[C79, 81, §807.1]

807.2 Form of the summons.
The summons may be in substantially the following form:

County of ..... (as the case may be).
In the name of the people of the State of Iowa:
To the (naming the corporation).
You are hereby summoned to appear before me, at (naming the place) on (specifying the day and hour), to answer a charge made against you, upon the complaint of A.B., for (designating the offense, generally).
Dated at the city of ....., the ..... day of ....., ...
G.H. Magistrate
(or as the case may be).

[C79, 81, §807.2]

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807.3 When and how served.

The summons for the appearance of a corporation shall be served in the manner provided for service of original notice upon a corporation in a civil action.

[C79, 81, §807.3]

807.4 Examination of the charge.

At the time appointed in the summons, the magistrate shall proceed to investigate the charge, in the same manner as in the case of a natural person brought before the magistrate, so far as those proceedings are applicable. If the corporation does not appear or plead at the time and place specified in the summons, the court shall make inquiry into the service of process, and being satisfied that same has been carried out as provided herein, the court may proceed with the matter without further process.

[C79, 81, §807.4]

807.5 Bringing an indicted corporation into court.

When an indictment or a trial information is filed against any corporation, such corporation shall be arraigned thereon. Prior to arraignment the court shall proceed as follows:

1. The clerk of the court wherein such indictment is found or the information filed, or the judge, must issue a summons signed by the clerk or judge with the clerk's or judge's name of office, requiring such corporation to appear and plead to the indictment, at a time and place to be specified in such summons, such time to be not less than twenty days after the issue thereof. The summons may be substantially in the following form:

District Court, ... County.

The People of the State of Iowa vs. The A.B. Company,

You are hereby summoned to appear in this court at (naming the place) on (stating the day and hour), and plead to an indictment filed against you by the grand jury of this county, on the ..... day of ....., charging you with the crime of (designating the offense, generally), and in case of your failure to so appear and answer, judgment will be pronounced against you.

Dated at the city of ....., the ..... day of ....., ...

C.D.,
Clerk of the District Court.
(or by order of the court)

2. The summons shall be served at least ten days before the appearance fixed therein, in the same manner as is provided for the service of an original notice upon a corporation in a civil action; and if the corporation does not appear or plead at the time and place specified in the summons, the court may proceed to trial and judgment without further process.

3. Nothing contained in this section shall be construed as preventing the appearance of a corporation by counsel to plead to an indictment, with or without the issuance or service of the summons provided herein. And when an indictment shall have been filed against a corporation it may voluntarily appear and plead to the same by counsel duly authorized to so appear for it.

[C79, 81, §807.5]
Referred to in §602.8102(128)

807.6 Collection of fines.

When a corporation is convicted of an offense and the court imposes a fine as penalty, it may be collected in the same manner as a judgment in a civil action.

[C79, 81, §807.6]

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807.7 Attachment.

Upon the filing of a complaint or indictment, the court wherein same is filed shall have authority to issue a writ of attachment to secure the maximum fine allowable by law for the offense charged, and costs.

[C79, 81, §807.7]

CHAPTER 808

SEARCH AND SEIZURE

Referred to in §101.24, 170.7, 321J.10, 455B.103, 462A.14A, 462A.14D, 602.1614, 602.6405, 801.1, 809A.12, 915.42

See R.Cr.P. 2.12, 2.36
For student search restrictions, see chapter 808A
Electronic search warrant procedure, see Iowa Ct.R., ch 14

808.1 Definitions.
808.2 Authorization.
808.3 Application for search warrant.
808.4 Issuance.
808.4A Application for search warrant — global positioning device — issuance.
808.5 Execution.
808.6 Forcible execution.
808.7 Detention and search of persons on premises.
808.8 Return.
808.9 Safekeeping of seized property.
808.10 Maliciously suing out a warrant — officer exceeding authority.
808.11 Transmission of documents to district court clerk.
808.12 Detention and search in theft of library materials and shoplifting.
808.13 Confidentiality.
808.14 Administrative warrants.
808.15 Unmanned aerial vehicle — information — admissibility.
808.16 Exception to search warrant requirement — garbage searches.

808.1 Definitions.

For purposes of this chapter, unless the context otherwise requires:

1. *"Affidavit"* means a written declaration or statement of fact made under oath, or legally sufficient affirmation, submitted in person or by electronic submission before any person authorized to administer oaths within or without the state.

2. *"Electronic"* or *"electronically"* means relating to technology having electrical, digital, magnetic, telephonic, wireless, optical, electromagnetic, or similar capabilities. For governmental agencies, this may include alternate software to exchange electronic records with the court's electronic document management system.

3. *"Electronic submission"* means the process by which a person may electronically submit an application for a search warrant and any supporting documents to the court for review or other court action.

4. *"Search warrant"* means an order in writing, in the name of the state, signed by a magistrate, and directed to a peace officer commanding the officer to search a person, premises, or thing, issued pursuant to the requirements of section 808.3, or to place, track, monitor, or remove a global positioning device, issued pursuant to the requirements of section 808.4A.

[C51, §3291; R60, §5024; C73, §4629; C97, §5545; C24, 27, 31, §13418; C35, §13441-g1; C39, §**13441.01;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §751.1; C79, 81, §808.1]

2014 Acts, ch 1083, §1; 2017 Acts, ch 37, §2, 3, 9

Affidavits, see §622.85; R.Cr.P. 2.36

808.2 Authorization.

A search warrant may be issued:

1. For property which has been obtained in violation of law.

2. For property, the possession of which is unlawful.

3. For property used or possessed with the intent to be used as the means of committing a public offense or concealed to prevent an offense from being discovered.

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4. For any other property relevant and material as evidence in a criminal prosecution.

[C51, §3292; R60, §5025; C73, §4630; C97, §5546; C24, 27, 31, §13419; C35, §13441-g3; C39, §**13441.03;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §751.3; C79, 81, §808.2]

808.3 Application for search warrant.

1. *a.* A person may make application for the issuance of a search warrant by submitting before a magistrate a written application, supported by the person's oath or affirmation, which includes facts, information, and circumstances tending to establish sufficient grounds for granting the application, and probable cause for believing that the grounds exist. The application shall describe the person, place, or thing to be searched and the property to be seized with sufficient specificity to enable an independent reasonable person with reasonable effort to ascertain and identify the person, place, or thing.

b. The search warrant application and any supporting documents may be submitted to the magistrate in person or by electronic submission. If a search warrant is submitted by electronic submission, the magistrate may use electronic means to contact the person submitting the application and supporting documents to confirm the identity of the person, and may administer the person's oath or affirmation and accept the person's sworn testimony by electronic means, subject to the processes and procedures established by the judicial branch.

2. If the magistrate issues the search warrant, the magistrate shall endorse on the application the name and address of all persons upon whose sworn testimony the magistrate relied to issue the warrant together with the abstract of each witness' testimony, or the witness' affidavit. However, if the grounds for issuance are supplied by an informant, the magistrate shall identify only the peace officer to whom the information was given. The application or sworn testimony supplied in support of the application must establish the credibility of the informant or the credibility of the information given by the informant. The magistrate may in the magistrate's discretion require that a witness upon whom the applicant relies for information appear personally and be examined concerning the information.

[C51, §2722; R60, §1565, 4364; C73, §1544, 1545, 4027; C97, §2413, 2414, 4963; S13, §4965-b, 5007-a; SS15, §2413; C24, 27, 31, §1578, 1968, 1969, 13200, 13211; C35, §13441-g4; C39, §**13441.04;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §751.4; C79, 81, §808.3]

85 Acts, ch 39, §1; 98 Acts, ch 1117, §1; 2017 Acts, ch 37, §4, 9

Referred to in §321J.10, 462A.14D, 808.1

Forms, see R.Cr.P. 2.36

808.4 Issuance.

Upon a finding of probable cause for grounds to issue a search warrant, the magistrate shall issue a warrant, signed by the magistrate with the magistrate's name of office, directed to any peace officer, commanding that peace officer forthwith to search the named person, place, or thing within the state for the property specified, and to file with the magistrate or clerk of the district court, a written inventory itemizing all seized property. The warrant may be issued electronically, subject to the processes and procedures established by the judicial branch, and if so, the peace officer shall cause a printed copy of the warrant to be made for service of process.

[C51, §2722, 3294 – 3296; R60, §1565, 4364, 5027 – 5029; C73, §1544, 4027, 4632 – 4634; C97, §2413, 4963, 5548 – 5550; S13, §5007-a; SS15, §2413; C24, 27, 31, §1578, 1970, 13200, 13421, 13423; C35, §13441-g5; C39, §**13441.05;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §751.5; C79, 81, §808.4]

2017 Acts, ch 37, §5, 9; 2024 Acts, ch 1062, §1; 2024 Acts, ch 1154, §31

Forms, see R.Cr.P. 2.36

808.4A Application for search warrant — global positioning device — issuance.

1. A peace officer may make a written application to a magistrate for the issuance of a search warrant to authorize the placement, tracking, monitoring, or removal of a global positioning device, supported by a peace officer's oath or affirmation, which includes facts, information, and circumstances tending to establish sufficient grounds for granting the peace officer's application, and probable cause for believing the grounds exist.

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2. *a.* The application shall describe the person, place, or thing to be tracked or monitored by a global positioning device, or the removal of such a device from a person, place, or thing with sufficient specificity to enable an independent reasonable person with reasonable effort to ascertain and identify the person, place, or thing. If the magistrate issues the search warrant, the magistrate shall endorse on the application the name and address of all persons upon whose sworn testimony the magistrate relied to issue the warrant together with the abstract of each witness' testimony, or the witness' affidavit. However, if the grounds for issuance are supplied by an informant, the magistrate shall identify only the peace officer to whom the information was given. The application or sworn testimony supplied in support of the application must establish the credibility of the informant or the credibility of the information given by the informant. The magistrate may in the magistrate's discretion require that a witness upon whom the applicant relies for the information appear personally and be examined concerning the information.

b. The search warrant application and any supporting documents may be submitted to the magistrate in person or by electronic submission. If a search warrant is submitted by electronic submission, the magistrate may use electronic means to contact the person submitting the application and supporting documents to confirm the identity of the person, and may administer the person's oath or affirmation and accept the person's sworn testimony by electronic means, subject to the processes and procedures established by the judicial branch.

3. Upon a finding of probable cause to issue such a warrant, the magistrate shall issue a warrant, signed by the magistrate with the magistrate's name of office, directed to any peace officer, commanding that the peace officer place, track, monitor, or remove the global positioning device.

2014 Acts, ch 1083, §2; 2017 Acts, ch 37, §6, 9
Referred to in §808.1

808.5 Execution.

A search warrant may be executed by any peace officer. No persons other than those authorized by this section shall execute search warrants except in aid of those so authorized and on such authorized person's request, the authorized person being present and acting. The warrant may be executed in the daytime or in the nighttime. The warrant, when executed, shall be forthwith returned to the issuing magistrate. Where the property to be seized has been, or is susceptible of being, removed from the officer's jurisdiction, the officer executing the warrant may pursue it and search for property designated in the warrant.

[C51, §3297; R60, §1565, 5032, 5035; C73, §1544, 4637, 4640; C97, §2413, 5552, 5555; S13, §5007-a; SS15, §2413, 2415; C24, 27, 31, §1578, 1970, 1971, 13425, 13428; C35, §13441-g7, -g8; C39, §**13441.07, 13441.08;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §751.7, 751.8; C79, 81, §808.5]

808.6 Forcible execution.

1. The officer may break into any structure or vehicle where reasonably necessary to execute the warrant if, after notice of this authority and purpose the officer's admittance has not been immediately authorized. The officer may use reasonable force to enter a structure or vehicle to execute a search warrant without notice of the officer's authority and purpose in the case of vacated or abandoned structures or vehicles.

2. The officer executing a search warrant may break restraints when necessary for the officer's own liberation or to effect the release of a person who has entered a place to aid the officer.

[C51, §3298; R60, §5033, 5034; C73, §4638, 4639; C97, §5553, 5554; C24, 27, 31, §13426, 13427; C35, §13441-g9, -g10; C39, §**13441.09, 13441.10;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §751.9, 751.10; C79, 81, §808.6]

2018 Acts, ch 1041, §127

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808.7 Detention and search of persons on premises.

In the execution of a search warrant the person executing the same may reasonably detain and search any person or thing in the place at the time for any of the following reasons:

1. To protect the searcher from attack.
2. To prevent the disposal or concealment of any property subject to seizure described in the warrant.
3. To remove any item which is capable of causing bodily harm that the person may use to resist arrest or effect an escape.

[C79, 81, §808.7]

808.8 Return.

A search warrant shall be executed within ten days from its date; failure to execute within that period shall void the warrant. Property seized and its containers, if any, shall be safely kept by the officer, and incident thereto:

1. Upon such seizure the officer shall furnish an itemized receipt for such property to the person from whom taken or in whose possession it was found, if such person can be located, or a copy of the inventory may be left on the premises searched.
2. The officer must file, with the officer's return, a complete inventory of the property taken with the magistrate or clerk of the district court, including a sworn statement that it is accurate to the best of the officer's knowledge. The magistrate or clerk of the district court must, if requested, deliver a copy of the inventory of seized property to the person from whose possession it was taken and to the applicant for the warrant.

[C51, §3299 – 3302; R60, §1565, 5036 – 5039; C73, §1544, 4641 – 4644; C97, §2413, 2415, 5556 – 5559; SS15, §2413, 2415; C24, 27, 31, §1581, 1971, 13429 – 13432; C35, §13441-g12-15; C39, §**13441.12 – 13441.15;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §751.12 – 751.15; C79, 81, §808.8]

2017 Acts, ch 37, §7, 9; 2020 Acts, ch 1121, §114, 115

Forms, see R.Cr.P. 2.36

808.9 Safekeeping of seized property.

Property of an evidentiary nature seized in the execution of a search warrant shall be safely kept, subject to the orders of any court having jurisdiction to try any offense involved therewith, so long as reasonably necessary to enable its production at trials. The disposition of such property shall be in accordance with chapter 809.

[R60, §5048; C73, §4653; C97, §5568; C24, 27, 31, §13441; C35, §13441-g36; C39, §**13441.36;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §751.36; C79, 81, §808.9]

Referred to in §321J.10, 462A.14D

808.10 Maliciously suing out a warrant — officer exceeding authority.

Whoever maliciously and without just cause procures a search warrant to be issued and executed is guilty of a serious misdemeanor. Anyone who, in executing a search warrant, willfully exceeds the person's authority, or exercises it with unnecessary severity, is guilty of a serious misdemeanor.

[C51, §3308; R60, §5045, 5046; C73, §4650, 4651; C97, §5565, 5566; C24, 27, 31, §13438, 13439; C35, §13441-g38, -g39; C39, §**13441.38, 13441.39;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §751.38, 751.39; C79, 81, §808.10]

808.11 Transmission of documents to district court clerk.

The magistrate who has issued a search warrant shall attach to the warrant a copy of the return, inventory, if the inventory has not already been filed with the clerk of the district court, and all other documents in connection therewith and shall file them with the clerk of the district court for the county in which the property was seized.

[C79, 81, §808.11]

2017 Acts, ch 37, §8, 9

808.12 Detention and search in theft of library materials and shoplifting.

1. Persons concealing property as set forth in section 711.3B or 714.5, may be detained

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and searched by a peace officer, person employed in a facility containing library materials, merchant, or merchant's employee, provided that the detention is for a reasonable length of time and that the search is conducted in a reasonable manner by a person of the same sex and according to subsection 2 of this section.

2. No search of the person under this section shall be conducted by any person other than someone acting under the direction of a peace officer except where permission of the one to be searched has first been obtained.

3. The detention or search under this section by a peace officer, person employed in a facility containing library materials, merchant, or merchant's employee does not render the person liable, in a criminal or civil action, for false arrest or false imprisonment provided the person conducting the search or detention had reasonable grounds to believe the person detained or searched had concealed or was attempting to conceal property as set forth in section 711.3B or 714.5.

[C62, 66, 71, 73, 75, 77, §709.22 – 709.24; C79, 81, §808.12]
2010 Acts, ch 1125, §3; 2019 Acts, ch 140, §5
Referred to in §714.5

808.13 Confidentiality.

All information filed with the court for the purpose of securing a warrant for a search, including but not limited to an application and affidavits, shall be a confidential record until such time as a peace officer has executed the warrant and has made return thereon. During the period of time that information is confidential it shall be sealed by the court, and the information contained therein shall not be disseminated to any person other than a peace officer, magistrate, court employee, an employee of the department of corrections, if authorized by the director of the department of corrections, an employee of a judicial district department of correctional services, if authorized by the director of the judicial district department of correctional services, or a probation officer employed by the United States, acting pursuant to 18 U.S.C. §3602, in the course of official duties.

[C79, 81, §808.13]
2021 Acts, ch 11, §4; 2024 Acts, ch 1017, §2
Confidentiality of arrest warrant information, see §804.29

808.14 Administrative warrants.

The courts and other appropriate agencies of the judicial branch of the government of this state may issue administrative search warrants, in accordance with the statutory and common law requirements for the issuance of such warrants, to all governmental agencies or bodies expressly or impliedly provided with statutory or constitutional home rule authority for inspections to the extent necessary for the agency or body to carry out such authority, to be executed or otherwise carried out by an officer or employee of the agency or body.

85 Acts, ch 38, §1
Referred to in §99F.6, 135.141, 162.10B, 162.10C, 421.9, 453B.11, 657A.1A

808.15 Unmanned aerial vehicle — information — admissibility.

Information obtained as a result of the use of an unmanned aerial vehicle is not admissible as evidence in a criminal or civil proceeding, unless the information is obtained pursuant to the authority of a search warrant, or unless the information is otherwise obtained in a manner that is consistent with state and federal law.

2014 Acts, ch 1111, §2

808.16 Exception to search warrant requirement — garbage searches.

1. It is the public policy of this state that a person has no reasonable expectation of privacy in garbage placed outside of the person's residence for waste collection in a publicly accessible area.

2. A city or county shall only adopt an ordinance or a regulation concerning waste management and sanitation for the purposes of promoting public health and cleanliness. An ordinance or a regulation adopted by a city or county shall not be construed by a person

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to create a reasonable expectation of privacy in garbage placed outside of the person's residence for waste collection in a publicly accessible area.

3. Garbage placed outside of a person's residence for waste collection in a publicly accessible area shall be deemed abandoned property and shall not be considered to be constitutionally protected papers or effects of the person.

4. A peace officer may conduct a search and may seize garbage placed outside of a person's residence for waste collection in a publicly accessible area without making an application for a search warrant.

2022 Acts, ch 1022, §1

CHAPTER 808A

STUDENT SEARCHES

Referred to in §801.1

For general search and seizure law, see chapter 808

808A.1 Definitions.
808A.2 Searches of students, protected student areas, lockers, desks, and other facilities or spaces.
808A.3 Student search by peace officer.
808A.4 Exclusion of evidence.

808A.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Protected student area"* includes, but is not limited to:

a. A student's body.

b. Clothing worn or carried by a student.

c. A student's pocketbook, briefcase, duffel bag, bookbag, backpack, knapsack, or any other container used by a student for holding or carrying personal belongings of any kind and in the possession or immediate proximity of the student.

2. *"School"* means a public or nonpublic educational institution offering any of grades kindergarten through twelve.

3. *"School official"* means a licensed school employee, and includes unlicensed school employees employed for security or supervision purposes.

4. *"Student"* means a person enrolled in a school for any of grades kindergarten through twelve.

5. *"Student search rule"* means a rule established by the school board of a public school, pursuant to section 279.8 or 279.9, or the authorities in charge of a nonpublic school controlling the manner of the searching of students or protected student areas and school lockers, desks, and other facilities or spaces owned by the school. A student search rule, to be valid for purposes of this chapter, shall require that all searches of students or protected student areas be reasonably related in scope to the circumstances which gave rise to the need for the search and based upon consideration of relevant factors which include, but are not limited to, the following:

a. The nature of the violation for which the search is being instituted.

b. The age or ages and gender of the students who may be searched pursuant to the rule.

c. The objectives to be accomplished by the search.

86 Acts, ch 1129, §1; 89 Acts, ch 265, §40; 95 Acts, ch 191, §55; 97 Acts, ch 84, §1, 2

808A.2 Searches of students, protected student areas, lockers, desks, and other facilities or spaces.

1. The school board of each public school and the authorities in charge of each nonpublic school shall establish and may search a student or protected student area pursuant to a student search rule. The student search rule shall be published in each public school's and

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each nonpublic school's student handbook. A school official may search individual students and individual protected student areas if both of the following apply:

a. The official has reasonable grounds for suspecting that the search will produce evidence that a student has violated or is violating either the law or a school rule or regulation.

b. The search is conducted in a manner which is reasonably related to the objectives of the search and which is not excessively intrusive in light of the age and gender of the student and the nature of the infraction.

2. School officials may conduct periodic inspections of all, or a randomly selected number of, school lockers, desks, and other facilities or spaces owned by the school and provided as a courtesy to a student. The furnishing of a school locker, desk, or other facility or space owned by the school and provided as a courtesy to a student shall not create a protected student area, and shall not give rise to an expectation of privacy on a student's part with respect to that locker, desk, facility, or space. Allowing students to use a separate lock on a locker, desk, or other facility or space owned by the school and provided to the student shall also not give rise to an expectation of privacy on a student's part with respect to that locker, desk, facility, or space. However, each year when school begins, the school district shall provide written notice to all students and the students' parents, guardians, or legal custodians, that school officials may conduct periodic inspections of school lockers, desks, and other facilities or spaces owned by the school and provided as a courtesy to a student without prior notice. An inspection under this subsection shall either occur in the presence of the students whose lockers are being inspected or the inspection shall be conducted in the presence of at least one other person.

3. Under no circumstances may a search be made which is unreasonable in light of the following:

a. The age of the student.

b. The nonseriousness of the violation.

c. The sex of the student.

d. The nature of the suspected violation.

4. A school official shall not conduct a search which involves:

a. A strip search.

b. A body cavity search.

c. The use of a drug sniffing animal to search a student's body.

d. The search of a student by a school official not of the same sex as the student.

5. If a student is not or will not be present at the time a search of a protected student area is conducted pursuant to subsection 1, the student shall be informed of the search either prior to or as soon as is reasonably practicable after the search is conducted.

86 Acts, ch 1129, §2; 94 Acts, ch 1172, §62; 95 Acts, ch 191, §56; 97 Acts, ch 84, §3 – 6; 98 Acts, ch 1100, §91

808A.3 Student search by peace officer.

The search of a student or of a protected student area by a peace officer who is not a school official, or by a school official at the invitation or direction of a peace officer who is not a school official, shall be governed by the statutory and common law requirements for police searches.

86 Acts, ch 1129, §3

808A.4 Exclusion of evidence.

Material or evidence obtained directly or indirectly as a result of a search conducted in violation of this chapter is inadmissible in a criminal proceeding against a student.

86 Acts, ch 1129, §4

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CHAPTER 808B

INTERCEPTION OF COMMUNICATIONS

Referred to in §801.1

808B.1	Definitions.	808B.10	Restrictions on use and installation of a pen register or a trap and trace device.
808B.2	Unlawful acts — penalty.	808B.11	Application and order to install and use a pen register or trap and trace device.
808B.3	Court order for interception by special agents.	808B.12	Emergency installation and use — subsequent application and order.
808B.4	Permissible disclosure and use.	808B.13	Assistance in installation and use of a pen register or a trap and trace device.
808B.5	Application and order.	808B.14	Reporting installation and use of pen registers and trap and trace devices.
808B.6	Reports to state court administrator.		
808B.7	Contents of intercepted wire, oral, or electronic communication as evidence.		
808B.8	Civil damages authorized — civil and criminal immunity — injunctive relief.		
808B.9	Repealed by 98 Acts, ch 1157, §1.		

808B.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Aggrieved person"* means a person who was a party to an intercepted wire, oral, or electronic communication or a person against whom the interception was directed.

2. *"Contents"*, when used with respect to a wire, oral, or electronic communication, includes any information concerning the identity of the parties to the communication or the existence, substance, purpose, or meaning of that communication.

3. *"Court"* means a district court in this state.

4. *"Electronic communication"* means any transfer of signals, signs, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photooptical system that affects intrastate, interstate, or foreign commerce, but excludes the following:

a. Wire or oral communication.

b. Communication made through a tone-only paging device.

c. Communication from a tracking device.

d. Electronic funds transfer information stored by a financial institution in a communication system used for the electronic storage and transfer of funds.

5. *"Electronic, mechanical, or other device"* means a device or apparatus which can be used to intercept a wire, oral, or electronic communication other than either of the following:

a. A telephone or telegraph instrument, equipment, or facility, or any component of it which is either of the following:

(1) Furnished to the subscriber or user by a communications common carrier in the ordinary course of its business and being used by the subscriber or user in the ordinary course of the subscriber's or user's business.

(2) Being used by a communications common carrier in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of the officer's duties.

b. A hearing aid or similar device being used to correct subnormal hearing to not better than normal hearing.

6. *"Intercept"* or *"interception"* means the aural acquisition of the contents of a wire, oral, or electronic communication through the use of an electronic, mechanical, or other device.

7. *"Investigative or law enforcement officer"* means a peace officer of this state or one of its political subdivisions or of the United States who is empowered by law to conduct investigations of or to make arrests for criminal offenses, the attorney general, or a county attorney authorized by law to prosecute or participate in the prosecution of criminal offenses.

8. *"Oral communication"* means an oral communication uttered by a person exhibiting an expectation that the communication is not subject to interception, under circumstances

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justifying that expectation. An *"oral communication"* does not include an electronic communication.

9. *"Pen register"* means a device or process which records or decodes dialing, routing, addressing, or signaling information, but not the contents of the communication, transmitted by an instrument or facility from which a wire or electronic communication is transmitted. *"Pen register"* does not include any device or process used by a provider or customer of a wire or electronic communication service for billing, or recording as an incident to billing, for communications services provided by such provider or any device or process used by a provider or customer of a wire communication service for cost accounting or other like purposes in the ordinary course of its business.

10. *"Special state agent"* means a sworn peace officer member of the department of public safety.

11. *"Trap and trace device"* means a device or process which captures the incoming electronic or other impulses which identify the originating number or other dialing, routing, addressing, and signaling information reasonably likely to identify the source of a wire or electronic communication, but does not capture the contents of any communication.

12. *"Wire communication"* means any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception, including the use of such connection in a switching station, furnished or operated by any person engaged in providing or operating such facilities for the transmission of interstate or foreign communications or communications affecting interstate or foreign commerce.

89 Acts, ch 225, §22; 99 Acts, ch 78, §1 – 5; 2009 Acts, ch 88, §6 – 8
Referred to in §808B.5

808B.2 Unlawful acts — penalty.

1. Except as otherwise specifically provided in this chapter, a person who does any of the following commits a class "D" felony:

a. Willfully intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept, a wire, oral, or electronic communication.

b. Willfully uses, endeavors to use, or procures any other person to use or endeavor to use an electronic, mechanical, or other device to intercept any oral communication when either of the following applies:

(1) The device is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in wire communication.

(2) The device transmits communications by radio, or interferes with the transmission of radio communications.

c. Willfully discloses, or endeavors to disclose, to any other person the contents of a wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subsection.

d. Willfully uses, or endeavors to use, the contents of a wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subsection.

2. *a.* It is not unlawful under this chapter for an operator of a switchboard, or an officer, employee, or agent of a communications common carrier, whose facilities are used in the transmission of a wire communication, to intercept, disclose, or use that communication in the normal course of employment while engaged in an activity which is a necessary incident to the rendition of service or to the protection of the rights or property of the carrier of the communication. However, communications common carriers shall not use service observing or random monitoring except for mechanical or service quality control checks.

b. It is not unlawful under this chapter for a person acting under color of law to intercept a wire, oral, or electronic communication, if the person is a party to the communication or one of the parties to the communication has given prior consent to the interception.

c. It is not unlawful under this chapter for a person not acting under color of law

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to intercept a wire, oral, or electronic communication if the person is a party to the communication or if one of the parties to the communication has given prior consent to the interception, unless the communication is intercepted for the purpose of committing a criminal or tortious act in violation of the Constitution or laws of the United States or of any state or for the purpose of committing any other injurious act.

d. It is not unlawful under this chapter for a person who is the owner or lessee of real property to intercept an oral communication if the person intercepts the oral communication under all of the following circumstances:

(1) The interception of the oral communication is made by a surveillance system placed in or on the real property owned or leased by the person.

(2) The surveillance system is installed with the knowledge and consent of all lawful owners or lessees of the real property.

(3) The surveillance system is used for the purpose of detecting or preventing criminal activity in or on the real property owned or leased by the person or in an area accessible to the general public in the immediate vicinity of the real property owned or leased by the person.

3. An operator of a switchboard, or an officer, employee, or agent of a communications common carrier, whose facilities are used in the transmission or interception of a wire, oral, or electronic communication shall not disclose the existence of any transmission or interception or the device used to accomplish the transmission or interception with respect to a court order under this chapter, except as may otherwise be required by legal process or court order. Violation of this subsection is a class "D" felony.

89 Acts, ch 225, §23; 99 Acts, ch 78, §6 – 9; 2018 Acts, ch 1102, §2
Referred to in §808B.5

808B.3 Court order for interception by special agents.

The attorney general shall authorize and prepare any application for an order authorizing the interception of wire, oral, or electronic communications. The attorney general may apply to any district court of this state, or request that the county attorney in the district where application is to be made deliver the application of the attorney general, for an order authorizing the interception of wire, oral, or electronic communications, and the court may grant, subject to this chapter, an order authorizing the interception of wire, oral, or electronic communications by special state agents having responsibility for the investigation of the offense as to which application is made, when the interception may provide or has provided evidence of the following:

1. A felony offense involving dealing in controlled substances, as defined in section 124.101.
2. A forcible felony as defined in section 702.11.
3. A felony offense involving ongoing criminal conduct in violation of chapter 706A.
4. A felony offense involving money laundering in violation of chapter 706B.
5. A felony fugitive warrant issued in the state or involving an individual who is reasonably believed to be located within the state.
6. A felony offense involving human trafficking in violation of chapter 710A.

89 Acts, ch 225, §24; 99 Acts, ch 78, §10; 2009 Acts, ch 88, §9; 2014 Acts, ch 1097, §11
Referred to in §808B.5, 808B.11

808B.4 Permissible disclosure and use.

1. A special state agent who, by any means authorized by this chapter, has obtained knowledge of the contents of a wire, oral, or electronic communication, or has obtained evidence derived from a wire, oral, or electronic communication, may disclose the contents to another investigative or law enforcement officer to the extent that the disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

2. An investigative or law enforcement officer who, by any means authorized by this chapter, has obtained knowledge of the contents of a wire, oral, or electronic communication or has obtained evidence derived from a wire, oral, or electronic communication may use

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the contents to the extent the use is appropriate to the proper performance of the officer's official duties.

3. A person who has received, by any means authorized by this chapter, any information concerning a wire, oral, or electronic communication, or evidence derived from a wire, oral, or electronic communication intercepted in accordance with this chapter may disclose the contents of that communication or derivative evidence while giving testimony under oath or affirmation in a criminal proceeding in any court of the United States or of this state or in any federal or state grand jury proceeding.

4. An otherwise privileged wire, oral, or electronic communication intercepted in accordance with, or in violation of, the provisions of this chapter does not lose its privileged character.

5. If a special state agent, while engaged in intercepting a wire, oral, or electronic communication in the manner authorized, intercepts a communication relating to an offense other than those specified in the order of authorization, the contents of the communication, and the evidence derived from the communication, may be disclosed or used as provided in subsections 1 and 2. The contents of and the evidence derived from the communication may be used under subsection 3 when authorized by a court if the court finds on subsequent petition that the contents were otherwise intercepted in accordance with this chapter. The petition shall be made as soon as practicable.

89 Acts, ch 225, §25; 99 Acts, ch 78, §11
Referred to in §808B.5

808B.5 Application and order.

1. An application for an order authorizing or approving the interception of a wire, oral, or electronic communication shall be made in writing upon oath or affirmation to a court and shall state the applicant's authority to make the application. An application shall include the following information:

a. The identity of the special state agent requesting the application, the supervisory officer reviewing and approving the request, and the approval of the administrator of a division of the department of public safety under whose command the special state agent making the application is operating or the administrator's designee.

b. A full and complete statement of the facts and circumstances relied upon by the applicant to justify the belief that an order should be issued, including details as to the particular offense that has been, is being, or is about to be committed, a particular description of the nature and location of the facilities from which or the place where the communication is to be intercepted, a particular description of the type of communications sought to be intercepted, and the identity of the person, if known, committing the offense and whose communications are to be intercepted.

c. A full and complete statement as to whether other investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous.

d. A statement of the period of time for which the interception is required to be maintained. If the nature of the investigation is such that the authorization for interception should not automatically terminate when the described type of communication has been first obtained, a particular description of facts establishing probable cause to believe that additional communications of the same type will subsequently occur.

e. A full and complete statement of the facts concerning all previous applications known to the individuals authorizing and making the application, made to any court for authorization to intercept, or for approval of interceptions of, wire, oral, or electronic communications involving any of the same persons, facilities, or places specified in the application, and the action taken by the court on those applications.

f. If the application is for the extension of an order, a statement setting forth the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain results.

2. The court may require the applicant to furnish additional testimony or documentary evidence in support of the application.

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3. Upon application the court may enter an ex parte order, as requested or as modified, authorizing interception of wire, oral, or electronic communications within the territorial jurisdiction of the court, if the court finds on the basis of the facts submitted by the applicant all of the following:

a. There is probable cause for belief that an individual is committing, has committed, or is about to commit a felony offense involving dealing in controlled substances, as defined in section 124.101, subsection 5.

b. There is probable cause for belief that particular communications concerning the offense will be obtained through the interception.

c. Normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous.

d. There is probable cause for belief that the facilities from which, or the place where, the wire, oral, or electronic communications are to be intercepted are being used, or are about to be used, in connection with the commission of the offense, or are leased to, listed in the name of, or commonly used by the person whose communications are to be intercepted.

4. Each order authorizing the interception of a wire, oral, or electronic communication shall specify all of the following:

a. The identity of the person, if known, whose communications are to be intercepted.

b. The nature and location of the communications facilities as to which, or the place where, authority to intercept is granted.

c. A particular description of the type of communication sought to be intercepted, and a statement of the particular offense to which the communication relates.

d. The identity of the agency authorized to intercept the communications, and of the person requesting the application.

e. The period of time during which interception is authorized, including a statement as to whether the interception shall automatically terminate when the described communication has been first obtained.

5. Each order authorizing the interception of a wire, oral, or electronic communication shall, upon request of the applicant, direct that a communications common carrier, landlord, custodian, or other person shall furnish to the applicant all information, facilities, and technical assistance necessary to accomplish the interception inconspicuously and with a minimum of interference with the services that the carrier, landlord, custodian, or person is giving to the person whose communications are to be intercepted. Any communications common carrier, landlord, custodian, or other person furnishing facilities or technical assistance shall be compensated by the applicant at the prevailing rates.

6. An order entered under this section shall not authorize the interception of a wire, oral, or electronic communication for a period longer than is necessary to achieve the objective of the authorized interception, or in any event longer than thirty days. The thirty-day period shall commence on the date specified in the order upon which the commencement of the interception is authorized or ten days after the order is entered, whichever is earlier. An extension of an order may be granted, but only upon application for an extension made in accordance with subsection 1 and the court making the findings required by subsection 3. The period of extension shall be no longer than the authorizing court deems necessary to achieve the purposes for which it was granted and in no event longer than thirty days. Every order and its extension shall contain a provision that the authorization to intercept shall be executed as soon as practicable, shall be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under this section and sections 808B.1 through 808B.4, 808B.6, and 808B.7, and shall terminate upon attainment of the authorized objective, or in any event in thirty days.

7. If an order authorizing interception is entered pursuant to this chapter, the order may require reports to be made to the court which issued the order showing what progress has been made toward achievement of the authorized objective and the need for continued interception. The reports shall be made at intervals as the court requires.

8. *a.* The contents of a wire, oral, or electronic communication intercepted by a means authorized by this chapter shall, if possible, be recorded on tape or wire or other comparable device. The recording of the contents of a wire, oral, or electronic communication under

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this subsection shall be done in a way which will protect the recording from editing or other alterations. Immediately upon the expiration of the period of the order, or extensions of it, the recordings shall be made available to the court issuing the order and shall be sealed under the court's directions. Custody of the recordings shall be in accordance with the court order. Recordings shall be kept for five years and shall then be destroyed unless it is necessary to keep the recordings due to a continued legal process or court order, but the recordings shall not be kept for longer than ten years. Duplicate recordings may be made for disclosure or use pursuant to section 808B.4, subsections 1 and 2. The presence of a seal, or a satisfactory explanation for its absence, is a prerequisite for the disclosure or use of the contents of a wire, oral, or electronic communication or evidence derived from a communication under section 808B.4, subsection 3.

b. Applications made and orders granted under this chapter shall be sealed by the court. Custody of the applications and orders shall be in accordance with the directives of the court. The applications and orders shall be disclosed only upon a showing of good cause before a court and shall be kept for five years and shall then be destroyed unless it is necessary to keep the applications or orders due to a continued legal process or court order, but the applications and orders shall not be kept for longer than ten years.

c. A violation of this subsection may be punished as contempt of court.

9. *a.* Within a reasonable time, but not longer than ninety days, after the termination of the period of an order or its extensions, the court shall cause a notice to be served on all persons named in the order or the application which includes the following:

(1) The names of other parties to intercepted communications if the court determines disclosure of the names to be in the interest of justice.

(2) An inventory which shall include all of the following:

(a) The date of the application.

(b) The date of the entry of the court order and the period of authorized, approved, or disapproved interception, or the denial of the application.

(c) Whether, during the period, wire, oral, or electronic communications were or were not intercepted.

b. The court, upon the filing of a motion by a person whose communications were intercepted, shall make available to the person or the person's attorney for inspection the intercepted communications, applications, and orders. On an ex parte showing of good cause to a court, the service of the inventory required by this subsection may be postponed.

10. The contents of an intercepted wire, oral, or electronic communication or evidence derived from the wire, oral, or electronic communication shall not be received in evidence or otherwise disclosed in a trial, hearing, or other proceeding in a federal or state court unless each party, not less than ten days before the trial, hearing, or proceeding, has been furnished with a copy of the court order, and accompanying application, under which the interception was authorized. This ten-day period may be waived by the court if it finds that it was not possible to furnish the party with the above information ten days before the trial, hearing, or proceeding and that the party will not be prejudiced by the delay in receiving the information. If the ten-day period is waived by the court, the court may grant a continuance or enter such other order as it deems just under the circumstances.

11. An aggrieved person in a trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority of this state, may move to suppress the contents of an intercepted wire, oral, or electronic communication, or evidence derived from the wire, oral, or electronic communication, on the grounds that the communication was unlawfully intercepted, the order of authorization under which it was intercepted was insufficient on its face, or the interception was not made in conformity with the order of authorization. The motion shall be made before the trial, hearing, or proceeding unless there was no opportunity to make the motion or the person was not aware of the grounds of the motion. If the motion is granted, the contents of the intercepted wire, oral, or electronic communication, or evidence derived from the wire, oral, or electronic communication, shall be treated as having been obtained in violation of this chapter.

12. A special state agent may make application to a judicial officer for the issuance of a search warrant to authorize the placement, tracking, or monitoring of a global positioning

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device, supported by a peace officer's oath or affirmation, which includes facts, information, and circumstances tending to establish sufficient grounds for granting the special state agent's application, and probable cause for believing the grounds exist. Upon a finding of probable cause to issue such a warrant, the judicial officer shall issue a warrant, signed by the judicial officer with the judicial officer's name of office, directed to any peace officer, commanding that the peace officer place, track, or monitor the global positioning device.

13. Upon the request of an investigative or law enforcement officer, a judge may issue a subpoena or other court order in order to obtain information and supporting documentation regarding contemporaneous or prospective wire or electronic communications based upon a finding that a prosecuting attorney is engaged in a criminal investigation of an offense listed in section 808B.3.

14. Notwithstanding any other provision of law, upon the request of an investigative or law enforcement officer, a judge may authorize the capture of a wire or oral communication by a pen register or trap and trace device, if a judge finds that there is probable cause to believe that a wire or oral communication relevant to a valid search warrant will occur at any point while the warrant is in effect.

15. An appeal by the attorney general from an order granting a motion to suppress or from the denial of an application for an order of approval shall be pursuant to section 814.5, subsection 2.

89 Acts, ch 225, §26; 99 Acts, ch 78, §12 – 21; 99 Acts, ch 208, §63; 2009 Acts, ch 88, §10

808B.6 Reports to state court administrator.

1. Within thirty days after the denial of an application or after the expiration of an order granting an application, or after an extension of an order, the court shall report to the state court administrator all of the following:

a. The fact that an order or extension was applied for.

b. The kind of order or extension applied for.

c. The fact that the order or extension was granted as applied for, was granted as modified, or that an application was denied.

d. The period of interceptions authorized by the order, and the number and duration of any extensions of the order.

e. The offense specified in the order or application, or extension of an order.

f. The identity of the prosecutor making the application and the court reviewing and approving the request.

g. The nature of the facilities from which or the place where communications were to be intercepted.

2. In January of each year, the attorney general and the county attorneys of this state shall report to the state court administrator and to the administrative offices of the United States district courts all of the following:

a. The fact that an order or extension was applied for.

b. The kind of order or extension applied for.

c. The fact that the order or extension was granted as applied for, was granted as modified, or that an application was denied.

d. The period of interceptions authorized by the order, and the number and duration of any extensions of the order.

e. The offense specified in the order or application, or extension of an order.

f. The nature of the facilities from which or the place where communications were to be intercepted.

g. A general description of the interceptions made under such order or extension, including:

(1) The approximate nature and frequency of incriminating communications intercepted.

(2) The approximate nature and frequency of other communications intercepted.

(3) The approximate number of persons whose communications were intercepted.

(4) The approximate nature, amount, and cost of personnel and other resources used in the interceptions.

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h. The number of arrests resulting from interceptions made under such order or extension, and the offenses for which arrests were made.

i. The number of trials resulting from such interceptions.

j. The number of motions to suppress made with respect to such interceptions, and the number granted or denied.

k. The number of convictions resulting from such interceptions and the offenses for which the convictions were obtained and a general assessment of the importance of the interceptions.

l. The information required by paragraphs *"b"* through *"f"* with respect to orders or extensions obtained in a preceding calendar year and not yet reported.

m. Other information required by the rules of the administrative offices of the United States district courts.

3. In March of each year the state court administrator shall transmit to the general assembly a full and complete report concerning the number of applications for orders authorizing the interception of wire communications or oral communications and the number of applications, orders, and extensions granted or denied during the preceding calendar year. The report shall include a summary and analysis of the data required to be filed with the state court administrator by the attorney general, county attorneys, and the courts.

89 Acts, ch 225, §27
Referred to in §808B.5

808B.7 Contents of intercepted wire, oral, or electronic communication as evidence.

The contents or any part of the contents of an intercepted wire, oral, or electronic communication and any evidence derived from the wire, oral, or electronic communication shall not be received in evidence in a trial, hearing, or other proceeding in or before a court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the United States, a state, or political subdivision of a state if the disclosure of that information would be in violation of this chapter.

89 Acts, ch 225, §28; 99 Acts, ch 78, §22
Referred to in §808B.5

808B.8 Civil damages authorized — civil and criminal immunity — injunctive relief.

1. A person whose wire, oral, or electronic communication is intercepted, disclosed, or used in violation of this chapter shall:

a. Have a civil cause of action against any person who intercepts, discloses, or uses or procures any other person to intercept, disclose, or use such communications.

b. Be entitled to recover from any such person all of the following:

(1) Actual damages, but not less than liquidated damages computed at the rate of one hundred dollars a day for each day of violation, or one thousand dollars, whichever is higher.

(2) Punitive damages upon a finding of a willful, malicious, or reckless violation of this chapter.

(3) A reasonable attorney fee and other litigation costs reasonably incurred.

2. A good faith reliance on a court order shall constitute a complete defense to any civil or criminal action brought under this chapter.

3. A person whose wire, oral, or electronic communication is intercepted, disclosed, or used in violation of this chapter may seek an injunction, either temporary or permanent, against any person who violates this chapter.

89 Acts, ch 225, §29; 99 Acts, ch 78, §23, 24

808B.9 Repealed by 98 Acts, ch 1157, §1.

808B.10 Restrictions on use and installation of a pen register or a trap and trace device.

1. Except for emergency situations pursuant to section 808B.12, a person shall not install or use a pen register or a trap and trace device without first obtaining a search warrant or court order pursuant to section 808B.11. However, a pen register or a trap and trace device may be used or installed without court order if any of the following apply:

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a. It relates to the operation, maintenance, and testing of a wire or electronic communication service or to the protection of the rights or property of the provider of the service, or to the protection of users of the service from abuse of the service or unlawful use of the service.

b. If a wire or electronic communication was initiated or completed in order to protect the provider of the wire or electronic communication service, another provider furnishing service toward the completion of the wire or electronic communication, or a user of the service, from fraudulent, unlawful, or abusive use of the service.

c. If consent was obtained from the user of the electronic or wire communication service.

2. A person who knowingly violates this section commits a serious misdemeanor.

99 Acts, ch 78, §25; 2009 Acts, ch 88, §11; 2010 Acts, ch 1069, §64

808B.11 Application and order to install and use a pen register or trap and trace device.

1. An application for an order or an extension of an order authorizing or approving the installation and use of a pen register or a trap and trace device shall be made in writing by a prosecuting attorney upon oath or affirmation to a district court. Only a special state agent may conduct an investigation authorized under this section or section 808B.12. An application shall include the following information:

a. The identity of the prosecuting attorney, and the identity of the special state agent authorized to conduct the investigation.

b. A certified statement by the special state agent that the information likely to be obtained is relevant to an ongoing criminal investigation of an offense listed under section 808B.3 or an offense that may lead to an immediate danger of death of or serious injury to a person.

2. Upon application, the court may enter an ex parte order or an ex parte extension of an order authorizing the installation and use of a pen register or trap and trace device within the territorial jurisdiction of the court, if the court finds that the special state agent has certified to the court that the information likely to be obtained by the use of a pen register or trap and trace device is relevant to an ongoing criminal investigation of an offense listed under section 808B.3, or an offense that may lead to an immediate danger of death of or serious injury to a person.

3. Each order authorizing the interception of a communication under this section shall specify all of the following:

a. The identity of the person, if known, who owns or leases the telephone line where the pen register or trap and trace device will be attached.

b. The identity of the person, if known, who is the subject of the criminal investigation.

c. The telephone number if known, the physical location of the telephone line where the pen register or trap and trace device will be attached, the method for determining the location of the electronic communication, and the geographic limits of the trap and trace device.

d. Upon request of the applicant, direct the furnishing of information, facilities, and technical assistance necessary to accomplish the installation of a pen register or trap and trace device.

e. The period of time during which the use of the pen register or trap and trace device is authorized, which shall be no greater than sixty days.

f. If the application is for the extension of an order and after a judicial finding required under subsection 2, authorize the extension of an order. Each extension of an order shall not exceed sixty days.

4. Except as otherwise provided in paragraph *"b"*, any order granted under this section shall be sealed until otherwise ordered by the court.

a. Any person owning or leasing the telephone line to which the pen register or trap and trace device is attached, or who has been ordered by the court to furnish information, facilities, or technical assistance to the applicant, shall not disclose the existence of the pen register or trap and trace device or the existence of the investigation of the listed subscriber, to any person, unless or until otherwise ordered by the court.

b. A prosecuting attorney or special state agent may utilize or share any information obtained from the use of a pen register or trap and trace device with other prosecuting attorneys or law enforcement agencies while acting within the scope of their employment.

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c. A violation of this subsection may be punished as contempt of court.

99 Acts, ch 78, §26; 99 Acts, ch 208, §64, 65; 2009 Acts, ch 88, §12
Referred to in §808B.10, 808B.12, 808B.13

808B.12 Emergency installation and use — subsequent application and order.

1. Notwithstanding any other provision of this chapter, a special state agent authorized by the prosecuting attorney or an assistant attorney general who reasonably determines that an emergency situation described in subsection 2 exists which requires the installation and use of a pen register or a trap and trace device before an order authorizing such installation and use can be obtained with due diligence, may install and use a pen register or trap and trace device, if an order approving the installation or use is applied for and issued in accordance with section 808B.11 within forty-eight hours of the installation.

2. Subsection 1 applies in the following emergency situations:

a. Immediate danger of death or serious bodily injury to a person.

b. Conspiratorial activities characteristic of organized crime.

c. Immediate threat to a national security interest.

d. Ongoing attack on a computer that constitutes a crime punishable by a term of imprisonment greater than one year.

3. In the absence of an authorizing order, such use shall immediately terminate when the information sought is obtained, when the application for the order is denied, or when forty-eight hours have lapsed since the installation of the pen register or trap and trace device, whichever is earlier.

4. The knowing installation or use by any investigative or law enforcement officer of a pen register or trap and trace device pursuant to subsection 1 without application for the authorizing order within forty-eight hours of the installation constitutes a serious misdemeanor.

5. A provider of a wire or electronic communication service, landlord, custodian, or other person who furnishes facilities or technical assistance pursuant to this section shall be reasonably compensated for such reasonable expenses incurred in providing such facilities and assistance.

99 Acts, ch 78, §27; 99 Acts, ch 208, §66, 67; 2009 Acts, ch 88, §13
Referred to in §808B.10, 808B.11, 808B.13

808B.13 Assistance in installation and use of a pen register or a trap and trace device.

1. Upon the request of the prosecuting attorney or the special state agent authorized to install and use a pen register under this chapter, and as directed by court order, a provider of a wire or electronic communication service, landlord, custodian, or other person shall furnish such investigative or law enforcement officer forthwith with all information, facilities, and technical assistance necessary to accomplish the installation of the pen register unobtrusively and with a minimum of interference with the service that the person so ordered by the court accords the party with respect to whom the installation and use is to take place.

2. Upon the request of the prosecuting attorney or the special state agent authorized to receive the results of a trap and trace device under this chapter, and as directed by court order, a provider of a wire or electronic communication service, landlord, custodian, or other person shall install such device forthwith on the appropriate telephone line and shall furnish such investigative or law enforcement officer with all additional information, facilities, and technical assistance including installation and operation of the device unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place. Unless otherwise ordered by the court, the results of the trap and trace device shall be furnished to the authorized law enforcement agency designated in the court order at reasonable intervals during regular business hours for the duration of the order.

3. A provider of a wire or electronic communication service, landlord, custodian, or other person who furnishes facilities or technical assistance pursuant to this section shall be compensated for reasonable expenses incurred in providing such facilities and assistance.

4. A cause of action shall not lie in any court against any provider of a wire or electronic

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communication service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a search warrant or court order under section 808B.11 or 808B.12.

5. A good faith reliance on a search warrant or court order under section 808B.11 or 808B.12 is a complete defense against any civil or criminal action brought under this chapter or any other statute.

99 Acts, ch 78, §28; 2009 Acts, ch 88, §14

808B.14 Reporting installation and use of pen registers and trap and trace devices.

In January of each year, the attorney general and the county attorneys of this state shall report to the state court administrator the number of pen register orders and orders for trap and trace devices applied for and obtained by their offices during the preceding calendar year.

99 Acts, ch 78, §29

CHAPTER 809

DISPOSITION OF SEIZED PROPERTY

Referred to in §80.39, 101.24, 321.232, 321J.4B, 321J.10, 455B.103, 462A.14D, 602.8102(129), 725.8, 801.1, 808.9, 809A.7

Forfeiture; see chapter 809A

809.1 Definitions.
809.2 Notice of seizure.
809.3 Application for immediate return of seized property.
809.4 Hearing — appeal.
809.5 Disposition of seized property.
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809.12A Appeals.
809.13 and 809.14 Repealed by 96 Acts, ch 1133, §53.
809.15 Combining proceedings.
809.16 Rulemaking.
809.17 Proceeds applied to various programs.
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809.21 Sale of certain ammunition and firearms.

809.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Seizable property"* means any of the following:

a. Property which is relevant in a criminal prosecution or investigation.

b. Property defined by law to be forfeitable property.

c. Property which if not seized by the state poses an imminent danger to a person's health, safety, or welfare.

2. *"Seized property"* means property taken or held by any law enforcement agency without the consent of the person, if any, who had possession or a right to possession of the property at the time it was taken into custody. Seized property does not include property taken into custody solely for safekeeping purposes or property taken into custody with the consent of the owner or the person who had possession at the time of the taking. If consent to the taking of property was given by the person in possession of the property and later withdrawn or found to be insufficient, the property shall then be returned or the property shall be deemed seized as of the time of the demand and refusal.

3. The definitions contained in subsections 1 and 2 shall not apply to violations of chapter 321.

86 Acts, ch 1140, §3; 95 Acts, ch 48, §23; 96 Acts, ch 1133, §47

809.2 Notice of seizure.

The officer taking possession of seized property shall make a written inventory of the property and deliver a copy of the inventory to the person from whom it was seized. The inventory shall include the name of the person taking custody of the seized property, the date and time of the seizure, and the law enforcement agency seizing the property.

86 Acts, ch 1140, §4

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809.3 Application for immediate return of seized property.

1. Any person claiming a right to immediate possession of seized property may make application for its return in the office of the clerk of court for the county in which the property was seized.

2. The application for the return of seized property shall state the specific item or items sought, the nature of the claimant's interest in the property, and the grounds upon which the claimant seeks to have the property immediately returned. Mere ownership is insufficient as grounds for immediate return. The written application shall be specific and the claimant shall be limited at the judicial hearing to proof of the grounds set out in the application for immediate return. The fact that the property is inadmissible as evidence or that it may be suppressed is not grounds for its return. If no specific grounds are set out in the application for return, or the grounds set out are insufficient as a matter of law, the court may enter judgment on the pleadings without further hearing.

3. The application shall be signed by the claimant under penalty of perjury.

4. The claimant shall cause a copy of the application to be delivered to the county attorney.

86 Acts, ch 1140, §5; 2013 Acts, ch 7, §1

Referred to in §29C.25, 809.5

809.4 Hearing — appeal.

An application for the return of seized property shall be set for hearing not less than five nor more than thirty days after the filing of the application and shall be tried to the court. All claims to the same property shall be heard in one proceeding unless it is shown that the proceeding would result in prejudice to one or more of the parties. If the total value of the property sought to be returned is less than five thousand dollars, the proceeding may be conducted by a magistrate or a district associate judge with appeal to be as in the case of small claims. In all other cases, the hearing shall be conducted by a district judge, with appeal as provided in section 809.12A.

86 Acts, ch 1140, §6; 96 Acts, ch 1133, §48

Referred to in §602.6405

809.5 Disposition of seized property.

1. Seized property shall be returned to the owner if the property is no longer required as evidence or the property has been photographed and the photograph will be used as evidence in lieu of the property, if the property is no longer required for use in an investigation, if the owner's possession is not prohibited by law, and if a forfeiture claim has not been filed on behalf of the state.

a. If the aggregate fair market value of the property is greater than five hundred dollars, the seizing agency shall serve notice by personal service or by sending the notice by restricted certified mail, return receipt requested, to the last known address of any person having an ownership or possessory right in the property. Refusal of restricted certified mail, return receipt requested, shall be construed as receipt of the notice.

b. If the aggregate fair market value of the property is equal to or less than five hundred dollars, the seizing agency shall serve notice by personal service or by sending the notice by regular mail to the last known address of any person having an ownership or possessory right in the property.

c. A person having an ownership or possessory right in the property must file a written claim for the property with the seizing agency within thirty days from the date of receipt of the notice and must take possession of the property within thirty days of the expiration of the period of time for filing a written claim. If no written claim is filed within thirty days from the date of receipt of the notice or if a written claim is filed but the claimant does not take possession of the property within thirty days of the expiration of the period of time for filing the written claim, the property shall be deemed abandoned and shall be disposed of accordingly.

d. The notice served or sent pursuant to this subsection shall inform the recipient of the filing and possession requirements of paragraph "*c*".

e. The seizing agency shall not release the property to any party until the expiration of

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the date for filing claims. In the event that there is more than one claim filed for the return of property under this section, at the expiration of the period for filing claims the seizing agency shall file a copy of all such claims with the clerk of court and the clerk shall proceed as if such claims were filed by the parties under section 809.3.

f. In the event that the owner is unable to be located or the property is deemed abandoned the following shall apply:

(1) If the aggregate fair market value of the property is greater than five hundred dollars, forfeiture proceedings shall be initiated pursuant to the provisions of chapter 809A. If the court does not order the property forfeited to the state in the forfeiture proceedings pursuant to chapter 809A, the seizing agency shall become the owner of the property and may dispose of it in any reasonable manner.

(2) If the aggregate fair market value of the property is equal to or less than five hundred dollars, the seizing agency shall become the owner of the property and may dispose of it in any reasonable manner.

(3) Notwithstanding subparagraphs (1) and (2), firearms or ammunition shall be deposited with the department of public safety. The firearms or ammunition may be held by the department of public safety and be used for law enforcement, testing, or comparisons by the criminalistics laboratory, or may be destroyed or disposed of by the department of public safety in accordance with section 809.21.

2. Upon the filing of a claim and following hearing by the court, property which has been seized shall be returned to the person who demonstrates a right to possession, unless one or more of the following is true:

a. The possession of the property by the claimant is prohibited by law.

b. There is a forfeiture notice on file and not disposed of in favor of the claimant prior to or in the same hearing.

c. The state has demonstrated that the evidence is needed in a criminal investigation or prosecution.

3. The court shall, subject to any unresolved forfeiture hearing, make orders appropriate to the final disposition of the property including, but not limited to, the destruction of contraband once it is no longer needed in an investigation or prosecution.

86 Acts, ch 1140, §7; 2007 Acts, ch 107, §1; 2008 Acts, ch 1153, §1, 2; 2015 Acts, ch 39, §1
Referred to in §714.26

809.6 through 809.12 Repealed by 96 Acts, ch 1133, §53. See §809.12A and chapter 809A.

809.12A Appeals.

An appeal from a denial of an application for the return of seized property or from an order for the return of seized property shall be made within thirty days after the entry of a judgment order. The appellant, other than the state, shall post a bond of a reasonable amount as the court may fix and approve, conditioned to pay all costs of the proceedings if the appellant is unsuccessful on appeal. The appellant, other than the state, may be required to post a supersedeas bond or other security, as the court finds to be reasonable, in order to stay the operation of a forfeiture order under section 809A.16.

96 Acts, ch 1133, §49
Referred to in §809.4

809.13 and 809.14 Repealed by 96 Acts, ch 1133, §53. See chapter 809A.

809.15 Combining proceedings.

In cases involving seized property and property subject to forfeiture pursuant to section 809A.4, the court may order that the proceedings be combined for purposes of this chapter.

86 Acts, ch 1140, §17; 96 Acts, ch 1133, §50

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809.16 Rulemaking.

The attorney general shall adopt, amend, or repeal rules pursuant to chapter 17A to carry out the provisions of this chapter.

86 Acts, ch 1140, §18; 96 Acts, ch 1133, §51

809.17 Proceeds applied to various programs.

Except as provided in section 809.21, proceeds from the disposal of seized property pursuant to this chapter may be transferred in whole or in part to the victim compensation fund created in section 915.94 at the discretion of the recipient agency, political subdivision, or department.

90 Acts, ch 1251, §60; 91 Acts, ch 181, §16; 91 Acts, ch 258, §66; 96 Acts, ch 1133, §52; 98 Acts, ch 1090, §75, 84

809.18 to 809.20 Reserved.

809.21 Sale of certain ammunition and firearms.

Ammunition and firearms which are not illegal and which are not offensive weapons as defined by section 724.1 may be sold by the department of public safety at public auction. The department of public safety may sell at public auction forfeited legal weapons received from the director of the department of natural resources, except that rifles and shotguns shall be retained by the department of natural resources for disposal according to its rules. The sale of ammunition or firearms pursuant to this section shall be made only to federally licensed firearms dealers or to persons who have a permit to purchase the firearms. Persons who have not obtained a permit may bid on firearms at the public auction. However, persons who bid without a permit must post a fifty percent of purchase price deposit with the commissioner of public safety on any winning bid. No transfer of firearms may be made to a person bidding without a permit until such time as the person has obtained a permit. If the person is unable to produce a permit within two weeks from the date of the auction, the person shall forfeit the fifty percent deposit to the department of public safety. All proceeds of a public auction pursuant to this section, less department expenses reasonably incurred, shall be deposited in the general fund of the state. The department of public safety shall be reimbursed from the proceeds for the reasonable expenses incurred in selling the property at the auction.

86 Acts, ch 1238, §33; 87 Acts, ch 13, §7, 8; 90 Acts, ch 1042, §1

Referred to in §483A.33, 809.5, 809.17, 809A.17

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CHAPTER 809A

FORFEITURE REFORM ACT

Referred to in §80.39, 123.9, 321.232, 321J.4B, 321J.10, 455B.103, 462A.14D, 706A.3, 706B.2, 715A.8, 716A.7, 801.1, 809.5

Seized property; see also chapter 809

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809A.1 Definitions.

As used in this chapter:

1. *"Convicted"* or *"conviction"* includes a finding of guilt, a plea of guilty, deferred judgment, deferred or suspended sentence, adjudication of delinquency, or circumstances where a person is not charged with a criminal offense that is a serious or aggravated misdemeanor or felony related to the action for forfeiture based in whole or in part on the person's cooperation in providing information regarding the criminal activity of another person.

2. *"Instrumentality"* means property otherwise lawful to possess that is used in or intended to be used in a public offense.

3. *"Interest holder"* means a secured party within the meaning of chapter 554, or the beneficiary of a security interest or encumbrance pertaining to an interest in property, whose interest is perfected against a good faith purchaser for value. A person who holds property for the benefit of or as an agent or nominee for another person, or who is not in substantial compliance with any statute requiring an interest in property to be recorded or reflected in public records in order to perfect the interest against a good faith purchaser for value, is not an interest holder.

4. *"Minimum civil forfeiture amount"* means five thousand dollars.

5. *"Omission"* means the failure to perform an act that is required by law.

6. *"Owner"* means a person, other than an interest holder, who has an interest in property. A person who holds property for the benefit of or as an agent or nominee for another person, or who is not in substantial compliance with any statute requiring an interest in property to be recorded or reflected in public records in order to perfect the interest against a good faith purchaser for value, is not an owner.

7. *"Proceeds"* means property acquired directly or indirectly from, produced through, realized through, or caused by an act or omission and includes any property of any kind without reduction for expenses incurred for acquisition, maintenance, production, or any other purpose.

8. *"Property"* means anything of value, and includes any interest in property, including any benefit, privilege, claim, or right with respect to anything of value, whether real or personal, tangible or intangible.

9. *"Prosecuting attorney"* means an attorney who is authorized by law to appear on the behalf of the state in a criminal case, and includes the attorney general, an assistant attorney general, the county attorney, an assistant county attorney, or a special or substitute prosecutor

whose appearance is approved by a court having jurisdiction to try a defendant for the offense with which the defendant is charged.

10. *"Regulated interest holder"* means an interest holder that is a business authorized to do business in this state and is under the jurisdiction of any state or federal agency regulating banking, insurance, real estate, or securities.

11. *"Seizing agency"* means a department or agency of this state or its political subdivisions that regularly employs law enforcement officers, and that employs the law enforcement officer who seizes property for forfeiture, or such other agency as the department or agency may designate by its chief executive officer or the officer's designee.

12. *"Seizure for forfeiture"* means seizure of property by a law enforcement officer, including a constructive seizure, accompanied by an assertion by the seizing agency or by a prosecuting attorney that the property is seized for forfeiture, in accordance with section 809A.6.

96 Acts, ch 1133, §1; 98 Acts, ch 1074, §37, 38; 2017 Acts, ch 114, §1, 15

2017 amendment adding NEW subsections 1, 2, and 4 applies to forfeiture proceedings that begin on or after July 1, 2017; 2017 Acts, ch 114, §15

809A.2 Jurisdiction and venue.

1. The district court has jurisdiction under this chapter over:

a. All interests in property within this state at the time a forfeiture action is filed.

b. The interest in the property of an owner or interest holder who is subject to personal jurisdiction in this state.

2. In addition to the venue provided for under chapter 803 or any other provision of law, a proceeding for forfeiture under this chapter may be maintained in the county in which any part of the property is found or in the county in which a civil or criminal action could be maintained against an owner or interest holder for the conduct alleged to give rise to the forfeiture.

96 Acts, ch 1133, §2

809A.3 Conduct giving rise to forfeiture.

1. The following conduct may give rise to forfeiture:

a. An act or omission which is a public offense and which is a serious or aggravated misdemeanor or felony.

b. An act or omission occurring outside of this state, that would be punishable by confinement of one year or more in the place of occurrence and would be a serious or aggravated misdemeanor or felony if the act or omission occurred in this state.

c. An act or omission committed in furtherance of any act or omission described in paragraph *"a"*, which is a serious or aggravated misdemeanor or felony, including any inchoate or preparatory offense.

2. Notwithstanding subsection 1, violations of chapter 321 or 321J shall not be considered conduct giving rise to forfeiture, except for violations of the following:

a. Section 321.232.

b. Section 321J.4B, subsection 6, 9, or 10.

96 Acts, ch 1133, §3; 97 Acts, ch 177, §29; 2007 Acts, ch 38, §11; 2010 Acts, ch 1069, §146; 2013 Acts, ch 30, §171; 2019 Acts, ch 59, §230

809A.4 Property subject to forfeiture.

The following are subject to forfeiture:

1. All controlled substances, raw materials, controlled substance analogs, counterfeit controlled substances, imitation controlled substances, or precursor substances, that have been manufactured, distributed, dispensed, possessed, or acquired in violation of the laws of this state.

2. *a.* All property, except as provided in paragraph *"b"*, including the whole of any lot or tract of land and any appurtenances or improvements to real property, including homesteads that are otherwise exempt from judicial sale pursuant to section 561.16, that is either:

(1) Furnished or intended to be furnished by a person in an exchange that constitutes conduct giving rise to forfeiture.

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(2) Used or intended to be used in any manner or part to facilitate conduct giving rise to forfeiture.

b. If the only conduct giving rise to forfeiture is a violation of section 124.401, subsection 5, real property is not subject to forfeiture and other property subject to forfeiture pursuant to paragraph "*a*", subparagraph (2), may be forfeited only pursuant to section 809A.14.

3. All proceeds of any conduct giving rise to forfeiture.

4. All weapons possessed, used, or available for use in any manner to facilitate conduct giving rise to forfeiture.

5. Any interest or security in, claim against, or property or contractual right of any kind affording a source of control over any enterprise that a person has established, operated, controlled, conducted, or participated in the conduct or through conduct giving rise to forfeiture.

6. *a.* Any property of a person up to the value of property which is either of the following:

(1) Described in subsection 2 that the person owned or possessed for the purpose of a use described in subsection 2.

(2) Described in subsection 3 and is proceeds of conduct engaged in by the person or for which the person is criminally responsible.

b. Property described in this subsection may be seized for forfeiture pursuant to a constructive seizure or an actual seizure pursuant to section 809A.6. Actual seizure may only be done pursuant to a seizure warrant issued on a showing, in addition to the showing of probable cause for the forfeiture of the subject property, that the subject property is not available for seizure for reasons described in section 809A.15, subsection 1, and that the value of the property to be seized is not greater than the total value of the subject property, or pursuant to a constructive seizure. If property of a defendant up to the total value of all interests in the subject property is not seized prior to final judgment in an action under this section, the remaining balance shall be ordered forfeited as a personal judgment against the defendant.

7. As used in this section, *"facilitate"* means to have a substantial connection between the property and the conduct giving rise to forfeiture.

96 Acts, ch 1133, §4; 98 Acts, ch 1074, §39, 40; 98 Acts, ch 1100, §87
Referred to in §809.15, 809A.5

809A.5 Exemptions.

1. All property, including all interests in property, described in section 809A.4 is subject to forfeiture, except that property is exempt from forfeiture if either of the following occurs:

a. The owner or interest holder acquired the property before or during the conduct giving rise to its forfeiture, and did not know and could not reasonably have known of the conduct or that the conduct was likely to occur, or acted reasonably to prevent the conduct giving rise to forfeiture.

b. The owner or interest holder acquired the property, including acquisition of proceeds of conduct giving rise to forfeiture, after the conduct giving rise to its forfeiture and acquired the property in good faith, for value and did not knowingly take part in an illegal transaction.

2. Notwithstanding subsection 1, property is not exempt from forfeiture, even though the owner or interest holder lacked knowledge or reason to know that the conduct giving rise to its forfeiture had occurred or was likely to occur, if any of the following exists:

a. The person whose conduct gave rise to its forfeiture had the authority to convey the property of the person claiming the exemption to a good faith purchaser for value at the time of the conduct.

b. The owner or interest holder is criminally responsible for the conduct giving rise to its forfeiture. If the forfeiture is for property valued at less than the minimum civil forfeiture amount, the owner or interest holder must also be convicted of the criminal offense for the conduct giving rise to forfeiture.

c. The owner or interest holder acquired the property with notice of its actual or

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constructive seizure for forfeiture under section 809A.6, or with reason to believe that it was subject to forfeiture.

96 Acts, ch 1133, §5; 2017 Acts, ch 114, §2, 15
Referred to in §809A.12, 809A.14
2017 amendment to subsection 2, paragraph b, applies to forfeiture proceedings that begin on or after July 1, 2017; 2017 Acts, ch 114, §15

809A.6 Seizure of property for forfeiture.

1. A peace officer may seize property for forfeiture upon process issued by any district judge, district associate judge, or magistrate. The court may issue a seizure warrant on an affidavit under oath demonstrating that probable cause exists for its forfeiture or that the property has been the subject of a previous final judgment of forfeiture in the courts of any state or of the United States. The court may order that the property be seized on such terms and conditions as are reasonable in the discretion of the court. The order may be made on or in connection with a search warrant.

2. Peace officers may seize property for forfeiture without process on probable cause to believe that the property is subject to forfeiture under this chapter and if exigent circumstances exist or if the property has already been seized for a purpose other than forfeiture.

3. The seizure of inhabited residential real property for forfeiture which is accompanied by removing or excluding its residents shall be done pursuant to a preseizure adversarial judicial determination of probable cause, except that this determination may be made ex parte if the prosecuting attorney has demonstrated exigent circumstances.

4. *a.* Property may be seized constructively by:

(1) Posting notice of seizure for forfeiture or notice of pending forfeiture on the property.

(2) Giving notice pursuant to section 809A.8.

(3) Filing or recording in the public records relating to that type of property notice of seizure for forfeiture, notice of pending forfeiture, a forfeiture lien, or a notice of lis pendens.

b. Filings or recordings made pursuant to this subsection are not subject to a filing fee or other charge.

5. The seizing agency, or the prosecuting attorney, shall make a reasonable effort to provide notice of the seizure to the person from whose possession or control the property was seized and to any person who has a security interest in the property. If no person is in possession or control of the property, the seizing agency may attach the notice to the property or to the place of its seizure or may make a reasonable effort to deliver it to the owner of the property. The notice shall contain a general description of the property seized, the date and place of seizure, the name of the seizing agency, and the address and telephone number of the seizing officer or other person or agency from whom information about the seizure may be obtained.

6. A person who acts in good faith and in a reasonable manner pursuant to this section to comply with an order of the court or a request of a law enforcement officer is not liable to any person for acts done in reasonable compliance with the order or request. In addition, an inference of guilt shall not be drawn from the fact that a person refuses a law enforcement officer's request to deliver the property.

7. A possessory lien of a person from whose possession property is seized is not affected by the seizure.

96 Acts, ch 1133, §6; 2013 Acts, ch 30, §261
Referred to in §809A.1, 809A.4, 809A.5

809A.7 Property management and preservation.

1. Property seized for forfeiture under this chapter is not subject to alienation, conveyance, sequestration, attachment, or an application for return of seized property under chapter 809.

2. The seizing agency or the prosecuting attorney may authorize the release of the seizure for forfeiture on the property if forfeiture or retention of actual custody is unnecessary.

3. The prosecuting attorney may discontinue forfeiture proceedings and transfer the

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action to another state or federal agency or prosecuting attorney who has initiated forfeiture proceedings.

4. Property seized for forfeiture under this chapter is deemed to be in the custody of the district court subject only to the orders and decrees of the court having jurisdiction over the forfeiture proceedings and to the acts of the seizing agency or the prosecuting attorney pursuant to this chapter.

5. *a.* An owner of property seized for forfeiture under this chapter may obtain release of the property by posting with the court a surety bond or cash in an amount determined by the court to be reasonable in light of the fair market value of the property. Property shall not be released if any of the following apply:

(1) The owner fails to post the required bond.

(2) The property is retained as contraband or as evidence.

(3) The property is particularly altered or designed for use in conduct giving rise to forfeiture.

b. If a surety bond or cash is posted and the property is forfeited, the court shall forfeit the surety bond or cash in lieu of the property.

6. If property is seized for forfeiture under this chapter, the prosecuting attorney, subject to any need to retain the property as evidence, may do any of the following:

a. Remove the property to an appropriate place designated by the district court.

b. Place the property under constructive seizure.

c. Remove the property to a storage area for safekeeping or, if the property is a negotiable instrument or money, deposit it in an interest-bearing account.

d. Provide for another agency or custodian, including an owner, secured party, mortgagee, or lienholder, to take custody of the property and service, maintain, and operate it as reasonably necessary to maintain its value, in any appropriate location within the jurisdiction of the court.

e. Require the seizing agency to take custody of the property and remove it to an appropriate location for disposition in accordance with law.

7. As soon as practicable after seizure for forfeiture, the seizing agency shall conduct a written inventory and estimate the value of the property seized.

8. The court may order property which has been seized for forfeiture sold, leased, rented, or operated to satisfy a specified interest of any interest holder, or to preserve the interests of any party on motion of such party. The court may enter orders under this subsection after notice to persons known to have an interest in the property, and an opportunity for a hearing, if either of the following exists:

a. The interest holder has timely filed a proper claim and is a regulated interest holder.

b. The interest holder has an interest which the prosecuting attorney has stipulated is exempt from forfeiture.

9. A sale may be ordered under subsection 8 if the property is liable to perish, to waste, or to be foreclosed upon or significantly reduced in value, or if the expenses of maintaining the property are disproportionate to its value. A third party designated by the court shall dispose of the property by commercially reasonable public sale and distribute the proceeds in the following order of priority:

a. For the payment of reasonable expenses incurred in connection with the sale or disposal.

b. For the satisfaction of exempt interests in the order of their priority.

c. Any balance of the proceeds shall be preserved in the actual or constructive custody of the court, in an interest-bearing account, subject to the proceedings under this chapter.

96 Acts, ch 1133, §7; 2013 Acts, ch 30, §261

809A.8 Commencement of forfeiture proceedings — property release requirements.

1. Forfeiture proceedings shall be commenced as follows:

a. Property seized for forfeiture shall be released on the request of an owner or interest holder to the owner's or interest holder's custody, as custodian for the court, pending further proceedings pursuant to this chapter if the prosecuting attorney fails to do either of the following:

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(1) File a notice of pending forfeiture against the property within ninety days after seizure.

(2) File a judicial forfeiture proceeding within ninety days after notice of pending forfeiture of property upon which a proper claim has been timely filed pursuant to section 809A.11, or, if the value of the property is less than the minimum civil forfeiture amount, file a judicial forfeiture proceeding within ninety days after the conclusion of the criminal prosecution.

b. Within thirty days after the effective date of the notice of pending forfeiture, an owner of or interest holder in the property may elect to file with the prosecuting attorney any of the following:

(1) A claim pursuant to section 809A.11.

(2) A petition for recognition of exemption pursuant to section 809A.11, except that no petition may be filed after the state commences a court action.

(3) A request for an extension of time in which to file a claim or petition for recognition of exemption.

c. An extension of time for the filing of a claim shall only be granted for good cause shown for mistake, inadvertence, surprise, excusable neglect, or unavoidable casualty.

d. If a petition is timely filed, the prosecuting attorney may delay filing a judicial forfeiture proceeding for one hundred eighty days after the notice of pending forfeiture, or, if the value of the property is less than the minimum civil forfeiture amount, one hundred eighty days after the conclusion of the criminal prosecution, and the following procedures shall apply:

(1) The prosecuting attorney shall provide the seizing agency and the petitioning party with a written recognition of exemption and statement of nonexempt interests relating to any or all interests in the property in response to each petitioning party as follows:

(a) Within sixty days after the effective date of the notice of pending forfeiture if the petitioner is a regulated interest holder. The recognition of exemption shall recognize the interest of the petitioner to the extent of documented outstanding principal plus interest at the contract rate until paid.

(b) Within one hundred twenty days after the effective date of the notice of pending forfeiture for all other petitioners.

(2) An owner or interest holder in any property declared nonexempt may file a claim pursuant to section 809A.11 within thirty days after the effective date of the notice of the recognition of exemption and statement of nonexempt interest.

(3) If a petitioning party does not timely file a proper claim under paragraph *"b"*, the recognition of exemption and statement of nonexempt interests becomes final, and the prosecuting attorney shall proceed as provided in sections 809A.16 and 809A.17.

(4) The prosecuting attorney may elect to proceed under this section for judicial forfeiture at any time.

(5) If a judicial forfeiture proceeding follows the application of procedures in this paragraph, the following apply:

(a) A duplicate or repetitive notice is not required. If a proper claim has been timely filed pursuant to subparagraph (2), the claim shall be determined in a judicial forfeiture proceeding after the commencement of such a proceeding under sections 809A.13, 809A.14, and 809A.15.

(b) The proposed recognition of exemption and statement of nonexempt interest responsive to all petitioning parties who subsequently filed claims are void and are regarded as rejected offers to compromise.

e. If a proper petition for recognition of exemption or proper claim is not timely filed, the prosecuting attorney shall proceed as provided in sections 809A.16 and 809A.17.

2. *a.* Notice of pending forfeiture, service of an in rem complaint, or notice of a recognition of exemption and statement of nonexempt interests required under this chapter shall be given in accordance with one of the following:

(1) If the owner's or interest holder's name and current address are known, by either personal service by any person qualified to serve process or by any law enforcement officer or by mailing a copy of the notice by restricted certified mail to that address.

(2) If the owner's or interest holder's name and address are required by law to be on record with the county recorder, secretary of state, the motor vehicle division of the state department of transportation, or another state or federal agency to perfect an interest in the

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property, and the owner's or interest holder's current address is not known, by mailing a copy of the notice by restricted certified mail to any address of record with any of the described agencies.

(3) If the owner's or interest holder's address is not known and is not on record as provided in subparagraph (2), or the owner or interest holder's interest is not known, by publication in one issue of a newspaper of general circulation in the county in which the seizure occurred.

b. Notice is effective upon the earlier of personal service, publication, or the mailing of a written notice, except that notice of pending forfeiture of real property is not effective until it is recorded. Notice of pending forfeiture shall include a description of the property, the date and place of seizure, the conduct giving rise to forfeiture or the violation of law alleged, and a summary of procedures and procedural rights applicable to the forfeiture action.

96 Acts, ch 1133, §8; 2017 Acts, ch 114, §3, 4, 15

Referred to in §809A.6, 809A.11, 809A.13, 809A.14, 809A.15

2017 amendments to subsection 1, paragraphs a and d, apply to forfeiture proceedings that begin on or after July 1, 2017; 2017 Acts, ch 114, §15

809A.9 Liens.

1. *a.* The prosecuting attorney may file, without a filing fee, a lien for the forfeiture of property if any of the following apply:

(1) Upon the initiation of any civil or criminal proceeding relating to conduct giving rise to forfeiture under this chapter.

(2) Upon seizure for forfeiture.

(3) In connection with a proceeding or seizure for forfeiture in any other state under a state or federal statute substantially similar to the relevant provisions of this chapter.

b. The filing constitutes notice to any person claiming an interest in the seized property or in property owned by the named person.

2. The lienor, as soon as practical, but not later than ten days, after filing a lien, shall furnish to any person named in the lien a notice of the filing of the lien. Failure to furnish notice under this subsection shall not invalidate or otherwise affect the lien.

3. The lien notice shall set forth all of the following:

a. The name of the person and, in the discretion of the lienor, any aliases, or the name of any corporation, partnership, trust, or other entity, including nominees, that are owned entirely or in part, or controlled by the person.

b. The description of the seized property or the criminal or civil proceeding that has been brought relating to conduct giving rise to forfeiture under the chapter.

c. The amount claimed by the lienor.

d. The name of the district court where the proceeding or action has been brought.

e. The case number of the proceeding or action if known at the time of the filing of the lien.

4. The notice of forfeiture lien shall be filed in accordance with the provisions of the laws of this state relating to the type of property that is subject to the lien. The validity and priority of the forfeiture lien shall be determined in accordance with applicable law pertaining to liens.

5. A lien filed pursuant to this section applies to the described property or to one named person, any aliases, fictitious names, or other names, including the names of any corporation, partnership, trust, or other entity, owned entirely or in part, or controlled by the named person, and any interest in real property owned or controlled by the named person. A separate forfeiture lien shall be filed for each named person.

6. The lien notice creates, upon filing, a lien in favor of the lienor as it relates to the property or the named person or related entities. The lien secures the amount of potential liability for civil judgment, and, if applicable, the fair market value of property relating to all proceedings under this chapter enforcing the lien.

7. The lienor may amend or release, in whole or in part, a lien filed under this section at any time by filing, without a filing fee, an amended lien.

8. Upon entry of judgment in its favor, the state may proceed to execute on the lien as provided by law.

96 Acts, ch 1133, §9; 2013 Acts, ch 30, §261

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809A.10 Trustees — penalties.

1. Except as provided in subsection 2, a trustee, constructive or otherwise, who has notice that a notice of forfeiture lien, or a notice of pending forfeiture, or a civil forfeiture proceeding has been filed against the property or against any person or entity for whom the person holds title or appears as record owner, shall furnish within fifteen days of such notice, to the seizing agency, or the prosecuting attorney all of the following:

a. The name and address of each person or entity for whom the property is held.

b. The description of all other property whose legal title is held for the benefit of the named person.

c. A copy of the applicable trust agreement or other instrument, if any, under which the trustee or other person holds legal title or appears as record owner of the property.

2. Subsection 1 is inapplicable if any of the following applies:

a. A trustee is acting under a recorded subdivision trust agreement or a recorded deed of trust.

b. All of the information is of record in the public records giving notice of liens on that type of property.

3. A trustee with notice who knowingly fails to comply with the provisions of this section commits a class "D" felony, and shall be fined not less than ten thousand dollars per day for each day of noncompliance.

4. A trustee with notice who fails to comply with subsection 1 is subject to a civil penalty of three hundred dollars for each day of noncompliance. The court shall enter judgment ordering payment of three hundred dollars for each day of noncompliance from the effective date of the notice until the required information is furnished or the state executes its judgment lien under this section.

5. To the extent permitted by the Constitution of the United States and the Constitution of the State of Iowa, the duty to comply with subsection 1 shall not be excused by any privilege or provision of law of this state or any other state or country which authorizes or directs that testimony or records required to be furnished pursuant to subsection 1 are privileged or confidential or otherwise may not be disclosed.

6. A trustee who furnishes information pursuant to subsection 1 is immune from civil liability for the release of information.

7. An employee of the seizing agency or the prosecuting attorney who releases the information obtained pursuant to subsection 1, except in the proper discharge of official duties, commits a serious misdemeanor.

8. If any information furnished pursuant to subsection 1 is offered in evidence, the court may seal that portion of the record or may order that the information be disclosed in a designated way.

9. A judgment or an order of payment entered pursuant to this section becomes a judgment lien against the property alleged to be subject to forfeiture.

96 Acts, ch 1133, §10

809A.11 Claims — petitions for recognition of exemption.

1. Only an owner of or interest holder in property seized for forfeiture may file a claim, and shall do so in the manner provided in this section. The claim shall be mailed to the seizing agency and to the prosecuting attorney by restricted certified mail or other service which indicates the date on which the claim was received by the seizing agency and prosecuting attorney within thirty days after the effective date of notice of pending forfeiture. An extension of time for the filing of a claim shall only be granted for good cause shown for mistake, inadvertence, surprise, excusable neglect, or unavoidable casualty.

2. The prosecuting attorney shall make an opportunity to file a petition for recognition of exemption available by so indicating in the notice of pending forfeiture described in section 809A.8, subsection 2.

3. The claim or petition and all supporting documents shall be in affidavit form, signed by the claimant under oath, and sworn to by the affiant before one who has authority to administer the oath, under penalty of perjury and shall set forth all of the following:

a. The caption of the proceedings and identifying number, if any, as set forth on the notice

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of pending forfeiture or complaint, the name of the claimant or petitioner, and the name of the prosecuting attorney who authorized the notice of pending forfeiture or complaint.

b. The address where the claimant or petitioner will accept mail.

c. The nature and extent of the claimant's or petitioner's interest in the property.

d. The date, the identity of the transferor, and the circumstances of the claimant's or petitioner's acquisition of the interest in the property.

e. The specific provision of law relied on in asserting that the property is not subject to forfeiture.

f. All essential facts supporting each assertion.

g. The specific relief sought.

96 Acts, ch 1133, §11
Referred to in §715A.8, 809A.8, 809A.12, 809A.12A, 809A.14

809A.12 Judicial proceedings generally.

1. A judicial forfeiture proceeding under this chapter is subject to the provisions of this section.

2. The court, before or after the filing of a notice of pending forfeiture or complaint and on application of the prosecuting attorney, may do any of the following:

a. Enter a restraining order or injunction.

b. Require the execution of satisfactory performance bonds.

c. Create receiverships.

d. Appoint conservators, custodians, appraisers, accountants, or trustees.

e. Take any other action to seize, secure, maintain, or preserve the availability of property subject to forfeiture under this chapter, including a writ of attachment or a warrant for its seizure.

3. *a.* The court, after five days' notice to the prosecuting attorney, may issue an order to show cause to the seizing agency, for a hearing on the sole issue of whether probable cause for forfeiture of the property then exists if all of the following exist:

(1) Property is seized for forfeiture or a forfeiture lien is filed without a previous judicial determination of probable cause, order of forfeiture, or a hearing under section 809A.14, subsection 4.

(2) An owner of or interest holder in the property files an application for a hearing within ten days after notice of its seizure for forfeiture or lien, or actual knowledge of its seizure, whichever is earlier.

(3) The owner of or interest holder in the property complies with the requirements for claims or petitions in section 809A.11.

b. The hearing shall be held within thirty days of the order to show cause unless continued for good cause on motion of either party.

4. If the court finds in a hearing under subsection 3 that no probable cause exists for forfeiture of the property, or if the state elects not to contest the issue, the property shall be released to the custody of the applicant, as custodian for the court, or from the lien pending the outcome of a judicial proceeding pursuant to this chapter. If the court finds that probable cause for the forfeiture of the property exists, the court shall not order the property released.

5. All applications filed within the ten-day period prescribed by subsection 3 shall be consolidated for a single hearing relating to each applicant's interest in the property seized for forfeiture.

6. A defendant whose criminal proceeding results in a conviction is precluded from later denying the essential allegations of the criminal offense in any proceeding pursuant to this section. A defendant whose conviction is overturned on appeal may file a motion to correct, vacate, or modify a judgment of forfeiture under this subsection.

7. In any proceeding under this chapter, if a claim is based on an exemption provided for in this chapter, the claimant must make a prima facie showing of the existence of the exemption. The prosecuting attorney must then prove by clear and convincing evidence that the exemption does not apply. The agency or political subdivision bringing the forfeiture action shall pay the reasonable attorney fees and costs, as determined by the court, incurred by a claimant who prevails on a claim for exemption in a proceeding under this chapter.

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8. The prosecuting attorney must prove by clear and convincing evidence that the property is property subject to forfeiture.

9. In hearings and determinations pursuant to this section, the court may receive and consider, in making any determination of probable cause, all evidence admissible in determining probable cause at a preliminary hearing or by a judge pursuant to chapter 808 together with inferences therefrom.

10. The fact that money or a negotiable instrument was found in close proximity to any contraband or an instrumentality of conduct giving rise to forfeiture shall give rise to the presumption that the money or negotiable instrument was the proceeds of conduct giving rise to forfeiture or was used or intended to be used to facilitate the conduct.

11. Subject to the exemptions contained in section 809A.5, a presumption arises that any property of a person is subject to forfeiture under this chapter if the state establishes any of the following:

a. If the property to be forfeited is equal to or exceeds the minimum civil forfeiture amount, that the person engaged in conduct giving rise to forfeiture. If the property to be forfeited is less than the minimum civil forfeiture amount, that the person was convicted for the conduct giving rise to forfeiture.

b. The property was acquired by the person during that period of the conduct giving rise to forfeiture or within a reasonable time after that period.

c. No likely source for acquisition of the property exists other than the conduct giving rise to the forfeiture.

12. A finding that property is the proceeds of conduct giving rise to forfeiture does not require proof that the property is the proceeds of any particular exchange or transaction.

13. A person who acquires property subject to forfeiture is a constructive trustee of the property, and its fruits, for the benefit of the state, to the extent that the person's interest is not exempt from forfeiture. If property subject to forfeiture has been commingled with other property, the court shall order the forfeiture of the commingled property, and of any fruits of the commingled property, to the extent of the property subject to forfeiture, unless an owner or interest holder proves that specified property does not contain property subject to forfeiture, or that the person's interest in specified property is exempt from forfeiture.

14. Title to all property declared forfeited under this chapter vests in the state on the commission of the conduct giving rise to forfeiture together with the proceeds of the property after that time. Any such property or proceeds subsequently transferred to any person remain subject to forfeiture and thereafter shall be ordered forfeited unless the transferee claims and establishes in a hearing under the provisions of this chapter that the transferee's interest is exempt under section 809A.5.

15. An acquittal or dismissal in a criminal proceeding shall not preclude civil proceedings under this chapter if the value of the property to be forfeited is equal to or exceeds the minimum civil forfeiture amount.

16. For good cause shown, on motion by either party, the court may stay discovery in civil forfeiture proceedings during a criminal trial for a related criminal indictment or information alleging the same conduct, after making provision to prevent loss to any party resulting from the stay. Such a stay shall not be available pending an appeal.

17. Except as otherwise provided by this chapter, all proceedings hereunder shall be governed by the rules of civil procedure.

18. An action brought pursuant to this chapter shall be consolidated with any other action or proceeding brought pursuant to this chapter or chapter 626 or 654 relating to the same property on motion of the prosecuting attorney, and may be consolidated on motion of an owner or interest holder.

96 Acts, ch 1133, §12; 2013 Acts, ch 30, §261; 2017 Acts, ch 114, §5 – 7, 15

Referred to in §809A.14

2017 amendments to subsections 6, 7, 11, and 15 and new subsection 8 apply to forfeiture proceedings that begin on or after July 1, 2017; 2017 Acts, ch 114, §15

809A.12A Limitations on civil forfeiture.

1. If the total value of the property seized for forfeiture is less than the minimum civil

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forfeiture amount, a judicial forfeiture proceeding shall not be brought unless one of the following applies:

a. The conduct giving rise to forfeiture resulted in a conviction.

b. The property owner is deceased.

c. Charges have been filed against the property owner, a warrant was issued for the arrest of the property owner, and either of the following applies:

(1) The property owner is outside the state and is unable to be extradited or brought back to the state for prosecution.

(2) Law enforcement has made reasonable efforts to locate and arrest the property owner, but the property owner has not been located.

d. The property owner has not claimed the property subject to forfeiture or asserted any interest in the property at any time during or after the seizure of the property, and all claims brought under section 809A.11 have been denied.

2. The prosecuting attorney has the burden to prove by clear and convincing evidence that the value of the property is or exceeds the minimum civil forfeiture amount in any civil action.

2017 Acts, ch 114, §8, 15
Section applies to forfeiture proceedings that begin on or after July 1, 2017; 2017 Acts, ch 114, §15

809A.12B Proportionality review.

1. Property shall not be forfeited as an instrumentality under this chapter to the extent that the amount or value of the property is grossly disproportionate to the severity of the offense.

2. Contraband and any proceeds obtained from the offense are not subject to proportionality review under this section.

2017 Acts, ch 114, §9, 15
Section applies to forfeiture proceedings that begin on or after July 1, 2017; 2017 Acts, ch 114, §15

809A.13 In rem proceedings.

1. A judicial in rem forfeiture proceeding may be brought by the prosecuting attorney in addition to, or in lieu of, civil in personam forfeiture procedures, and is also subject to the provisions of this section. If a forfeiture is authorized by this chapter, it shall be ordered by the court in the in rem action.

2. An action in rem may be brought by the prosecuting attorney pursuant to a notice of pending forfeiture or verified complaint for forfeiture. The state may serve the complaint in the manner provided in section 809A.8, subsection 2, or as provided by the rules of civil procedure.

3. For the purposes of this section, an owner of or interest holder in property who has filed an answer shall be referred to as a claimant.

4. The answer shall be signed by the owner or interest holder under penalty of perjury and shall be in accordance with rule of civil procedure 1.405 and shall also set forth all of the following:

a. The caption of the proceedings and identifying number, if any, as set forth on the notice of pending forfeiture or complaint and the name of the claimant.

b. The address where the claimant will accept mail.

c. The nature and extent of the claimant's interest in the property.

d. The date, the identity of the transferor, and the circumstances of the claimant's acquisition of the interest in the property.

e. The specific provision of this chapter relied on in asserting that it is not subject to forfeiture.

f. All essential facts supporting each assertion.

g. The specific relief sought.

5. The answer shall be filed within twenty days after service on the claimant of the civil in rem complaint.

6. The rules of civil procedure shall apply to discovery by the state and any claimant who has timely answered the complaint.

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7. The forfeiture hearing shall be held without a jury and within sixty days after service of the complaint unless continued for good cause. The prosecuting attorney shall have the burden of proving by clear and convincing evidence that the property is subject to forfeiture. If the state so proves the property is subject to forfeiture, the claimant may assert that the claimant has an interest in the property which is exempt from forfeiture under this chapter. If the claimant asserts and makes a prima facie showing of the existence of the exemption, the prosecuting attorney then has the burden of proving by clear and convincing evidence that the exemption does not apply.

8. The court shall order the interest in the property returned or conveyed to the claimant if the prosecuting attorney fails to meet the state's burden. The court shall order all other property forfeited to the state and conduct further proceedings pursuant to sections 809A.16 and 809A.17.

96 Acts, ch 1133, §13; 2013 Acts, ch 41, §1; 2017 Acts, ch 114, §10, 15
Referred to in §809A.8, 809A.14, 809A.15, 809A.16
2017 amendment to subsections 7 and 8 applies to forfeiture proceedings that begin on or after July 1, 2017; 2017 Acts, ch 114, §15

809A.14 In personam proceedings.

1. A judicial in personam forfeiture proceeding brought by a prosecuting attorney pursuant to an in personam civil action alleging conduct giving rise to forfeiture is subject to the provisions of this section. If a forfeiture is authorized by this chapter, it shall be ordered by the court in the in personam action. This action shall be in addition to or in lieu of in rem forfeiture procedures.

2. The court, on application of the prosecuting attorney, may enter any order authorized by section 809A.12, or any other appropriate order to protect the state's interest in property forfeited or subject to forfeiture.

3. The court may issue a temporary restraining order on application of the prosecuting attorney, if the state demonstrates both of the following:

a. Probable cause exists to believe that in the event of a final judgment, the property involved would be subject to forfeiture under this chapter.

b. Provision of notice would jeopardize the availability of the property for forfeiture.

4. Notice of the issuance of a temporary restraining order and an opportunity for a hearing shall be given to persons known to have an interest in the property. A hearing shall be held at the earliest possible date in accordance with rule of civil procedure 1.1507, and shall be limited to the following issues:

a. Whether a probability exists that the state will prevail on the issue of forfeiture.

b. Whether the failure to enter the order will result in the property being destroyed, conveyed, encumbered, removed from the jurisdiction of the court, concealed, or otherwise made unavailable for forfeiture.

c. Whether the need to preserve the availability of property outweighs the hardship on any owner or interest holder against whom the order is to be entered.

5. On a determination that a person committed conduct giving rise to forfeiture under this chapter, the court shall do both of the following:

a. Enter a judgment of forfeiture of the property found to be subject to forfeiture described in the complaint.

b. Authorize the prosecuting attorney or designee or any law enforcement officer to seize all property ordered forfeited which was not previously seized or is not under seizure.

6. Except as provided in section 809A.12, a person claiming an interest in property subject to forfeiture under this chapter shall not intervene in a trial or appeal of a criminal action or in an in personam civil action involving the forfeiture of the property.

7. Following the entry of an in personam forfeiture order, the prosecuting attorney may proceed with an in rem action to resolve the remaining interests in the property. The following procedures shall apply:

a. The prosecuting attorney shall give notice of pending forfeiture, in the manner provided in section 809A.8, to all owners and interest holders who have not previously been given notice.

b. An owner of or interest holder in property that has been ordered forfeited and whose

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claim is not precluded may file a claim as described in section 809A.11, within thirty days after initial notice of pending forfeiture or after notice under paragraph *"a"*, whichever is earlier.

c. If the state does not recognize the claimed exemption, the prosecuting attorney shall file a complaint and the court shall hold an in rem forfeiture hearing as provided for in section 809A.13.

d. In accordance with the findings made at the hearing, the court may amend the order of forfeiture if it determines that any claimant has properly petitioned for recognition of exemption under section 809A.11 and that the prosecuting attorney has not shown, by clear and convincing evidence, that the claimant does not have an interest in the property which is exempt under the provisions of section 809A.5.

96 Acts, ch 1133, §14; 2003 Acts, ch 108, §119; 2017 Acts, ch 114, §11, 15
Referred to in §809A.4, 809A.8, 809A.12
2017 amendment to subsection 7, paragraph d, applies to forfeiture proceedings that begin on or after July 1, 2017; 2017 Acts, ch 114, §15

809A.15 Substituted assets — supplemental remedies.

1. The court shall order the forfeiture of any other property of a person, including a claimant, up to the value of that person's property found by the court to be subject to forfeiture under this chapter, if the prosecuting attorney proves by clear and convincing evidence that any of the following applies to the person's forfeitable property:

a. The forfeitable property cannot be located.

b. The forfeitable property has been transferred or conveyed to, sold to, or deposited with a third party.

c. The forfeitable property is beyond the jurisdiction of the court.

d. The forfeitable property has been substantially diminished in value while not in the actual physical custody of the court, the seizing agency, the prosecuting attorney, or their designee.

e. The forfeitable property has been commingled with other property that cannot be divided without difficulty.

f. The forfeitable property is subject to any interest of another person which is exempt from forfeiture under this chapter.

2. *a.* The prosecuting attorney may institute a civil action in district court against any person with notice or actual knowledge who destroys, conveys, encumbers, removes from the jurisdiction of the court, conceals, or otherwise renders unavailable property alleged to be subject to forfeiture if either of the following applies:

(1) A forfeiture lien or notice of pending forfeiture has been filed and notice given pursuant to section 809A.8.

(2) A complaint pursuant to section 809A.13 alleging conduct giving rise to forfeiture has been filed and notice given pursuant to section 809A.8.

b. The court shall enter a final judgment in an amount equal to the value of the lien not to exceed the fair market value of the property, or if a lien does not exist, in an amount equal to the fair market value of the property, together with reasonable investigative expenses and attorney fees.

c. If a civil proceeding under this chapter is pending in court, the action shall be heard by that court.

96 Acts, ch 1133, §15; 2017 Acts, ch 114, §12, 15
Referred to in §809A.4, 809A.8
2017 amendment to subsection 1, unnumbered paragraph 1, applies to forfeiture proceedings that begin on or after July 1, 2017; 2017 Acts, ch 114, §15

809A.16 Disposition of property.

1. If notice of pending forfeiture is properly served in an action in rem or in personam in which personal property, having an estimated value of five thousand dollars or less, as established by affidavit provided by the prosecuting attorney, is seized, and no claim opposing forfeiture is filed within thirty days of service of such notice, the prosecuting attorney shall prepare a written declaration of forfeiture of the subject property to the state and allocate the property according to the provisions of section 809A.17.

2. Within one hundred eighty days of the date of a declaration of forfeiture, an owner

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or interest holder in property declared forfeited pursuant to subsection 1 may petition the court to have the declaration of forfeiture set aside, after making a prima facie showing that the state failed to serve proper notice as provided by section 809A.13. Upon such a showing the court shall allow the state to demonstrate by clear and convincing evidence that notice was properly served. If the state fails to meet its burden of proof, the court may order the declaration of forfeiture set aside. The state may proceed with judicial proceedings pursuant to this chapter.

3. Except as provided in subsection 1, if a proper claim is not timely filed in an action in rem, or if a proper answer is not timely filed in response to a complaint, the prosecuting attorney may apply for an order of forfeiture and an allocation of forfeited property pursuant to section 809A.17. Under such circumstance and upon a determination by the court that the state's written application established the court's jurisdiction, the giving of proper notice, and facts sufficient to show probable cause for forfeiture, the court shall order the property forfeited to the state.

4. After final disposition of all claims and answers timely filed in an action in rem, or after final judgment and disposition of all claims timely filed in an action in personam, the court shall enter an order that the state has clear title to the forfeited property interest. Title to the forfeited property interest and its proceeds shall be deemed to have vested in the state on the commission of the conduct giving rise to the forfeiture under this chapter.

5. The court, on application of the prosecuting attorney, may release or convey forfeited personal property to a regulated interest holder or interest holder if any of the following applies:

a. The prosecuting attorney, in the attorney's discretion, has recognized in writing that the regulated interest holder or interest holder has an interest in the property and informs the court that the property interest is exempt from forfeiture.

b. The regulated interest holder's or interest holder's interest was acquired in the regular course of business as a regulated interest holder or interest holder.

c. The amount of the regulated interest holder's or interest holder's encumbrance is readily determinable and has been reasonably established by proof made available by the prosecuting attorney to the court.

d. The encumbrance held by the regulated interest holder or interest holder seeking possession is the only interest exempted from forfeiture and the order forfeiting the property to the state transferred all of the rights of the owner prior to forfeiture, including rights to redemption, to the state.

6. After the court's release or conveyance under subsection 5, the regulated interest holder or interest holder shall dispose of the property by a commercially reasonable public sale. Within ten days of disposition the regulated interest holder or interest holder shall tender to the state the amount received at disposition less the amount of the regulated interest holder's or interest holder's encumbrance and reasonable expense incurred by the regulated interest holder or interest holder in connection with the sale or disposal. For the purposes of this section, *"commercially reasonable"* means a sale or disposal that would be commercially reasonable under chapter 554, article 7.

7. On order of the court or declaration of forfeiture forfeiting the subject property, the state may transfer good and sufficient title to any subsequent purchaser or transferee. The title shall be recognized by all courts and agencies of this state, and any political subdivision. On entry of judgment in favor of a person claiming an interest in the property that is subject to forfeiture proceedings under this chapter, the court shall enter an order that the property or interest in property shall be released or delivered promptly to that person free of liens and encumbrances under this chapter, and that the person's cost bond shall be discharged.

8. Upon motion by the prosecuting attorney, if it appears after a hearing that reasonable cause existed for the seizure for forfeiture or for the filing of the notice of pending forfeiture or complaint, the court shall find all of the following:

a. That reasonable cause existed, or that the action was taken under a reasonable good faith belief that it was proper.

b. That the claimant is not entitled to costs or damages.

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c. That the person or seizing agency who made the seizure and the prosecuting attorney are not liable to suit or judgment for the seizure, suit, or prosecution.

96 Acts, ch 1133, §16; 2014 Acts, ch 1092, §149; 2017 Acts, ch 114, §13, 15
Referred to in §809.12A, 809A.8, 809A.13
2017 amendment to subsection 2 applies to forfeiture proceedings that begin on or after July 1, 2017; 2017 Acts, ch 114, §15

809A.17 Allocation of forfeited property.

1. A person having control over forfeited property shall communicate that fact to the attorney general or the attorney general's designee.

2. Forfeited property not needed as evidence in a criminal case shall be delivered to the department of justice, or, upon written authorization of the attorney general or the attorney general's designee, the property may be destroyed, sold, or delivered to an appropriate agency for disposal in accordance with this section.

3. Forfeited property may be used by the department of justice in the enforcement of the criminal law. The department may give, sell, or trade property to any other state agency or to any other law enforcement agency within the state if, in the opinion of the attorney general, it will enhance law enforcement within the state.

4. Forfeited property which is not used by the department of justice in the enforcement of the law may be requisitioned by the department of public safety or any law enforcement agency within the state for use in enforcing the criminal laws of this state. Forfeited property not requisitioned may be delivered to the director of the department of administrative services to be disposed of in the same manner as property received pursuant to section 8A.325.

5. Notwithstanding subsection 1, 2, 3, or 4, the following apply:

a. Forfeited property which is a controlled substance or a simulated, counterfeit, or imitation controlled substance shall be disposed of as provided in section 124.506.

b. Forfeited property which is a weapon or ammunition shall be deposited with the department of public safety to be disposed of in accordance with the rules of the department. All weapons or ammunition may be held for use in law enforcement, testing, or comparison by the criminalistics laboratory, or destroyed. Ammunition and firearms which are not illegal and are not offensive weapons as defined by section 724.1 may be sold by the department as provided in section 809.21.

c. Material in violation of chapter 728 shall be destroyed.

d. Property subject to the rules of the natural resource commission shall be delivered to that commission for disposal in accordance with its rules.

e. If the forfeited property is cash or proceeds from the sale of real property, the distribution of the forfeited property shall be as follows:

(1) The department of justice shall not retain more than ten percent of the gross sale of any forfeited real property. The balance of the proceeds shall be distributed to the seizing agency for use by the agency or for division among law enforcement agencies and county attorneys pursuant to any agreement entered into by the seizing agency.

(2) The department of justice shall not retain more than ten percent of any forfeited cash. The balance shall be distributed to the seizing agency for use by the agency or for division among law enforcement agencies and county attorneys pursuant to any agreement entered into by the seizing agency.

(3) In the event of a cash forfeiture in excess of four hundred thousand dollars, the distribution of forfeited cash shall be as follows:

(a) Forty-five percent shall be retained by the seizing agency.

(b) Forty-five percent shall be distributed to other law enforcement agencies within the region of the seizing agency.

(c) Ten percent shall be retained by the department of justice.

96 Acts, ch 1133, §17; 2003 Acts, ch 145, §277, 286; 2010 Acts, ch 1190, §26
Referred to in §706A.3, 724.26, 809A.8, 809A.13, 809A.16

809A.18 Powers of enforcement personnel.

1. A prosecuting attorney may conduct an investigation of any conduct that gives rise to forfeiture. The prosecuting attorney is authorized, before the commencement of a proceeding or action under this chapter, to subpoena witnesses, and compel their

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attendance, examine them under oath, and require the production of documentary evidence for inspection, reproducing, or copying. Except as otherwise provided by this section, the prosecuting attorney shall proceed under this subsection with the powers and limitations, and judicial oversight and enforcement, and in the manner provided by this chapter and by the Iowa rules of civil procedure. Any person compelled to appear under a demand for oral testimony under this section may be accompanied, represented, and advised by counsel.

2. The examination of all witnesses under this section shall be conducted by the prosecuting attorney before an officer authorized to administer oaths. The testimony shall be taken by a certified shorthand reporter or by a sound recording device and shall be transcribed or otherwise preserved. The prosecuting attorney may exclude from the examination all persons except the witness, the witness's counsel, the officer before whom the testimony is to be taken, law enforcement officials, and a certified shorthand reporter. Prior to oral examination, the person shall be advised of the person's right to refuse to answer any questions on the basis of the privilege against self-incrimination. The examination shall be conducted in a manner consistent with the rules dealing with the taking of depositions.

3. Except as otherwise provided in this section, prior to the filing of a civil or criminal proceeding or action relating to such a proceeding, documentary material, transcripts, or oral testimony, in the possession of the prosecuting attorney, shall not be available for examination by any individual other than a law enforcement official or agent of such official without the consent of the person who produced the material, transcripts, or oral testimony.

4. A person shall not knowingly remove from any place, conceal, withhold, destroy, mutilate, alter, or by any other means falsify any documentary material that is the subject of a subpoena, with intent to avoid, evade, prevent, or obstruct compliance in whole or in part by any person with any duly served subpoena of the prosecuting attorney under this section. A violation of this subsection is a class "D" felony. The prosecuting attorney shall investigate and prosecute suspected violations of this subsection.

96 Acts, ch 1133, §18; 98 Acts, ch 1074, §41
Referred to in §809A.19

809A.18A Recordkeeping.

1. Each law enforcement agency that has custody of any property that is subject to this chapter shall adopt and comply with a written internal control policy that does all of the following:

a. Provides for keeping detailed records as to the amount of property acquired by the agency and the date property was acquired.

b. Provides for keeping detailed records of the disposition of the property, which shall include but not be limited to all of the following:

(1) The manner in which the property was disposed, the date of disposition, and detailed financial records concerning any property sold. The records shall not identify or enable identification of the individual officer who seized any item of property or the name of any person or entity who received any item of property.

(2) An itemized list of the specific expenditures made with amounts that are gained from the sale of the property and that are retained by the agency, including the specific amount expended on each expenditure, except that the policy shall not provide for or permit the identification of any specific expenditure that is made in an ongoing investigation.

2. The records kept under the internal control policy shall be open to public inspection during the agency's regular business hours. The policy adopted under this section is a public record open for inspection under chapter 22.

2017 Acts, ch 114, §14, 15
Section applies to forfeiture proceedings that begin on or after July 1, 2017; 2017 Acts, ch 114, §15

809A.19 Immunity orders.

1. If a person is or may be called to produce evidence at a deposition, hearing, or trial under this chapter or at an investigation brought by the prosecuting attorney under section 809A.18, the district court in which the deposition, hearing, trial, or investigation is or may be held shall, upon certification in writing of a request of the prosecuting attorney, issue an

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order, ex parte or after a hearing, requiring the person to produce evidence, notwithstanding that person's refusal to do so on the basis of the privilege against self-incrimination.

2. The prosecuting attorney may certify in writing a request for an ex parte order under subsection 1 if in the prosecuting attorney's judgment both of the following apply:

a. The production of the evidence may be necessary to the public interest.

b. The person has refused or is likely to refuse to produce evidence on the basis of the privilege against self-incrimination.

3. A person shall not refuse to comply with an order issued under subsection 1 on the basis of a self-incrimination privilege. If the person refuses to comply with the order after being informed of its existence by the presiding officer, the person may be compelled or punished by the district court issuing an order for civil or criminal contempt.

4. The production of evidence compelled by order issued under subsection 1, and any information directly or indirectly derived from the production of evidence, shall not be used against the person in a subsequent criminal case, except in a prosecution for perjury, false swearing, or an offense otherwise involving a failure to comply with the order.

96 Acts, ch 1133, §19

809A.20 Statute of limitations.

A civil action under this chapter shall be commenced within five years after the last conduct giving rise to forfeiture or the cause of action becomes known or should have become known, excluding any time during which either the property or defendant is out of the state or in confinement, or during which criminal proceedings relating to the same conduct are pending.

96 Acts, ch 1133, §20

809A.21 Summary forfeiture of controlled substances.

Controlled substances included in chapter 124 which are contraband and any controlled substance whose owners are unknown are summarily forfeited to the state. The court may include in any judgment under this chapter an order forfeiting any controlled substance involved in the conduct giving rise to forfeiture to the extent of the defendant's interest.

96 Acts, ch 1133, §21

809A.22 Bar to collateral action.

A person claiming an interest in property subject to forfeiture shall not commence or maintain any action against the state concerning the validity of the alleged interest other than as provided in this chapter.

96 Acts, ch 1133, §22

809A.23 Statutory construction.

The provisions of this chapter shall be liberally construed to effectuate its remedial purposes. Civil remedies under this chapter shall be supplemental and not mutually exclusive. The civil remedies do not preclude and are not precluded by any other provision of law.

96 Acts, ch 1133, §23

809A.24 Uniformity of application.

1. The provisions of this chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting this law.

2. The attorney general may enter into reciprocal agreements with the attorney general or chief prosecuting attorney of any state to effectuate the purposes of this chapter.

96 Acts, ch 1133, §24

809A.25 Rulemaking.

The attorney general shall adopt, amend, or repeal rules pursuant to chapter 17A to carry out the provisions of this chapter.

96 Acts, ch 1133, §25

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CHAPTER 810

NONTESTIMONIAL IDENTIFICATION

Referred to in §801.1

810.1	Definition.	810.9	Modification of order.
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810.1 Definition.

As used in this chapter, the term "*nontestimonial identification*" includes, but is not limited to, identification by fingerprints, palm prints, footprints, measurements, hair strands, handwriting samples, voice samples, photographs, blood and saliva samples, ultraviolet or black-light examinations, paraffin tests, and lineups.

[C79, 81, §810.1]

810.2 Nontestimonial identification order at request of defendant.

A person arrested for or charged with an offense may request a district court judge to order a nontestimonial identification procedure. If it appears that the results of specific nontestimonial identification procedures will be of material aid in determining whether the defendant committed the offense, the judge shall order such identification procedures involving the defendant under such terms and conditions as the judge shall prescribe.

[C79, 81, §810.2]

810.3 Authority to issue order.

A nontestimonial identification order authorized by this chapter may be issued only by a district court or district associate court judge upon written application of a prosecuting attorney in the investigation of a felony offense.

[81 Acts, ch 206, §2]

810.4 Time of application.

Applications for a nontestimonial identification order under this chapter may be made prior to the arrest of a suspect. The procedural provisions of this chapter shall not limit the conduct of lineups or other nontestimonial procedures after arrest.

[81 Acts, ch 206, §3]

810.5 Contents of application.

The application shall:

1. Describe the felony offense that is being investigated;
2. Name or describe with particularity the person to be detained for the desired nontestimonial identification procedure;
3. State the time when and place where the applicant requests that the nontestimonial identification procedure be conducted; and
4. Be supported by one or more affidavits setting forth the facts and circumstances showing that the basis for issuance of an order under this chapter exist. If an affidavit is based in whole or in part on hearsay, the affiant shall set forth particular facts bearing on the informant's reliability and shall disclose, as far as is practicable, the means by which the information was obtained.

[81 Acts, ch 206, §4]

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810.6 Basis for order.

An order authorized by this chapter shall be issued only if the court finds that the application and the affidavit or affidavits in support of the application establish each of the following:

1. That there is probable cause to believe that a felony described in the application has been committed.

2. That there are reasonable grounds to suspect that the person named or described in the application committed the felony and it is reasonable in view of the seriousness of the offense to subject that person to the requested nontestimonial identification procedures.

3. That the results of the requested nontestimonial identification procedures will be of material aid in determining whether the person named or described in the application committed the felony.

4. That such evidence cannot practicably be obtained from other sources.

[81 Acts, ch 206, §5]

810.7 Issuance of order.

Upon a showing that the required grounds exist, the court shall issue an order directing the person named or described in the application to appear at a designated time and place for nontestimonial identification procedures. The order shall be maintained by the clerk of the district court along with the application and the affidavits in support of the application in a confidential file until a charge is filed, at which time the order, application, and affidavits in support of the application shall become public records unless the court upon an in camera hearing orders that they be kept confidential.

[81 Acts, ch 206, §6; 82 Acts, ch 1138, §1]

810.8 Contents of order.

The order shall be directed to the person named or described in the application and shall inform the person of all of the following:

1. That the presence of the person is required for the purpose of conducting or permitting nontestimonial identification procedures in order to aid in the investigation of the felony specified therein.

2. The time and place of the required appearance.

3. The nontestimonial identification procedures to be conducted, the methods to be used, and the approximate length of time the procedures will require.

4. The grounds to suspect that the person named in the affidavit committed the felony specified therein.

5. That the person will be under no legal obligation to submit to any interrogation or to make any statement during the period of the person's appearance except for that required for voice identification.

6. That the person may request the judge to make a reasonable modification of the order with respect to time and place of appearance, including a request to have any nontestimonial identification procedure other than a lineup conducted at the person's place of residence.

7. That if the person fails to appear, the person may be held in contempt of court.

8. That the right to counsel shall apply during nontestimonial identification procedures, including the right of indigent persons to appointed counsel.

9. That the person may request that the court modify or vacate the order as provided in this chapter.

[81 Acts, ch 206, §7]

810.9 Modification of order.

At the request of the person named or described in the application, the issuing court may modify a nontestimonial identification order with respect to time, place or manner of conducting the identification procedures if it appears reasonable under the circumstances to do so.

[81 Acts, ch 206, §8]

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810.10 Vacation of order.

On motion of the person named or described in the application, the issuing court shall vacate the nontestimonial identification order if the court finds that the order was improperly issued or that there are no longer sufficient grounds for issuance of the order.

[81 Acts, ch 206, §9]

810.11 Service of order.

The order issued pursuant to this chapter shall be served by a law enforcement officer by delivery of a copy of the order to the person named or described in the order.

[81 Acts, ch 206, §10]

810.12 Time of service.

1. The nontestimonial identification order shall be served upon the person named or described in the order within five days after its issuance, excluding Saturdays, Sundays, and legal holidays, between the hours of 8:00 a.m. and 12:00 midnight, and shall be so served not later than twelve hours prior to the time of the person's required participation.

2. If the issuing court finds reasonable cause to believe that the person named or described in the application may either flee or alter or destroy the nontestimonial evidence sought, the court may direct a law enforcement officer to bring the person before the court. Upon presentation of the person, the court shall read the nontestimonial identification order to the person and afford a reasonable opportunity for the person to consult with a lawyer and to seek modification or vacation of the order. The court may then direct the person to participate immediately in the designated nontestimonial identification procedures. After the procedures have been completed, the person shall be released or charged with a felony.

[81 Acts, ch 206, §11]

810.13 Implementation of order.

Nontestimonial identification procedures may be conducted by any law enforcement officer or other person designated by the judge. The judge may require medical supervision for any test ordered pursuant to this chapter when the judge deems such supervision necessary. A person who appears under an order of appearance issued pursuant to this chapter shall not be detained longer than is reasonably necessary to conduct the specified nontestimonial identification procedures unless the person is arrested for a felony.

[81 Acts, ch 206, §12]

810.14 Failure to comply.

Any person who, without adequate excuse, fails to comply with a nontestimonial identification order served upon the person pursuant to this chapter may be held in contempt of the court which issued the order.

[81 Acts, ch 206, §13]

810.15 Return.

Within ten days after the nontestimonial identification procedure, the order shall be returned to the issuing court. The court, the prosecuting attorney, and the person who was the subject of the order, shall be furnished with a written report of the results of any tests or comparisons utilizing the evidence obtained in the authorized procedures. This report shall be disclosed promptly after it becomes available unless the court directs that disclosure be delayed.

[81 Acts, ch 206, §14]

810.16 Disposition of evidence.

If at the time of the return probable cause does not exist to believe that the person committed the felony specified in the application, the court shall order that the products of the nontestimonial identification procedures and all copies thereof, be promptly destroyed. Upon motion of the prosecuting attorney, the court may authorize further retention of the

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nontestimonial evidence so obtained for such time as reasonably necessary to facilitate a continuing investigation or prosecution.

[81 Acts, ch 206, §15]

CHAPTER 811

PRETRIAL AND POST-TRIAL RELEASE — BAIL

Referred to in §80A.2, 232.22, 232.44, 602.6405, 801.1

811.1 Bail and bail restrictions.
811.1A Detention hearing.
811.2 Conditions of release — penalty for failure to appear.
811.2A Pretrial release. Repealed by 2007 Acts, ch 215, §134.
811.3 Qualification and examination of surety.
811.4 Undertaking of bail as liens on real estate.
811.5 Bail on appeal.
811.6 Forfeiture of bail.
811.7 Recommitment after bail.
811.8 Surrender of defendant.
811.9 Forfeiture of appearance bond and conditions to set aside.
811.10 Discharge of surety.
811.11 Bail after deferred judgment.
811.12 Limitations.

811.1 Bail and bail restrictions.

1. For purposes of this section:

a. "Assault" means the same as defined in section 708.1.

b. "Charged" means the same as *"charge"* as defined in section 801.4.

c. "Felonious assault upon an officer" means the defendant committed an assault, for which the penalty is a felony, with the knowledge the person against whom the felonious assault was committed was a peace officer or correctional officer, acting in the peace officer's or correctional officer's official capacity.

d. "Forcible felony" means the same as defined in section 702.11.

e. "Indictable offense" means the same as defined in section 801.4.

f. "Peace officer" means the same as defined in section 801.4.

g. "Unauthorized alien" means a person who is unlawfully present in the United States according to the terms of the federal Immigration and Nationality Act, 8 U.S.C. §1101 et seq. *"Unauthorized alien"* shall be interpreted consistently with any applicable federal statutes, rules, or regulations.

2. Except as provided in subsection 3 or 4, all defendants are bailable both before and after conviction, by sufficient surety, or subject to release upon condition or on their own recognizance, except that the following defendants shall not be admitted to bail:

a. A defendant charged with murder in the first degree of a peace officer in violation of section 707.2, if the murder in the first degree was committed with the knowledge the person against whom the murder was committed was a peace officer or correctional officer, acting in the peace officer's or correctional officer's official capacity.

b. A defendant awaiting judgment of conviction and sentencing following either a plea or verdict of guilty of a class "A" felony; forcible felony as defined in section 702.11; a felonious assault upon an officer; any class "B" felony included in section 462A.14 or 707.6A; any felony included in section 124.401, subsection 1, paragraph *"a"* or *"b"*; a second or subsequent offense under section 124.401, subsection 1, paragraph *"c"*; any public offense committed while detained pursuant to section 229A.5; or any public offense committed while subject to an order of commitment pursuant to chapter 229A.

c. A defendant appealing a conviction of a class "A" felony; forcible felony as defined in section 702.11; a felonious assault upon an officer; any class "B" or "C" felony included in section 462A.14 or 707.6A; any felony included in section 124.401, subsection 1, paragraph *"a"* or *"b"*; or a second or subsequent conviction under section 124.401, subsection 1, paragraph *"c"*; any public offense committed while detained pursuant to section 229A.5; or

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any public offense committed while subject to an order of commitment pursuant to chapter 229A.

d. Notwithstanding paragraphs *"b"* and *"c"*, a defendant awaiting judgment of conviction and sentencing following either a plea or verdict of guilty of, or appealing a conviction of, any felony offense included in section 708.11, subsection 3, or a felony offense under chapter 124 not provided for in paragraph *"b"* or *"c"*, is presumed to be ineligible to be admitted to bail unless the court determines that such release reasonably will not result in the person failing to appear as required and will not jeopardize the personal safety of another person or persons.

3. A defendant is only eligible to be released on the defendant's own recognizance if the defendant has been charged with a nonviolent, nondrug simple or serious misdemeanor.

4. *a.* Notwithstanding subsection 2, all defendants are bailable before conviction, by sufficient surety, or subject to release upon conditions or on their own recognizance, except when the offense is for a forcible felony. A charge for a forcible felony creates a rebuttable presumption that the person is dangerous and that there is not a sufficient surety or condition of release that will reasonably assure the personal safety of another person or persons. If a court determines that there is probable cause to believe that the defendant committed a forcible felony, then the defendant shall be detained without bail. The prosecuting attorney, or the court on its own motion, must move for pretrial detention. The defendant may rebut the presumption by demonstrating, by a preponderance of the evidence, that adequate conditions of release will reasonably assure the personal safety of another person or persons.

b. It shall be presumed that there are not sufficient sureties or conditions of release that will secure the appearance at trial of an unauthorized alien for an indictable offense. If a court determines that there is probable cause to believe that the defendant committed an indictable offense and the court further determines by a preponderance of the evidence that the defendant is an unauthorized alien, the prosecuting attorney, or the court on its own motion, shall move for pretrial detention. The defendant may rebut the presumption by demonstrating, by a preponderance of the evidence, that adequate conditions of release will secure the appearance of the defendant at trial.

[C51, §3211 – 3213; R60, §4885, 4962; C73, §3845, 4107, 4511; C97, §5096, 5442; S13, §5096; C24, 27, 31, 35, 39, §**13609, 13610, 13966;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §763.1, 763.2, 789.19; C79, 81, §811.1; 82 Acts, ch 1236, §1]

89 Acts, ch 138, §4, 5; 90 Acts, ch 1251, §61; 92 Acts, ch 1179, §2; 94 Acts, ch 1093, §6; 95 Acts, ch 87, §1; 97 Acts, ch 177, §30; 98 Acts, ch 1138, §27; 99 Acts, ch 12, §10; 99 Acts, ch 71, §1; 99 Acts, ch 123, §1; 2000 Acts, ch 1099, §10; 2002 Acts, ch 1139, §22, 27; 2011 Acts, ch 22, §1; 2012 Acts, ch 1021, §117; 2013 Acts, ch 30, §255; 2023 Acts, ch 86, §9; 2024 Acts, ch 1127, §5; 2024 Acts, ch 1154, §25; 2026 Acts, ch 1156, §32 – 35; 2026 Acts, ch 1159, §4, 5

Referred to in §124.416, 229A.5C, 232.44, 805.1, 811.2, 811.5
Bail bonds, see R.Cr.P. 2.37 – Form 1
See Code editor's note at the beginning of this Code volume
Subsection 1, NEW paragraphs d, e, and g and former paragraph d redesignated as f
Subsection 2, unnumbered paragraph 1 amended
NEW subsection 3
NEW subsection 4

811.1A Detention hearing.

1. When a defendant is awaiting sentencing after conviction for a felony or is pursuing an appeal in such a case following sentencing, and the defendant would otherwise be eligible to be admitted to bail under this chapter, but it appears by clear and convincing evidence that if released the defendant is likely to pose a danger to another person or to the property of others, the defendant may be detained under the authority of this section and in the manner provided in subsection 2.

2. The following procedures shall apply to a detention hearing:

a. The prosecuting attorney may initiate a detention hearing by a verified ex parte written motion. Upon such motion, the district court may issue a warrant for the immediate arrest of the defendant, if the defendant is not in custody.

b. The defendant shall be brought before the district court within twenty-four hours after arrest, or if the defendant is in custody, the defendant shall be brought before the district court

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within twenty-four hours of the prosecuting attorney's filing of the motion. The detention hearing shall be held within seventy-two hours of the defendant's arrest, or if the defendant is in custody, the detention hearing shall be held within seventy-two hours of the filing of the motion.

c. The defendant shall be entitled to representation by counsel, including appointed counsel if indigent, and shall be entitled to the right of cross-examination and to present information, to testify, and to present witnesses in the defendant's own behalf, but shall not be entitled to being admitted to bail.

d. Testimony of the defendant given during the hearing shall not be admissible on the issue of guilt in any other judicial proceeding, except that such testimony shall be admissible in proceedings under section 811.2, subsection 8, and section 811.8, and in perjury proceedings.

e. Appeals from orders of detention may be taken in the manner provided under section 811.2, subsection 7.

f. If the trial court issues an order of detention, the order shall be accompanied by a written finding of fact and the reasons for the detention order.

g. For the purposes of such proceedings, the trial court is not divested of jurisdiction by the filing of a notice of appeal.

2004 Acts, ch 1084, §4
Referred to in §13B.4, 331.653, 815.9, 815.10

811.2 Conditions of release — penalty for failure to appear.

1. *Conditions for release of defendant.*

a. All bailable defendants shall be ordered released from custody pending judgment or entry of deferred judgment on their personal recognizance, except as limited by section 811.1, subsection 3, or upon the execution of an unsecured appearance bond in an amount specified by the magistrate unless the magistrate determines in the exercise of the magistrate's discretion, that such a release will not reasonably assure the appearance of the defendant as required or that release will jeopardize the personal safety of another person or persons. When such determination is made, the magistrate shall, either in lieu of or in addition to the above methods of release, impose the first of the following conditions of release that will reasonably assure the appearance of the person for trial or deferral of judgment and the safety of other persons, or, if no single condition gives that assurance, any combination of the following conditions:

(1) Place the defendant in the custody of a designated person or organization agreeing to supervise the defendant.

(2) Place restrictions on the travel, association or place of abode of the defendant during the period of release.

(3) Require the execution of an appearance bond in a specified amount and the deposit with the clerk of the district court or a public officer designated under section 602.1211, subsection 4, in cash or other qualified security, the deposit to be returned to the person who deposited the specified amount with the clerk upon the performance of the appearances as required in section 811.6.

(4) Require the execution of a bail bond with sufficient surety, or the deposit of cash in lieu of bond. However, except as provided in section 811.1, bail initially given remains valid until final disposition of the offense or entry of an order deferring judgment. If the amount of bail is deemed insufficient by the court before whom the offense is pending, the court may order an increase of bail and the defendant must provide the additional undertaking, written or in cash, to secure release.

(5) Impose any other condition deemed reasonably necessary to assure appearance as required, or the safety of another person or persons including a condition requiring that the defendant return to custody after specified hours, or a condition that the defendant have no contact with the victim or other persons specified by the court.

b. Any bailable defendant who is charged with unlawful possession, manufacture, delivery, or distribution of a controlled substance or other drug under chapter 124 and is ordered released shall be required, as a condition of that release, to submit to a substance use disorder evaluation and follow any recommendations proposed in the evaluation

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for appropriate substance use disorder treatment. However, if a bailable defendant is charged with manufacture, delivery, possession with the intent to manufacture or deliver, or distribution of methamphetamine, its salts, optical isomers, and salts of its optical isomers, the defendant shall, in addition to a substance use disorder evaluation, remain under supervision and be required to undergo random drug tests as a condition of release.

c. If a pretrial release evaluation is completed by the department of corrections for a magistrate to consider prior to the release of a defendant, the evaluator for the department of corrections must verify all of the information contained in the pretrial release evaluation prior to providing it to the magistrate.

2. *Determination of conditions.* In determining which conditions of release will reasonably assure the defendant's appearance and the safety of another person or persons, the magistrate shall, on the basis of available information, take into account the nature and circumstances of the offense charged, the defendant's family ties, employment, financial resources, character and mental condition, the length of the defendant's residence in the community, the defendant's record of convictions, including the defendant's failure to pay any fine, surcharge, or court costs, and the defendant's record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings.

3. *Release at initial appearance.* This chapter does not preclude the release of an arrested person as authorized by section 804.21, unless the arrested person is charged with manufacture, delivery, possession with the intent to manufacture or deliver, or distribution of methamphetamine.

4. *Statement to all defendants.* When a defendant appears before a magistrate pursuant to rule of criminal procedure 2.2 or 2.3, the defendant shall be informed of the defendant's right to have said conditions of release reviewed. If the defendant indicates that the defendant desires such a review and is indigent and unable to retain legal counsel, the magistrate shall appoint an attorney to represent the defendant for the purpose of such review. Unless the conditions of release are amended and the defendant is thereupon released, the magistrate shall set forth in writing the reasons for requiring conditions imposed. A defendant who is ordered released by a magistrate other than a district court judge or district associate judge on a condition which required that the defendant return to custody after specified hours, shall, upon application, be entitled to review by the magistrate who imposed the condition in the same manner as a defendant who remains in full-time custody. In the event that the magistrate who imposed conditions of release is not available, any other magistrate in the judicial district may review such conditions.

5. *Statement of conditions when defendant is released.* A magistrate authorizing the release of a defendant under this section shall issue a written order containing a statement of the conditions imposed if any, shall inform the defendant of the penalties applicable to violation of the conditions of release and shall advise the defendant that a warrant for the defendant's arrest will be issued immediately upon such violation.

6. *Amendment of release conditions.* A magistrate ordering the release of the defendant on any conditions specified in this section may at any time amend the order to impose additional or different conditions of release, provided that, if the imposition of different or additional conditions results in the detention of the defendant as a result of the defendant's inability to meet such conditions, the provisions of subsection 3 of this section shall apply.

7. *Appeal from conditions of release.*

a. A defendant who is detained, or whose release on a condition requiring the defendant to return to custody after specified hours is continued, after review of the defendant's application pursuant to subsection 3 or 5 of this section, by a magistrate, other than a district judge or district associate judge having original jurisdiction of the offense with which the defendant is charged, may make application to a district judge or district associate judge having jurisdiction to amend the order. Said motion shall be promptly set for hearing and a record made thereof.

b. In any case in which a court denied a motion under paragraph *"a"* of this subsection to amend an order imposing conditions of release, or a defendant is detained after conditions of release have been imposed or amended upon such a motion, an appeal may be taken from the district court. The appeal shall be determined summarily, without briefs, on the record

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made. However, the defendant may elect to file briefs and may be heard in oral argument, in which case the prosecution shall have a right to respond as in an ordinary appeal from a criminal conviction. The appellate court may, on its own motion, order the parties to submit briefs and set the time in which such briefs shall be filed. Any order so appealed shall be affirmed if it is supported by the proceeding below. If the order is not so supported, the court may remand the case for a further hearing or may, with or without additional evidence, order the defendant released pursuant to subsection 1 of this section.

8. *Failure to appear — penalty.* Any person who, having been released pursuant to this section, willfully fails to appear before any court or magistrate as required shall, in addition to the forfeiture of any security given or pledged for the person's release, if the person was released in connection with a charge which constitutes a felony, or while awaiting sentence or pending appeal after conviction of any public offense, be guilty of a class "D" felony. If the defendant was released before conviction or acquittal in connection with a charge which constitutes any public offense not a felony, the defendant shall be guilty of a serious misdemeanor. If the person was released for appearance as a material witness, the person shall be guilty of a simple misdemeanor. In addition, nothing herein shall limit the power of the court to punish for contempt.

[C51, §2876, 3216 – 3218; R60, §4601, 4967; C73, §4248, 4573; C97, §5232, 5500; C24, 27, 31, 35, 39, §**13547, 13611;** C46, 50, 54, 58, 62, 66, §761.21, 763.3; C71, 73, 75, 77, §761.21, 763.17 – 763.19; C79, 81, §811.2]

83 Acts, ch 19, §1 – 3; 83 Acts, ch 50, §6, 7; 84 Acts, ch 1152, §1, 2; 85 Acts, ch 17, §2; 88 Acts, ch 1033, §1; 93 Acts, ch 157, §10; 99 Acts, ch 12, §11; 2000 Acts, ch 1131, §6; 2005 Acts, ch 15, §10, 11, 14; 2005 Acts, ch 174, §23 – 25; 2013 Acts, ch 30, §221; 2023 Acts, ch 19, §1319; 2026 Acts, ch 1159, §6 – 8

Referred to in §232.44, 321.486, 602.1211, 664A.3, 708.11, 804.21, 804.22, 804.23, 811.1A, 811.5, 811.10, 812.3, 812.4
Order for discharge of defendant upon bail, see R.Cr.P. 2.37 – Forms 2 and 3
Subsection 1, paragraph a, unnumbered paragraph 1 amended
Subsection 1, paragraph a, subparagraph (3) amended
Subsection 1, NEW paragraph c

811.2A Pretrial release. Repealed by 2007 Acts, ch 215, §134.

811.3 Qualification and examination of surety.

1. *a.* Insurance companies doing business in this state under the provisions of section 515.48, subsection 2, may act as surety. Resident owners of property that is located within the state and that is worth the amount specified in the undertaking may act as surety and must in all cases justify by an affidavit taken before an officer authorized to administer oaths that such surety possesses such qualifications.

b. A company acting as surety shall not engage in conduct or activities substantially similar to those of a bail enforcement agent or bail enforcement business, as those terms are defined in section 80A.1, without receiving a license from the department of public safety as specified in chapter 80A.

2. In taking bail each signer may justify severally in amounts less than that expressed in the undertaking, if the whole justification be equivalent to one sufficient bail.

3. The court in which the action is pending, or the clerk thereof, or magistrate may require the personal appearance of sureties offered, and may thereupon further examine them upon oath concerning their sufficiency, and may also receive other evidence for or against the sufficiency of the bail. When such examination is closed, the official conducting such examination must make an order, either allowing or disallowing the bail, and forthwith cause the same, with the affidavits or justification and undertaking of bail, to be filed with the clerk of the court to which the papers on the preliminary examination are required to be sent.

[C51, §3220 – 3224; R60, §4969 – 4973; C73, §4575 – 4579; C97, §5507 – 5510; C24, 27, 31, 35, 39, §**13619 – 13622;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §763.11 – 763.14; C79, 81, §811.3]

2024 Acts, ch 1028, §2

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811.4 Undertaking of bail as liens on real estate.

Undertakings of bail, immediately after such undertakings are filed with the clerk of the district court, shall be docketed as liens on real estate, entered upon the lien index as required for judgments in civil cases, and from the time of such entries, shall be liens upon real estate of the persons executing the same. Attested copies of such undertakings may be filed in the office of the clerk of the district court of the county in which the real estate is situated, in the same manner and with like effect as attested copies of civil judgments, and shall be immediately docketed and indexed in the same manner.

[R60, §5000 – 5002; C73, §4606 – 4608; C97, §5513, 5514; C24, 27, 31, 35, 39, §**13625, 13626;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §764.1, 764.2; C79, 81, §811.4]

Referred to in §602.8102(130)

811.5 Bail on appeal.

After conviction, upon appeal to the appellate court, the defendant must be admitted to bail, if it be from the judgment imposing a fine, upon the undertaking of bail that the defendant will, in all respects, abide the orders and the judgment of the appellate court upon appeal; if from a judgment of imprisonment, except as provided in section 811.1 upon the undertaking of bail that the defendant will surrender in execution of the judgment and direction of the appellate court, and in all respects abide the orders and judgment of the appellate court upon the appeal. Such bail may be taken, either by the court where the judgment was rendered, or the district court of the county in which the defendant is imprisoned, or by the appellate court, or a judge or clerk of any of such courts. Provided, that in lieu of bail, bailable defendants as described herein may be released in accordance with the provisions of section 811.2.

[R60, §4966, 4981; C73, §4587; C97, §5506; C24, 27, 31, 35, 39, §**13617, 13618;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §763.9, 763.10; C79, 81, §811.5]

Referred to in §915.13

811.6 Forfeiture of bail.

1. A defendant released pursuant to this chapter shall appear at arraignment, trial, judgment, or such other proceedings where the defendant's appearance is required. If the defendant fails to appear at the time and place when the defendant's personal appearance is lawfully required, or to surrender in execution of the judgment, the court must direct an entry of the failure to be made of record, and the undertaking of the defendant's bail, or the money deposited, is thereupon forfeited. As a part of the entry, except as provided in rule of criminal procedure 2.72, the court shall direct the clerk of the district court of the county to give thirty days' notice in writing to the defendant and the defendant's sureties to appear and show cause, if any, why judgment should not be entered for the amount of bail. If such appearance is not made, judgment shall be entered by the court. If appearance is made, the court shall set the case down for immediate hearing as an ordinary action.

2. Where a forfeiture and judgment have been entered as provided in this section, and the amount of the judgment has been paid to the clerk, the clerk shall hold the amount paid as funds of the clerk's office for a period of one hundred fifty days from the date of judgment.

3. *a.* The court may, upon application, set aside such judgment if, within one hundred fifty days from the date of the judgment, any of the following occur:

(1) The defendant voluntarily surrenders to the sheriff of the county.

(2) The defendant's sureties, at their own expense, deliver the defendant or facilitate delivery of the defendant to the custody of the sheriff.

(3) The court determines, upon consideration of all circumstances, that setting aside the judgment is warranted.

b. A judgment shall not be set aside under this subsection unless as a condition precedent

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thereto, the defendant and the defendant's sureties have paid all costs and expenses incurred in connection with the judgment.

[R60, §4990 – 4994; C73, §4596 – 4600; C97, §5515 – 5517, 5519; C24, 27, 31, 35, 39, §**13631, 13633, 13635, 13636;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §766.1 – 766.3, 766.5, 766.6; C79, 81, §811.6]

2000 Acts, ch 1032, §6; 2013 Acts, ch 54, §2; 2021 Acts, ch 64, §2; 2022 Acts, ch 1021, §175; 2022 Acts, ch 1044, §1

Referred to in §331.653, 602.8102(131), 811.2, 811.9

811.7 Recommitment after bail.

1. The magistrate may, by an order entered on the record, direct the defendant to be arrested and committed to jail until legally discharged, after the defendant has given bail or deposited money in lieu thereof, or otherwise is released pursuant to this chapter, when it satisfactorily appears to the court that the defendant has failed to appear as required, or the defendant has violated a condition of release, or when, after the filing of an indictment or information, the court finds the bail taken or money deposited is insufficient.

2. Such order for recommitment must recite generally the facts upon which it is founded, and must direct that the defendant be arrested and committed to the custody of the sheriff of the county in which such order is entered. The defendant may be arrested pursuant to such order, upon a certified copy thereof, in any county of the state.

3. If the order recites, as the ground on which it is made, the failure of the defendant to appear for judgment upon conviction, the defendant must be committed according to the requirements of the order; if made for any other cause and the offense is bailable, the court must cause a direction to be inserted in the order that the defendant be admitted to bail, in a sum to be stated in the order.

[C51, §3243 – 3247; R60, §4995-4999; C73, §4601 – 4605; C97, §5520 – 5523; C24, 27, 31, 35, 39, §**13637 – 13640;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §767.1 – 767.4; C79, 81, §811.7]

2023 Acts, ch 64, §101

Referred to in §331.653, 811.9

811.8 Surrender of defendant.

1. At any time before the forfeiture of the undertaking, the surety may surrender the defendant, or the defendant may surrender, to the officer to whose custody the defendant was committed at the time of giving bail, and such officer shall detain the defendant as upon a commitment and must, upon such surrender and the receipt of a certified copy of the undertaking of bail, acknowledge the surrender by a certificate in writing. A company acting as surety shall not engage in conduct or activities substantially similar to those of a bail enforcement agent or bail enforcement business, as those terms are defined in section 80A.1, without receiving a license from the department of public safety as specified in chapter 80A.

2. Upon the filing of the undertaking and the certificate of the officer, or the certificate of the officer alone if money has been deposited instead of bail, the court or clerk shall immediately order return of the money deposited to the person who deposited the same, or order an exoneration of the surety.

[C51, §3236 – 3238; R60, §4987 – 4989; C73, §4593 – 4595; C97, §5528 – 5530; C24, 27, 31, 35, 39, §**13641 – 13643;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §768.1 – 768.3; C79, 81, §811.8]

98 Acts, ch 1149, §12; 2024 Acts, ch 1028, §3, 4

Referred to in §80A.3A, 811.1A, 811.9, 812.3, 812.4

811.9 Forfeiture of appearance bond and conditions to set aside.

Sections 811.6 through 811.8 shall not apply in a case where a simple misdemeanor is charged upon a uniform citation and complaint and where the defendant has submitted an unsecured appearance bond or has submitted bail in the form of cash, check, credit card as provided in section 805.14, or guaranteed arrest bond certificate as defined in section 321.1. When a defendant fails to appear as required in such cases, the court, or the clerk of the district court, shall enter a judgment of forfeiture of the bond or bail. The judgment shall be final upon entry and shall not be set aside unless the conviction is for a scheduled violation under chapter 321 that was set aside under the procedures established in section 321.200A,

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or upon a showing of good cause after the filing of a motion within ninety days of entry of the judgment, for mistake, inadvertence, surprise, excusable neglect, or unavoidable casualty.

[C79, 81, §811.9]

99 Acts, ch 144, §14; 2009 Acts, ch 124, §3; 2010 Acts, ch 1069, §65; 2010 Acts, ch 1130, §2

811.10 Discharge of surety.

When a defendant is admitted to bail by means of a surety bail bond pursuant to section 811.2, subsection 1, paragraph *"a"*, subparagraph (4), the obligation of surety shall be discharged, and the surety released, upon any of the following conditions:

1. Dismissal of the charges against the defendant.
2. Judgment of acquittal against the defendant.
3. Judgment of conviction against the defendant.
4. Entry of an order deferring judgment of the defendant.
5. Entry of an order by the court which, by its terms, continues the case against the defendant for a period exceeding six months.

84 Acts, ch 1152, §3; 2013 Acts, ch 30, §256

Referred to in §811.11

811.11 Bail after deferred judgment.

Upon entry of an order by the court deferring judgment, effecting a discharge of the surety as required under section 811.10, the defendant may be admitted to bail, as a condition of the deferral of judgment. Admittance to bail under this section, if required by the court, requires a new bail undertaking by the defendant. The surety under this section is responsible only for the failure of the defendant to appear at required court appearances during the period of deferral of judgment.

84 Acts, ch 1152, §4

811.12 Limitations.

1. A person shall not take or attempt to take into custody the principal on a bail bond, either as a surety on a bail bond in a criminal proceeding or as an agent of such surety, unless such person has complied with all of the following, if applicable:

a. Notification or registration with a chief law enforcement officer under section 80A.3A.

b. Licensing requirements for bail enforcement businesses and bail enforcement agents under chapter 80A.

2. A person other than a certified peace officer shall not be authorized to apprehend, detain, or arrest a principal on a bail bond, wherever issued, unless one of the following applies:

a. The person is a bail enforcement agent licensed under chapter 80A and has notified the chief law enforcement officer under section 80A.3A.

b. The person is a bail enforcement agent licensed under the laws of another state and has registered with the chief law enforcement officer under section 80A.3A.

c. The person is a bail enforcement agent from a state that does not license such businesses who has registered with the chief law enforcement officer under section 80A.3A.

98 Acts, ch 1149, §13; 99 Acts, ch 105, §1; 2024 Acts, ch 1028, §5

Referred to in §80A.3A

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CHAPTER 812

CONFINEMENT OF PERSONS FOUND INCOMPETENT TO STAND TRIAL

Referred to in §13B.4, 226.27, 229.26, 229A.3, 229A.7, 331.190, 331.653, 801.1, 815.9, 815.10

812.1 and 812.2 Repealed by 2004 Acts, ch 1084, §16.
812.3 Mental incompetency of accused.
812.4 Hearing.
812.5 Competency hearing — findings.
812.6 Placement and treatment — payment of costs.
812.7 Mental status reports.
812.8 Restoration of mental competency.
812.9 Length of placement — other commitment proceedings — criminal proceedings after termination of placement.

812.1 and 812.2 Repealed by 2004 Acts, ch 1084, §16. See §811.1A.

812.3 Mental incompetency of accused.

1. If at any stage of a criminal proceeding the defendant or the defendant's attorney, upon application to the court, alleges specific facts showing that the defendant is suffering from a mental disorder which prevents the defendant from appreciating the charge, understanding the proceedings, or assisting effectively in the defense, the court shall suspend further proceedings and determine if probable cause exists to sustain the allegations. The applicant has the burden of establishing probable cause. The court may on its own motion schedule a hearing to determine probable cause if the defendant or defendant's attorney has failed or refused to make an application under this section and the court finds that there are specific facts showing that a hearing should be held on that question. The defendant shall not be compelled to testify at the hearing and any testimony of the defendant given during the hearing shall not be admissible on the issue of guilt, except such testimony shall be admissible in proceedings under section 811.2, subsection 8, and section 811.8, and in perjury proceedings.

2. Upon a finding of probable cause sustaining the allegations, the court shall suspend further criminal proceedings and order the defendant to undergo a psychiatric evaluation to determine whether the defendant is suffering a mental disorder which prevents the defendant from appreciating the charge, understanding the proceedings, or assisting effectively in the defense. The order shall also authorize the evaluator to provide treatment necessary and appropriate to facilitate the evaluation. If an evaluation has been conducted within thirty days of the probable cause finding, the court is not required to order a new evaluation and may use the recent evaluation during a hearing under this chapter. Any party is entitled to a separate psychiatric evaluation by a psychiatrist or licensed, doctorate-level psychologist of their own choosing.

[C51, §3260, 3261; R60, §5015, 5016; C73, §4620, 4621; C97, §5540; C24, 27, 31, 35, 39, §**13905;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §783.1; C79, 81, §812.3]

2004 Acts, ch 1084, §5

Referred to in §812.5, 812.8

812.4 Hearing.

1. A hearing shall be held within fourteen days of the arrival of the person at a psychiatric facility for the performance of the evaluation, or within five days of the court's motion or the filing of an application, if the defendant has had a psychiatric evaluation within thirty days of the probable cause finding, and upon which the court decides to rely. Pending the hearing, no further proceedings shall be taken under the complaint or indictment and the defendant's right to a speedy indictment and speedy trial shall be tolled until the court finds the defendant competent to stand trial.

2. The defendant shall be entitled to representation by counsel, including appointed counsel if indigent, and shall be entitled to the right of cross-examination and to present evidence.

3. Testimony of the defendant given during the hearing shall not be admissible on the issue

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of guilt in any other judicial proceeding, except that such testimony shall be admissible in proceedings under section 811.2, subsection 8, and section 811.8, and in perjury proceedings.

[C51, §3262, 3263; R60, §5018, 5019; C73, §4623, 4624; C97, §5542; C24, 27, 31, 35, 39, §**13907;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §783.3; C79, 81, §812.4]

83 Acts, ch 96, §157, 159; 94 Acts, ch 1079, §1; 97 Acts, ch 64, §1; 2004 Acts, ch 1084, §6; 2005 Acts, ch 65, §1

812.5 Competency hearing — findings.

The court shall receive all relevant and material evidence offered at the hearing and shall not be bound by the formal rules of evidence. The evidence shall include the psychiatric evaluation ordered under section 812.3 or conducted within thirty days of the probable cause finding.

1. If the court finds the defendant is competent to stand trial, the court shall reinstate the criminal proceedings suspended under section 812.3.

2. If the court, by a preponderance of the evidence, finds the defendant is suffering from a mental disorder which prevents the defendant from appreciating the charge, understanding the proceedings, or assisting effectively in the defense, the court shall suspend the criminal proceedings indefinitely and order the defendant to be placed in a treatment program pursuant to section 812.6 and shall make further findings of record as necessary under section 812.6.

[C51, §3264 – 3267; R60, §5020 – 5023; C73, §4625 – 4628; C97, §5543; C24, 27, 31, 35, 39, §**13908;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §783.4; C79, 81, §812.5]

83 Acts, ch 96, §157, 159; 85 Acts, ch 21, §47; 94 Acts, ch 1079, §2; 2004 Acts, ch 1084, §7

812.6 Placement and treatment — payment of costs.

1. If the court finds the defendant does not pose a danger to the public peace and safety, is otherwise qualified for pretrial release, and is willing to cooperate with treatment, the court shall order, as a condition of pretrial release, that the defendant obtain mental health treatment designed to restore the defendant to competency. The costs of treatment pursuant to this subsection shall be paid by an administrative services organization designated pursuant to section 225A.4.

2. If the court finds by clear and convincing evidence that the defendant poses a danger to the public peace or safety, or that the defendant is otherwise not qualified for pretrial release, or the defendant refuses to cooperate with treatment, the court shall commit the defendant to an appropriate inpatient treatment facility as provided in paragraph *"a"* or *"b"*. The defendant shall receive mental health treatment designed to restore the defendant to competency.

a. A defendant who poses a danger to the public peace or safety, or who is otherwise not qualified for pretrial release, shall be committed as a safekeeper to the custody of the director of the department of corrections at the Iowa medical and classification center, or other appropriate treatment facility as designated by the director, for treatment designed to restore the defendant to competency. The costs of the treatment pursuant to this paragraph shall be borne by the department of corrections.

b. A defendant who does not pose a danger to the public peace or safety, but is otherwise being held in custody, or who refuses to cooperate with treatment, shall be committed to the custody of the director of health and human services at a department of health and human services facility for treatment designed to restore the defendant to competency. The costs of the treatment pursuant to this paragraph shall be borne by the department of health and human services.

3. A defendant ordered to obtain treatment or committed to a facility under this section may refuse treatment by chemotherapy or other somatic treatment. The defendant's right to refuse chemotherapy treatment or other somatic treatment shall not apply if, in the judgment of the director or the director's designee of the facility where the defendant has been committed, such treatment is necessary to preserve the life of the defendant or to appropriately control behavior of the defendant which is likely to result in physical injury to the defendant or others. If in the judgment of the director of the facility or the director's designee where the defendant has been committed, chemotherapy or other

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somatic treatments are necessary and appropriate to restore the defendant to competency and the defendant refuses to consent to the use of these treatment modalities, the director of the facility or the director's designee shall request from the district court which ordered the commitment of the defendant an order authorizing treatment by chemotherapy or other somatic treatments.

2004 Acts, ch 1084, §8; 2004 Acts, ch 1175, §392; 2005 Acts, ch 3, §116, 118; 2014 Acts, ch 1066, §1; 2023 Acts, ch 19, §1320; 2023 Acts, ch 140, §11; 2024 Acts, ch 1161, §132, 137

Referred to in §812.5, 812.7, 812.8, 812.9, 904.201

812.7 Mental status reports.

The psychiatrist or licensed doctorate-level psychologist evaluating the progress of the outpatient competency restoration treatment of the defendant, or the director of the facility where the defendant is being held and treated pursuant to a court order, shall provide a written status report to the court regarding the defendant's mental disorder, methods used to restore competency to the defendant, the defendant's current abilities related to competency, and whether it appears the defendant's competency can be restored within a reasonable amount of time. The psychiatrist, psychologist, or director shall submit an initial report to the court no later than thirty days after the defendant's placement pursuant to section 812.6, and subsequent reports every sixty days or less after the submission of the initial report until the defendant's competency is restored or the placement of the defendant is terminated.

2004 Acts, ch 1084, §9; 2023 Acts, ch 140, §12

812.8 Restoration of mental competency.

1. At any time, upon a finding by a psychiatrist or licensed doctorate-level psychologist that there is a substantial probability that the defendant has acquired the ability to appreciate the charge, understand the proceedings, and effectively assist in the defendant's defense, the psychiatrist or licensed doctorate-level psychologist evaluating the progress of the defendant's outpatient treatment or the director of the inpatient facility shall immediately notify the court. After receiving notice the court shall proceed as provided in subsection 4.

2. At any time, a treating psychiatrist or licensed doctorate-level psychologist may notify the court that the defendant receiving outpatient treatment will require inpatient services to continue benefiting from treatment or that it is appropriate for a defendant receiving inpatient treatment services to receive outpatient treatment services. Upon receiving notification, the court shall proceed as provided under subsection 4.

3. At any time upon a finding by an evaluating psychiatrist or licensed doctorate-level psychologist that there is no substantial probability that the defendant will be restored to competency in a reasonable amount of time, the psychiatrist or licensed doctorate-level psychologist evaluating the defendant's outpatient treatment or the director of the inpatient facility shall immediately notify the court. Upon receiving notification, the court shall proceed as provided under subsection 4.

4. *a.* Upon receiving a notification under this section, the court shall schedule a hearing to be held within fourteen days. Within ten days of receiving notice, a party may request a separate independent psychiatric evaluation to be performed by a psychiatrist or licensed, doctorate-level psychologist of the party's own choosing. The requesting party must file notice of intent to seek such evaluation before the scheduled hearing and proceedings shall be stayed until such separate evaluation is completed. Upon receipt of the independent expert's report, the requesting party shall file notice of receipt of that report with the court. The court shall schedule a hearing to be held within fourteen days of receipt of notice. The court shall also issue an order to transport the defendant to the hearing if the defendant is in custody or is being held in an inpatient facility. The defendant shall be transported by the sheriff of the county where the court's motion or the application pursuant to section 812.3 was filed.

b. Following the submission of an initial evaluation finding that there is no substantial probability that the defendant will be restored to competency in a reasonable amount of time and provided the defendant is otherwise eligible for pretrial release, the defendant may request a bond review hearing. In determining the conditions, if any, of the defendant's

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release, the court shall consider whether the defendant is likely to voluntarily participate in the second evaluation as a factor in setting bond or other conditions of release.

c. Upon receipt of the second evaluation, or upon expiration of the time period for obtaining a second evaluation, the court shall schedule and hold a hearing to determine the defendant's competency status. At the hearing, the court shall make one of the following findings:

(1) The defendant is competent to stand trial.

(2) The defendant is not currently competent but there is a substantial probability that the defendant will be restored to competency within a reasonable period of time.

(3) The defendant is not competent and there is no substantial probability that the defendant will be restored to competency within a reasonable period of time.

5. If the court finds by a preponderance of the evidence that the defendant's competency has been restored, the court shall terminate the placement pursuant to section 812.6, and reinstate the criminal proceedings against the defendant, and may order continued treatment to maintain the competency of the defendant.

6. If the court finds by a preponderance of the evidence that the defendant remains incompetent to stand trial but is making progress in regaining competency, the court shall continue the placement ordered pursuant to section 812.6.

7. The court may change the placement of a defendant and the placement may be more restrictive if necessary for the continued progress of the defendant's treatment as shown by clear and convincing evidence.

8. If the court finds by a preponderance of the evidence that there is no substantial probability the defendant's competency will be restored in a reasonable amount of time, the court shall terminate the commitment under section 812.6 in accordance with the provisions of section 812.9 and, if the person is charged with a forcible felony, set the matter for commencement of civil proceedings. A charge of a forcible felony shall be deemed a recent overt act for purposes of civil commitment proceedings under chapter 229.

2004 Acts, ch 1084, §10; 2023 Acts, ch 140, §13; 2026 Acts, ch 1079, §9
Referred to in §812.9
Subsections 4 and 8 amended

812.9 Length of placement — other commitment proceedings — criminal proceedings after termination of placement.

1. Notwithstanding section 812.8, the defendant shall not remain under placement pursuant to section 812.6 beyond the expiration of the maximum term of confinement for the criminal offense of which the defendant is accused, or eighteen months from the date of the original adjudication of incompetence to stand trial, including time in jail, or the time when the court finds by a preponderance of the evidence that there is no substantial probability that the defendant will be restored to competency in a reasonable amount of time under section 812.8, subsection 8, whichever occurs first. When the defendant's placement in an inpatient facility equals the length of the maximum term of confinement, the complaint for the criminal offense of which the defendant is accused shall be dismissed with prejudice.

2. When the defendant's commitment equals eighteen months, the court shall schedule a hearing to determine whether the defendant is competent to stand trial pursuant to section 812.8, subsection 5. If the defendant is not competent to stand trial after eighteen months, the court shall terminate the placement under section 812.6 in accordance with the provisions of subsection 1.

3. Upon the termination of the defendant's placement pursuant to subsection 1, or pursuant to section 812.8, subsection 8, the state may commence civil commitment proceedings or any other appropriate commitment proceedings.

4. If the defendant's placement is terminated pursuant to subsection 2 or pursuant to section 812.8, subsection 8, and it appears thereafter that the defendant has regained competency, the state may make application to reinstate the prosecution of the defendant and hearing shall be held on the matter in the same manner as if the court has received notice under section 812.8, subsection 4.

2004 Acts, ch 1084, §11; 2005 Acts, ch 3, §113
Referred to in §812.8

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CHAPTER 813

IOWA RULES OF CRIMINAL PROCEDURE

Referred to in §801.1

813.1 Title.
813.2 Provisions relating to hearing and trial in indictable cases.
813.3 Trial of simple misdemeanors.
813.4 Additions to and amendment of rules.

813.1 Title.

These rules shall be known as the rules of criminal procedure. (R.Cr.P.)

[76 Acts, ch 1245(2), §1301, Rule 31; 77 Acts, ch 153, §106; C79, 81, §813.1]

813.2 Provisions relating to hearing and trial in indictable cases.

[The rules of criminal procedure are published in the compilation "Iowa Court Rules."]

813.3 Trial of simple misdemeanors.

[See §813.2]

813.4 Additions to and amendment of rules.

The rules of criminal procedure may be amended, provisions deleted, and new rules added by the supreme court, subject to section 602.4202.

[C79, 81, §813.4]

83 Acts, ch 186, §10134, 10201

CHAPTER 814

APPEALS FROM THE DISTRICT COURT

Referred to in §602.8102(132), 801.1, 815.9, 815.11

814.1 Definition of appeal and discretionary review.
814.2 Parties — how designated on appeal.
814.3 Appeals in cases involving more than one defendant.
814.4 Reserved.
814.5 The state as appellant or applicant.
814.6 The defendant as appellant or applicant.
814.6A Pro se filings by defendant currently represented by counsel.
814.7 Ineffective assistance claim on appeal in a criminal case.
814.8 Duties of prosecuting attorney.
814.9 Indigent's right to transcript on appeal.
814.10 Indigent's application for transcript in other cases.
814.11 Indigent's right to counsel.
814.12 Appeal by the state — effect.
814.13 Appeal or application by the defendant — effect.
814.14 Certificate of release.
814.15 Appeals and applications — docketing — when determined.
814.16 Reserved.
814.17 Personal appearance of the defendant.
814.18 Reserved.
814.19 Hearing in the appellate court — rules of procedure.
814.20 Decisions on appeals or applications by defendant.
814.21 Costs.
814.22 Reversal — effect.
814.23 Affirmance — effect.
814.24 Decision recorded and procedendo.
814.25 Cessation of jurisdiction of appellate court.
814.26 Judgment enforced.
814.27 Time of confinement deducted.
814.28 General verdicts.
814.29 Guilty pleas — challenges.

814.1 Definition of appeal and discretionary review.

For the purposes of this chapter, unless the context otherwise requires:

1. *"Appeal"* is the right of both the defendant and the state to have specified actions of the district court considered by an appellate court.

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2. *"Discretionary review"* is the process by which an appellate court may exercise its discretion, in like manner as under the rules pertaining to interlocutory appeals and certiorari in civil cases, to review specified matters not subject to appeal as a matter of right. The supreme court may adopt additional rules to control access to discretionary review.

[R60, §4904, 4905; C73, §4520, 4521; C97, §5448; S13, §5448; C24, 27, 31, 35, 39, §**13994;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §793.1; C79, 81, §814.1]

814.2 Parties — how designated on appeal.

The party seeking review shall be known as the appellant and the adverse party as the appellee, but the title of the action shall not be changed from that in the district court.

[R60, §4818, 4819; C73, §4531, 4532; C97, §5455; C24, 27, 31, 35, 39, §**14004;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §793.12; C79, 81, §814.2]

814.3 Appeals in cases involving more than one defendant.

When defendants are tried jointly, they may seek discretionary review or may appeal separately or may join. The appellate court may, in the interest of justice, consolidate appeals or applications for discretionary review.

[R60, §4917; C73, §4526; C97, §5451; C24, 27, 31, 35, 39, §**13996;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §793.3; C79, 81, §814.3]

814.4 Reserved.

814.5 The state as appellant or applicant.

1. Right of appeal is granted the state from:

a. An order dismissing an indictment, information, or any count thereof.

b. A judgment for the defendant on a motion to the indictment or the information.

c. An order arresting judgment or granting a new trial.

2. Discretionary review may be available in the following cases:

a. An order dismissing an arrest or search warrant.

b. An order suppressing or admitting evidence.

c. An order granting or denying a motion for a change of venue.

d. A final judgment or order raising a question of law important to the judiciary and the profession.

[C79, 81, §814.5; 82 Acts, ch 1021, §8, 12(1)]

Referred to in §808B.5

814.6 The defendant as appellant or applicant.

1. Right of appeal is granted the defendant from:

a. A final judgment of sentence, except in the following cases:

(1) A simple misdemeanor conviction.

(2) An ordinance violation.

(3) A conviction where the defendant has pled guilty. This subparagraph does not apply to a guilty plea for a class "A" felony or in a case where the defendant establishes good cause.

b. An order for the commitment of the defendant for insanity or drug addiction.

2. Discretionary review may be available in the following cases:

a. An order suppressing or admitting evidence.

b. An order granting or denying a motion for a change of venue.

c. An order denying probation.

d. Simple misdemeanor and ordinance violation convictions.

e. An order raising a question of law important to the judiciary and the profession.

f. An order denying a motion in arrest of judgment on grounds other than an ineffective assistance of counsel claim.

3. A conditional guilty plea that reserves an issue for appeal shall only be entered by the court with the consent of the prosecuting attorney and the defendant or the defendant's counsel. An appellate court shall have jurisdiction over only conditional guilty pleas that

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comply with this section and when the appellate adjudication of the reserved issue is in the interest of justice.

[C79, 81, §814.6; 82 Acts, ch 1021, §9, 12(1)]

2019 Acts, ch 140, §28, 29; 2023 Acts, ch 98, §2

Referred to in §910.3

Guilty plea challenges, see §814.29

814.6A Pro se filings by defendant currently represented by counsel.

1. Except as otherwise provided in subsection 3, a defendant who is currently represented by counsel shall not file any pro se document, including a brief, reply brief, or motion, in any Iowa court. The court shall not consider, and opposing counsel shall not respond to, such pro se filings.

2. This section does not prohibit a defendant from proceeding without the assistance of counsel.

3. A defendant currently represented by counsel may file the following pro se documents:

a. A pro se motion seeking disqualification of the counsel, which a court may grant upon a showing of good cause.

b. A pro se notice of appeal.

c. A pro se response to a motion to withdraw pursuant to rule of appellate procedure 6.1005.

2019 Acts, ch 140, §30; 2022 Acts, ch 1110, §1

See also §822.3A

814.7 Ineffective assistance claim on appeal in a criminal case.

An ineffective assistance of counsel claim in a criminal case shall be determined by filing an application for postconviction relief pursuant to chapter 822. The claim need not be raised on direct appeal from the criminal proceedings in order to preserve the claim for postconviction relief purposes, and the claim shall not be decided on direct appeal from the criminal proceedings.

2004 Acts, ch 1017, §2; 2019 Acts, ch 140, §31

814.8 Duties of prosecuting attorney.

1. When an appeal is taken or an application made by the state or the defendant the prosecuting attorney shall promptly prepare and deliver to the attorney general so much of the proceedings as are material to the proper disposition of the matter.

2. When a notice of appeal or application has been filed by an adverse party, the prosecuting attorney shall immediately furnish the attorney general with a copy of said notice.

[C97, §301; SS15, §301; C24, 27, 31, 35, 39, §**13999;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §793.7; C79, 81, §814.8]

Referred to in §331.756(67)

814.9 Indigent's right to transcript on appeal.

If a defendant in a criminal cause has perfected an appeal from a judgment and is determined by the court to be indigent, the court may order a transcript to be made. When an attorney of record is representing an indigent, the attorney shall apply to the district court for the transcript.

[C73, §3777; C97, §254; SS15, §254-a2; C24, 27, 31, 35, 39, §**14000;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §793.8; C79, 81, §814.9]

83 Acts, ch 186, §10135, 10201; 96 Acts, ch 1193, §6

Referred to in §815.11

814.10 Indigent's application for transcript in other cases.

If a defendant in a criminal cause has been granted discretionary review from an action of the district court and the appellate court deems a transcript or portions thereof are

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necessary to proper review of the question or questions raised, the district court shall order the transcript to be made if the defendant is determined to be indigent.

[C79, 81, §814.10]

83 Acts, ch 186, §10136, 10201; 96 Acts, ch 1193, §7

Referred to in §815.11

814.11 Indigent's right to counsel.

1. An indigent person is entitled to appointed counsel on the appeal of all cases if the person is entitled to appointment of counsel under section 815.9.

2. *a.* If the appeal involves an indictable offense or denial of postconviction relief, the appointment shall be made to the state appellate defender unless the state appellate defender notifies the court that the state appellate defender is unable to handle the case.

b. If the state appellate defender is unable to handle the case, the state public defender may transfer the case to a local public defender office, nonprofit organization, or private attorney designated by the state public defender to handle such a case. The state appellate defender shall notify the supreme court of the transfer of a case, and upon such notification the responsibility of the state appellate defender in the case terminates.

c. If, after transfer of the case to a local public defender office, nonprofit organization, or private attorney, the local public defender office, nonprofit organization, or private attorney withdraws from the case, the court shall appoint an attorney who has a contract with the state public defender to provide legal services in appellate cases.

3. *a.* In a juvenile case under chapter 232 or a proceeding under chapter 600A, the trial attorney shall continue representation throughout the appeal without an additional appointment order unless the court grants the attorney permission to withdraw from the case.

b. If the court grants the attorney permission to withdraw, the court shall appoint the state public defender's designee pursuant to section 13B.4.

c. If the state public defender has not made a designation pursuant to section 13B.4 to handle the type of case or the state public defender's designee is unable to handle the case, the court shall appoint an attorney who has a contract with the state public defender to provide legal services in appellate cases.

4. *a.* In all other cases not specified in subsection 2 or 3, or except as otherwise provided in this section, the court shall appoint the state public defender's designee pursuant to section 13B.4.

b. If the state public defender has not made a designation pursuant to section 13B.4 to handle these other types of cases or the state public defender's designee is unable to handle the case, the court shall appoint an attorney who has a contract with the state public defender to provide legal services in appellate cases to represent an indigent person.

5. If the court determines that no contract attorney is available to handle the appeal, the court may appoint a noncontract attorney, if the state public defender consents to the appointment of the noncontract attorney. The order of appointment shall include a specific finding that no contract attorney is available and the state public defender consents to the appointment.

6. The appointment of an attorney shall be on a rotational or equalization basis, considering the experience of the attorney and the difficulty of the case.

7. An attorney who has been retained or has agreed to represent a person on appeal and subsequently applies to the court for appointment to represent that person on appeal because the person is indigent shall notify the state public defender of the application. Upon the filing of the application, the attorney shall provide the state public defender with a copy of any representation agreement, and information on any moneys earned or paid to the attorney prior to the appointment.

8. An attorney appointed under this section is not liable to a person represented by the attorney for damages as a result of a conviction in a criminal case unless the court determines in a postconviction proceeding or on direct appeal that the person's conviction resulted from ineffective assistance of counsel, and the ineffective assistance of counsel is the proximate cause of the damage. In juvenile or civil proceedings, an attorney appointed under this section

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is not liable to a person represented by the attorney for damages unless it has been determined that the attorney has provided ineffective assistance of counsel and the ineffective assistance of counsel is the proximate cause of the damage.

[C79, 81, §814.11]

99 Acts, ch 135, §23; 2002 Acts, ch 1067, §14; 2004 Acts, ch 1017, §3; 2005 Acts, ch 19, §119; 2008 Acts, ch 1061, §4 – 6; 2012 Acts, ch 1063, §5; 2013 Acts, ch 90, §210; 2013 Acts, ch 116, §4

Referred to in §13B.4, 22.7(44), 815.7, 815.11

814.12 Appeal by the state — effect.

An appeal taken by the state does not stay the operation of a judgment in favor of the defendant, nor does an application for discretionary review.

[R60, §4911; C73, §4527; C97, §5452; C24, 27, 31, 35, 39, §**14001;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §793.9; C79, 81, §814.12]

814.13 Appeal or application by the defendant — effect.

An appeal or application for discretionary review taken by the defendant does not stay the execution of the judgment unless the defendant is released on bail or otherwise as provided by law.

[R60, §4914, 4915; C73, §4528, 4529; C97, §5453; C24, 27, 31, 35, 39, §**14002;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §793.10; C79, 81, §814.13]

814.14 Certificate of release.

When an appeal is taken by the defendant and the defendant is released, the clerk of the district court must give to the defendant or the defendant's attorney a certificate, under the seal of the court, that an appeal has been taken and the defendant released. The sheriff or other officer having the defendant in custody must, upon receipt of this certificate, discharge the defendant from custody and return to the clerk of court who issued it the execution under which the sheriff or other officer acted with the sheriff's or officer's return thereon.

[R60, §4916; C73, §4530; C97, §5454; C24, 27, 31, 35, 39, §**14003;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §793.11; C79, 81, §814.14]

Referred to in §331.653

814.15 Appeals and applications — docketing — when determined.

Appeals and applications for discretionary review in criminal cases shall be docketed in the supreme court as provided in the rules of appellate procedure. Such causes shall take precedence over other business, and the appellate court shall consider and determine appeals and applications for discretionary review in criminal actions at the earliest time it may be done considering the rights of parties and proper administration of justice.

[R60, §4818, 4819; C73, §4531, 4532; C97, §5455; C24, 27, 31, 35, 39, §**14004;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §793.12; C79, 81, §814.15]

85 Acts, ch 157, §4

814.16 Reserved.

814.17 Personal appearance of the defendant.

The personal appearance of the defendant in the appellate court on the trial of an appeal, or upon the hearing of a matter of discretionary review, is in no case necessary.

[R60, §4920; C73, §4533; C97, §5456; C24, 27, 31, 35, 39, §**14005;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §793.13; C79, 81, §814.17]

814.18 Reserved.

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814.19 Hearing in the appellate court — rules of procedure.

The record and case shall be presented to the appellate court as provided in the rules of appellate procedure; the provisions of law in civil procedure relating to the filing of decisions and opinions of the appellate court shall apply in such cases.

[C97, §5461; C24, 27, 31, 35, 39, §**14009;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §793.17; C79, 81, §814.19]

Rules adopted by the supreme court are published in the compilation "Iowa Court Rules"

814.20 Decisions on appeals or applications by defendant.

An appeal or application taken by the defendant shall not be dismissed for an informality or defect in taking it if corrected as directed by the appellate court. The appellate court, after an examination of the entire record, may dispose of the case by affirmation, reversal or modification of the district court judgment. The appellate court may also order a new trial, or reduce the punishment, but shall not increase it.

[C51, §3097, 3098; R60, §4921, 4925; C73, §4534, 4538; C97, §5457, 5462; C24, 27, 31, 35, 39, §**14006, 14010;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §793.14, 793.18; C79, 81, §814.20]

85 Acts, ch 157, §5

814.21 Costs.

Costs shall be taxed as provided by the rules of appellate procedure.

[C97, §5462; C24, 27, 31, 35, 39, §**14011;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §793.19; C79, 81, §814.21]

85 Acts, ch 157, §6

814.22 Reversal — effect.

If a judgment against the defendant is reversed, such reversal shall be deemed an order for a new trial, unless the appellate court shall direct a different disposition. In reversing the case, the appellate court may direct that the defendant be discharged and the defendant's bail exonerated, or if money is deposited instead, that it be returned to the defendant.

[C51, §3099; R60, §4927; C73, §4540; C97, §5464; C24, 27, 31, 35, 39, §**14013;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §793.21; C79, 81, §814.22]

814.23 Affirmance — effect.

On a judgment of affirmance against the defendant, the original judgment shall be carried into execution as the appellate court shall direct.

[C51, §3100; R60, §4928; C73, §4541; C97, §5465; C24, 27, 31, 35, 39, §**14014;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §793.22; C79, 81, §814.23]

814.24 Decision recorded and procedendo.

The decision of the appellate court with any opinion filed or judgment rendered must be recorded by its clerk. Procedendo shall be issued as provided in the rules of appellate procedure.

[C51, §3101, 3102; R60, §4929, 4930; C73, §4542, 4543; C97, §5466; C24, 27, 31, 35, 39, §**14016;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §793.24; C79, 81, §814.24]

85 Acts, ch 157, §7

814.25 Cessation of jurisdiction of appellate court.

The jurisdiction of the appellate court shall cease when procedendo is issued. All proceedings for executing the judgment shall be had in the district court or by its clerk.

[C51, §3101, 3102; R60, §4929, 4930; C73, §4542, 4543; C97, §5466; C24, 27, 31, 35, 39, §**14016;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §793.24; C79, 81, §814.25]

85 Acts, ch 157, §8

814.26 Judgment enforced.

Unless some proceeding in the district court is directed, copies of the judgment of the district court and of the decision on appeal or review, or a copy of the judgment and decision on appeal or review, certified by the clerk of the district court, shall be delivered to the

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sheriff or proper officer as an execution. The sheriff or proper officer shall be authorized to execute the judgment of the court or take any legal measures required to bring the action to a conclusion.

[R60, §4931; C73, §4544; C97, §5467; C24, 27, 31, 35, 39, §**14017;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §793.25; C79, 81, §814.26]

814.27 Time of confinement deducted.

A defendant, confined during the pendency of an unsuccessful review or appeal, or convicted at a new trial ordered by the appellate court, shall have the period of the defendant's former confinement deducted from the period of confinement fixed on the last verdict of conviction by the district court.

[R60, §4933; C73, §4545; C97, §5468; C24, 27, 31, 35, 39, §**14018;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §793.26; C79, 81, §814.27]

814.28 General verdicts.

When the prosecution relies on multiple or alternative theories to prove the commission of a public offense, a jury may return a general verdict. If the jury returns a general verdict, an appellate court shall not set aside or reverse such a verdict on the basis of a defective or insufficient theory if one or more of the theories presented and described in the complaint, information, indictment, or jury instruction is sufficient to sustain the verdict on at least one count.

2019 Acts, ch 140, §32

814.29 Guilty pleas — challenges.

If a defendant challenges a guilty plea based on an alleged defect in the plea proceedings, the plea shall not be vacated unless the defendant demonstrates that the defendant more likely than not would not have pled guilty if the defect had not occurred. The burden applies whether the challenge is made through a motion in arrest of judgment or on appeal. Any provision in the Iowa rules of criminal procedure that are inconsistent with this section shall have no legal effect.

2019 Acts, ch 140, §33

CHAPTER 815

COSTS — COMPENSATION AND FEES — INDIGENT DEFENSE

Referred to in §13B.4, 81.13, 232.141, 600A.6B, 600A.6C, 801.1, 822.2

Deferral of costs in civil and criminal proceedings; see chapter 610

815.1	Costs incurred by a privately retained attorney representing an indigent person.	815.9	Indigency determined — penalty.
815.2	Grand jury clerks and other officers.	815.9A	Recovery of indigent defense costs. Repealed by 99 Acts, ch 135, §31.
815.3	Witnesses called to county attorney investigations.	815.10	Appointment of counsel by court.
815.4	Special witnesses for indigents.	815.10A	Claims for compensation and expense reimbursement.
815.5	Expert witnesses for state and defense.	815.11	Appropriations for indigent defense — fund created.
815.6	Fees to material witnesses.	815.12	Trial jury expenses.
815.7	Fees to attorneys.	815.13	Payment of prosecution costs.
815.7A	Travel time for attorney or guardian ad litem.	815.14	Fee for public defender.
815.8	Sheriffs' fees.	815.15	Violations of local ordinances — reimbursement.

815.1 Costs incurred by a privately retained attorney representing an indigent person.

1. The court shall not authorize the payment of state funds for the costs incurred in the

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legal representation of an indigent person represented by a privately retained attorney unless the requirements of this section are satisfied.

2. An application for the payment of state funds for the costs incurred in the legal representation of an indigent person that is submitted by the privately retained attorney shall be filed with the court in the county in which the case was filed and include all of the following:

a. A copy of the attorney's fee agreement for the representation, including hourly rate, amount of retainer or other moneys received, and number of hours of work completed by the attorney to date.

b. A showing that the costs are reasonable and necessary for the representation of the indigent person in a case for which counsel could have been appointed under section 815.10.

c. An itemized accounting of all compensation paid to the attorney including the amount of any retainer.

d. The amount of compensation earned by the attorney.

e. Information on any expected additional costs to be paid or owed by the indigent person to the attorney for the representation.

f. A signed financial affidavit completed by the indigent person.

3. The privately retained attorney shall submit a copy of the application and all attached documents to the state public defender.

4. The court shall not grant the application and authorize all or a portion of the payment to be made from state funds unless the court determines, after reviewing the application and supporting documents, that all of the following apply:

a. The represented person is indigent and unable to pay for the costs sought to be paid.

b. The costs are reasonable and necessary for the representation of the indigent person in a case for which counsel could have been appointed under section 815.10.

c. The moneys paid or to be paid to the privately retained attorney by or on behalf of the indigent person are insufficient to pay all or a portion of the costs sought to be paid from state funds.

(1) In determining whether the moneys paid or to be paid to the attorney are insufficient for purposes of this paragraph "*c*", the court shall add the hours previously worked to the hours expected to be worked to finish the case and multiply that sum by the hourly rate of compensation specified under section 815.7.

(2) If the product calculated in subparagraph (1) is greater than the moneys paid or to be paid to the attorney by or on behalf of the indigent person, the moneys shall be considered insufficient to pay all or a portion of the costs sought to be paid from state funds.

(3) If the private attorney is retained on a flat fee agreement, and a precise record of hours worked is not available, the attorney shall provide the court a reasonable estimate of the time expended to allow the court to make the calculation pursuant to this paragraph "*c*".

5. Either the privately retained attorney for the indigent person or a representative from the office of the state public defender may participate in a hearing on the application by telephone.

6. If the court finds the payment of the costs incurred or to be incurred by a privately retained attorney are reasonable and necessary, the order of the court shall specify the maximum amount of costs which the attorney may incur without further court order, and that the actual amount of such costs to be allowed are subject to review by the state public defender for reasonableness.

7. Following entry of an order allowing costs to be incurred by a privately retained attorney representing an indigent person, the attorney or a claimant referred to in subsection 9 seeking payment or reimbursement for costs shall submit a claim for payment in accordance with the rules of the state public defender.

8. If the privately retained attorney or claimant referred to in subsection 9 seeking payment or reimbursement for costs pursuant to this section fails to comply with the requirements of this section, the state public defender may deny all or a part of the costs requested.

9. This section applies to payments to witnesses under section 815.4, evaluators,

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investigators, and certified shorthand reporters, and for other costs incurred by a privately retained attorney in the legal representation.

10. This section shall not be construed to restrict the payment of costs on behalf of indigent persons represented on a pro bono basis.

2019 Acts, ch 51, §1

815.2 Grand jury clerks and other officers.

The clerk of the grand jury and any assistant clerks and bailiffs of the grand jury appointed by the court, shall receive such compensation as may be set by the court with the approval of the county board of supervisors for time actually and necessarily employed in the performance of the duties prescribed in rule of criminal procedure 2.3.

[C97, §5256; S13, §5256; C24, 27, 31, 35, 39, §**13696, 13699;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §770.19, 770.22; C79, 81, §815.2]

Referred to in §602.1303

815.3 Witnesses called to county attorney investigations.

Witnesses subpoenaed by the county attorney pursuant to rule of criminal procedure 2.5 shall receive the same fees and mileage as are allowed witnesses in the district court, and shall be paid in the same manner in which witnesses before the grand jury are paid except that such fees and mileage shall be certified only by the county attorney.

[C79, 81, §815.3]

Referred to in §331.756(68), 602.1303

815.4 Special witnesses for indigents.

1. An application for an expert or other witnesses under Iowa rule of criminal procedure 2.20 shall include a statement attesting that the attorney advised the indigent person of the application, the expected expenses, and the potential for reimbursement of the expenses pursuant to section 815.9.

2. *a.* The court shall authorize the securing of a witness prior to the witness incurring any expenses.

b. The court shall either set in advance a maximum dollar amount of the claim for expenses or approve the final amount of the claim for expenses as reasonable compensation.

c. The state public defender shall only approve the claim for the expenses of the witness if the securing of the witness was authorized by the court and either the maximum dollar amount of the claim for expenses was set prior to the expenses being incurred or the court has approved the final amount of the claim for expenses as reasonable compensation.

3. A witness secured for an indigent person under Iowa rule of criminal procedure 2.20 shall file a claim for compensation with the state public defender as required by the rules of the state public defender, and the claim shall be supported by an itemization specifying the time expended, services rendered, and expenses incurred on behalf of the indigent person.

[C79, 81, §815.4]

93 Acts, ch 175, §21; 99 Acts, ch 135, §24; 2012 Acts, ch 1063, §6

Referred to in §815.1, 815.5, 815.11

815.5 Expert witnesses for state and defense.

Notwithstanding the provisions of section 622.72, reasonable compensation as determined by the court shall be awarded expert witnesses, expert witnesses for an indigent person referred to in section 815.4, or expert witnesses called by the state in criminal cases.

[C79, 81, §815.5]

93 Acts, ch 175, §22; 99 Acts, ch 135, §25; 2013 Acts, ch 90, §211

Witnesses for indigents, see R.Cr.P. 2.20(4)

815.6 Fees to material witnesses.

Persons confined as material witnesses shall, for each day of confinement, receive such fees as are set by the district court.

[C79, 81, §815.6]

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815.7 Fees to attorneys.

1. An attorney who has not entered into a contract authorized under section 13B.4 and who is appointed by the court to represent any person pursuant to section 814.11 or 815.10 shall be entitled to reasonable compensation and expenses.

2. For appointments made on or after July 1, 1999, through June 30, 2006, the reasonable compensation shall be calculated on the basis of sixty dollars per hour for class "A" felonies, fifty-five dollars per hour for class "B" felonies, and fifty dollars per hour for all other cases.

3. For appointments made on or after July 1, 2006, through June 30, 2007, the reasonable compensation shall be calculated on the basis of sixty-five dollars per hour for class "A" felonies, sixty dollars per hour for all other felonies, sixty dollars per hour for misdemeanors, and fifty-five dollars per hour for all other cases.

4. For appointments made on or after July 1, 2007, through June 30, 2019, the reasonable compensation shall be calculated on the basis of seventy dollars per hour for class "A" felonies, sixty-five dollars per hour for class "B" felonies, and sixty dollars per hour for all other cases.

5. For appointments made on or after July 1, 2019, through June 30, 2021, the reasonable compensation shall be calculated on the basis of seventy-three dollars per hour for class "A" felonies, sixty-eight dollars per hour for class "B" felonies, and sixty-three dollars per hour for all other cases.

6. For appointments made on or after July 1, 2021, through June 30, 2022, the reasonable compensation shall be calculated on the basis of seventy-six dollars per hour for class "A" felonies, seventy-one dollars per hour for class "B" felonies, and sixty-six dollars per hour for all other cases.

7. For appointments made on or after July 1, 2022, through June 30, 2023, the reasonable compensation shall be calculated on the basis of seventy-eight dollars per hour for class "A" felonies, seventy-three dollars per hour for class "B" felonies, and sixty-eight dollars per hour for all other cases.

8. For appointments made on or after July 1, 2023, through June 30, 2024, the reasonable compensation shall be calculated on the basis of eighty-three dollars per hour for class "A" felonies, seventy-eight dollars per hour for class "B" felonies, and seventy-three dollars per hour for all other cases.

9. For appointments made on or after July 1, 2024, through June 30, 2025, the reasonable compensation shall be calculated on the basis of eighty-six dollars per hour for class "A" felonies, eighty-one dollars per hour for class "B" felonies, and seventy-six dollars per hour for all other cases.

10. For appointments made on or after July 1, 2025, through June 30, 2026, the reasonable compensation shall be calculated on the basis of eighty-eight dollars per hour for class "A" felonies, eighty-three dollars per hour for class "B" felonies, and seventy-eight dollars per hour for all other cases.

11. For appointments made on or after July 1, 2026, the reasonable compensation shall be calculated on the basis of ninety-two dollars per hour for class "A" felonies, eighty-seven dollars per hour for class "B" felonies, and eighty-two dollars per hour for all other cases.

12. The expenses shall include any sums as are necessary for investigations in the interest of justice, and the cost of obtaining the transcript of the trial record and briefs if an appeal is filed. The attorney need not follow the case into another county or into the appellate court unless so directed by the court. If the attorney follows the case into another county or into the appellate court, the attorney shall be entitled to compensation as provided in this section. Only one attorney fee shall be so awarded in any one case except that in class "A" felony cases, two may be authorized if both attorneys are appointed pursuant to section 815.10.

[C51, §2561 – 2563; R60, §1578, 4168 – 4170; C73, §3829 – 3831; C97, §5314; C24, 27, 31, 35, 39, §**13774;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §775.5; C79, 81, §815.7]

94 Acts, ch 1187, §23; 96 Acts, ch 1193, §8; 97 Acts, ch 126, §50; 99 Acts, ch 135, §26; 2000 Acts, ch 1115, §5; 2004 Acts, ch 1084, §12; 2006 Acts, ch 1166, §9; 2007 Acts, ch 213, §25; 2012 Acts, ch 1063, §7; 2019 Acts, ch 163, §34, 35; 2021 Acts, ch 166, §24; 2022 Acts, ch 1021,

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§176; 2022 Acts, ch 1146, §21; 2023 Acts, ch 66, §154; 2023 Acts, ch 113, §19, 20; 2024 Acts, ch 1156, §20, 21; 2025 Acts, ch 154, §19, 20; 2026 Acts, ch 1192, §18, 19
Referred to in §125.78, 222.13A, 229.8, 815.1, 815.9, 815.11, 815.14
Subsection 10 amended
NEW subsection 11 and former subsection 11 renumbered as 12

815.7A Travel time for attorney or guardian ad litem.

1. Compensation for time spent by an attorney or guardian ad litem traveling outside of the attorney's or guardian ad litem's county of domicile is payable when the travel is reasonable and necessary to represent the indigent client and shall be calculated at a rate of thirty-five dollars per hour. Compensation for travel for a court proceeding other than a trial or other contested proceeding shall only be paid if the attorney or guardian ad litem files a motion for a remote hearing and the motion is denied. This section does not affect any allowable compensation for time spent traveling already compensated pursuant to any other applicable provision of law. The hours compensated for travel outside the county of domicile shall not apply to a cap on the maximum work hours to which the attorney or guardian ad litem may be subject.

2. Compensation for travel for an arraignment, pretrial conference, scheduling conference, or any other uncontested or nontestimonial judicial proceeding, for which a request for a remote hearing was denied, paid to the attorney or guardian ad litem from the indigent defense fund created in section 815.11 shall be reimbursed by the judicial branch.

3. For purposes of this section, *"county of domicile"* means the address the attorney or guardian ad litem has on file with the office of the state public defender.

2023 Acts, ch 113, §21; 2024 Acts, ch 1156, §22

815.8 Sheriffs' fees.

For delivering defendants under the change of venue provisions of rule of criminal procedure 2.11 or transferring arrested persons under section 804.24, sheriffs are entitled to the same fees as are allowed for the conveyance of persons to institutions under section 331.655.

[C51, §3277; R60, §4741; C73, §4382; C97, §5355; C24, 27, 31, 35, 39, §**13825;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §778.16; C79, 81, §815.8]

85 Acts, ch 21, §48
Referred to in §331.655

815.9 Indigency determined — penalty.

1. For purposes of this chapter, chapters 13B, 229A, 232, 665, 812, 814, and 822, and section 811.1A, and the rules of criminal procedure, a person is indigent if the person is entitled to an attorney appointed by the court as follows:

a. A person is entitled to an attorney appointed by the court to represent the person if the person has an income level at or below one hundred twenty-five percent of the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services, unless the court determines that the person is able to pay for the cost of an attorney to represent the person on the pending case. In making the determination of a person's ability to pay for the cost of an attorney, the court shall consider not only the person's income, but also the availability of any assets subject to execution, including but not limited to cash, stocks, bonds, and any other property which may be applied to the satisfaction of judgments, and the seriousness of the charge or nature of the case.

b. A person with an income level greater than one hundred twenty-five percent, but at or below two hundred percent, of the most recently revised poverty income guidelines published by the United States department of health and human services shall not be entitled to an attorney appointed by the court, unless the court makes a written finding that not appointing counsel on the pending case would cause the person substantial hardship. In determining whether substantial hardship would result, the court shall consider not only the person's income, but also the availability of any assets subject to execution, including but not limited

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to cash, stocks, bonds, and any other property which may be applied to the satisfaction of judgments, and the seriousness of the charge or nature of the case.

c. A person with an income level greater than two hundred percent of the most recently revised poverty income guidelines published by the United States department of health and human services shall not be entitled to an attorney appointed by the court, unless the person is charged with a felony and the court makes a written finding that not appointing counsel would cause the person substantial hardship. In determining whether substantial hardship would result, the court shall consider not only the person's income, but also the availability of any assets subject to execution, including but not limited to cash, stocks, bonds, and any other property which may be applied to the satisfaction of judgments, and the seriousness of the charge or nature of the case.

2. A determination of whether a person is entitled to an appointed attorney shall be made on the basis of an affidavit of financial status submitted at the time of the person's initial appearance or at such later time as a request for court appointment of counsel is made. The state public defender shall adopt rules prescribing the form and content of the affidavit of financial status. The affidavit of financial status shall be signed under penalty of perjury and shall contain sufficient information to allow the determination to be made of whether the person is entitled to an appointed attorney under this section. If the person is granted an appointed attorney, the affidavit of financial status shall be filed and permanently retained in the person's court file.

3. If a person is granted an appointed attorney, the person shall be required to reimburse the state for the total cost of legal assistance provided to the person pursuant to this section. "*Legal assistance*" as used in this section shall include not only the expense of the public defender or an appointed attorney, but also transcripts, witness fees, expenses, and any other goods or services required by law to be provided to an indigent person entitled to an appointed attorney.

4. *a.* If the appointed attorney is a public defender, the attorney shall submit a report to the court specifying the total hours of service plus expenses incurred in providing legal assistance to the person, unless the court has ordered that the cost of legal assistance is not required to be reimbursed to the state. In a criminal case, the report shall be submitted within a reasonable period of time after the date of sentencing, acquittal, or dismissal. In a case other than a criminal case, the report shall be submitted within a reasonable period of time after the date of any court ruling or the conclusion of a trial held in the case, or if the case is dismissed within a reasonable period of time after the date of dismissal.

b. If the appointed attorney is a private attorney or is employed by a nonprofit organization, the state public defender shall report to the clerk of the district court the amounts of any approved claims for compensation and expenses paid on behalf of a person receiving legal assistance after such claims have been reviewed and paid by the state public defender unless the appointed attorney is paid other than on an hourly rate basis and the state public defender has notified the appointed attorney that the attorney is responsible for reporting the attorney's total hours of service plus expenses to the court.

c. If the appointed attorney has been notified by the state public defender that the attorney is responsible for reporting to the court the total hours of service plus expenses incurred in providing legal assistance to a person, the attorney shall submit a report to the court in the same manner as a public defender submits a report pursuant to paragraph "*a*". The amount of the attorney fees to be included in the total cost of legal assistance required to be reimbursed shall be calculated using the hours of service stated in the report at the hourly rate of compensation specified under section 815.7.

5. If the person receiving legal assistance is convicted in a criminal case, the total costs and fees incurred for legal assistance shall be ordered paid when the reports submitted pursuant to subsection 4 are received by the court, and the court shall order the payment of such amounts as restitution, to the extent to which the person is reasonably able to pay, or order the performance of community service in lieu of such payments, in accordance with chapter 910.

6. If the person receiving legal assistance is acquitted in a criminal case or is a party in a case other than a criminal case, the court shall order the payment of all or a portion of the

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total costs and fees incurred for legal assistance, to the extent the person is reasonably able to pay, after an inquiry which includes notice and reasonable opportunity to be heard.

7. When ordering payment of all or a portion of the total costs and fees incurred for legal assistance under subsection 6, the court may order payment of the costs and fees in reasonable installments as provided in section 909.3, or may order the entire amount due and payable. If any costs and fees are not paid at the time specified in the order of the court, a judgment shall be entered against the person for any unpaid amount. Such judgment may be enforced by the state in the same manner as a civil judgment.

8. If a person is granted an appointed attorney or has received legal assistance in accordance with this section and the person is employed, the person shall execute an assignment of wages. An order for assignment of income, in a reasonable amount to be determined by the court, shall be entered by the court. The state public defender shall prescribe forms for use in wage assignments and court orders entered under this subsection.

9. Notwithstanding subsections 3 and 6, a minor granted a court-appointed attorney or guardian ad litem under section 232.11 in a juvenile proceeding shall not be ordered to reimburse costs and fees incurred for legal assistance except as otherwise provided in chapter 232.

83 Acts, ch 186, §10137, 10201; 93 Acts, ch 175, §23, 24; 96 Acts, ch 1193, §9 – 11; 99 Acts, ch 135, §27; 2000 Acts, ch 1115, §6; 2002 Acts, ch 1067, §15; 2004 Acts, ch 1084, §13; 2012 Acts, ch 1063, §8, 9; 2013 Acts, ch 56, §1, 2; 2017 Acts, ch 88, §4

Referred to in §13B.10, 125.76, 331.756(5)(a), 331.756(5)(c), 331.756(5)(d), 598.7, 801.4, 814.11, 815.4, 815.10, 815.10A, 815.14, 908.2A, 910.1, 910.2, 910.3

815.9A Recovery of indigent defense costs. Repealed by 99 Acts, ch 135, §31.

815.10 Appointment of counsel by court.

1. *a.* The court, for cause and upon its own motion or upon application by an indigent person or a public defender, shall appoint the state public defender's designee pursuant to section 13B.4 to represent an indigent person at any stage of the criminal, postconviction, contempt, commitment under chapter 229A, termination under chapter 600A, detention under section 811.1A, competency under chapter 812, parole revocation if applicable under section 908.2A, or juvenile proceedings or on appeal of any criminal, postconviction, contempt, commitment under chapter 229A, termination under chapter 600A, detention under section 811.1A, competency under chapter 812, parole revocation under chapter 908, or juvenile action in which the indigent person is entitled to legal assistance at public expense. However, in juvenile cases, the court may directly appoint an existing nonprofit corporation established for and engaged in the provision of legal services for juveniles. An appointment shall not be made unless the person is determined to be indigent under section 815.9.

b. An indigent person is entitled to the appointment of one attorney in all cases, except the court may appoint two attorneys in class "A" felony cases and in cases where an assistant state public defender from the wrongful convictions division of the office of the state public defender enters an appearance after a private attorney has been appointed to represent the indigent person. However, in a class "A" felony case, a person who is represented by a privately retained attorney or by an attorney who has agreed to represent the person is not entitled to have an attorney appointed to represent the person based upon the indigence of the person.

c. For purposes of this subsection, a criminal proceeding in which an indigent person is entitled to legal assistance at public expense is a proceeding where the person faces the possibility of imprisonment under the applicable criminal statute or ordinance. This section does not require the appointment of an attorney if the indigent person does not request the appointment of an attorney or waives the right to an appointed attorney.

2. If the state public defender or the state public defender's designee is unable to represent an indigent person, the court shall appoint an attorney who has a contract with the state public defender to represent the person in the particular type of case and in the county in which the case is pending.

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3. If the court determines that no contract attorney is available to represent the person, the court may appoint a noncontract attorney. The order of appointment shall include a specific finding that no contract attorney was available.

4. The appointment of an attorney shall be on a rotational or equalization basis, considering the experience of the attorney, the difficulty of the case, and the geographic proximity of the attorney's office to the courthouse and client.

5. An attorney who has been retained or has agreed to represent a person and subsequently applies to the court for appointment to represent that person because the person is indigent shall notify the state public defender of the application. Upon the filing of the application, the attorney shall provide the state public defender with a copy of any representation agreement, and information on any moneys earned or paid to the attorney prior to the appointment.

6. An attorney appointed under this section is not liable to a person represented by the attorney for damages as a result of a conviction in a criminal case unless the court determines in a postconviction proceeding or on direct appeal that the person's conviction resulted from ineffective assistance of counsel, and the ineffective assistance of counsel is the proximate cause of the damage. In juvenile or civil proceedings, an attorney appointed under this section is not liable to a person represented by the attorney for damages unless it has been determined that the attorney has provided ineffective assistance of counsel, and the ineffective assistance of counsel is the proximate cause of the damage.

7. The state public defender may adopt rules setting forth additional uniform standard procedures for the appointment of counsel and uniform forms for appointment.

83 Acts, ch 186, §10138, 10201; 91 Acts, ch 268, §436, 439; 94 Acts, ch 1187, §24; 96 Acts, ch 1040, §5; 99 Acts, ch 135, §28; 2000 Acts, ch 1115, §7; 2002 Acts, ch 1067, §16; 2004 Acts, ch 1017, §4; 2004 Acts, ch 1084, §14; 2005 Acts, ch 19, §120; 2005 Acts, ch 107, §8, 14; 2012 Acts, ch 1063, §10; 2013 Acts, ch 56, §3, 4; 2017 Acts, ch 88, §5; 2022 Acts, ch 1060, §1

Referred to in §13B.4, 13B.9, 22.7(44), 815.1, 815.7, 815.11

815.10A Claims for compensation and expense reimbursement.

1. An attorney other than a public defender who has been appointed by the court under this chapter must submit a claim to the state public defender for compensation and reimbursement of expenses incurred in the representation of an indigent person.

2. Claims for compensation and reimbursement submitted by an attorney and claims for any other expenses paid from the indigent defense fund are not considered timely unless the claim is submitted to the state public defender within forty-five days of the date of service, as defined by the state public defender in rules.

3. *a.* An attorney shall obtain court approval prior to exceeding the fee limitations established by the state public defender pursuant to section 13B.4. An attorney may exceed the fee limitations if good cause for exceeding the fee limitations is shown. An attorney may obtain court approval after exceeding the fee limitations if good cause excusing the attorney's failure to seek approval prior to exceeding the fee limitations is shown. However, failure to file an application to exceed a fee limitation prior to exceeding the fee limitation does not constitute good cause. The order approving an application to exceed the fee limitations shall be effective from the date of filing the application unless the court order provides an alternative effective date. The application and the court order approving the application to exceed fee limitations and any other order affecting the amount of compensation or reimbursement shall be submitted with any claim for compensation.

b. Except for an application to exceed fee limitations by an attorney or guardian ad litem representing a juvenile in a juvenile proceeding, an application to exceed fee limitations shall include a statement attesting that the attorney advised the indigent person of the application, and the potential for reimbursement of the attorney fees pursuant to section 815.9.

4. If the information is not submitted as required under this section and under the rules of the state public defender, the claim for compensation may be denied until the information is provided. Upon receipt of the required information, the state public defender may approve

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reasonable and necessary compensation, as provided for in the administrative rules and the law.

2002 Acts, ch 1067, §17; 2004 Acts, ch 1040, §5; 2008 Acts, ch 1061, §7; 2012 Acts, ch 1063, §11; 2013 Acts, ch 56, §5

815.11 Appropriations for indigent defense — fund created.

1. Costs incurred for legal representation by a court-appointed attorney under chapter 229A, 665, 822, or 908, or section 232.141, subsection 3, paragraph *"d"*, or section 598.23A, 600A.6B, 814.9, 814.10, 814.11, 815.4, 815.7, or 815.10, or for payment of the services of a court-appointed guardian ad litem under section 600A.6C, subsection 3, on behalf of an indigent shall be paid from moneys appropriated by the general assembly to the office of the state public defender in the department of inspections, appeals, and licensing and deposited in an account to be known as the indigent defense fund, except as provided in subsection 2. Costs incurred representing an indigent defendant in a contempt action, representing an indigent juvenile in a juvenile court proceeding, or representing a person pursuant to section 13B.13 are also payable from the fund. However, costs incurred in any administrative proceeding or in any other proceeding under this chapter or chapter 598, 600, 600A, 633, 633A, 814, or 915 or other provisions of the Code or administrative rules are not payable from the fund.

2. The costs and fees associated with translators, foreign language interpreters, and sign language interpreters are not payable from this fund. The costs and fees of sign language interpreters shall be paid by the county pursuant to section 622B.7, and the costs and fees of translators and foreign language interpreters shall be paid pursuant to section 622A.3 from moneys appropriated by the general assembly to the judicial branch revolving fund created pursuant to section 602.1302, subsection 3.

83 Acts, ch 186, §10139, 10201; 85 Acts, ch 195, §65; 90 Acts, ch 1233, §45; 94 Acts, ch 1187, §25; 98 Acts, ch 1171, §18; 99 Acts, ch 135, §29; 2000 Acts, ch 1115, §8; 2002 Acts, ch 1067, §18; 2003 Acts, ch 51, §5; 2004 Acts, ch 1040, §6; 2005 Acts, ch 107, §9, 14; 2006 Acts, ch 1030, §82; 2006 Acts, ch 1041, §8; 2007 Acts, ch 22, §106; 2008 Acts, ch 1061, §8; 2020 Acts, ch 1040, §2; 2021 Acts, ch 77, §21; 2023 Acts, ch 19, §2040; 2024 Acts, ch 1112, §4

Referred to in §13B.1, 13B.4A, 22.7(10), 232.141, 600A.6B, 600A.6C, 602.8108, 815.7A, 815.15

815.12 Trial jury expenses.

The clerk of the district court shall pay fees and mileage due petit jurors, and the costs of food, lodging, and transportation when provided for petit jurors.

83 Acts, ch 186, §10140, 10201

815.13 Payment of prosecution costs.

The county or city which has the duty to prosecute a criminal action shall pay the costs of depositions taken on behalf of the prosecution, the costs of transcripts requested by the prosecution, and in criminal actions prosecuted by the county or city under county or city ordinance the fees that are payable to the clerk of the district court for services rendered and the court costs taxed in connection with the trial of the action or appeals from the judgment. The county or city shall pay witness fees and mileage in trials of criminal actions prosecuted by the county or city under county or city ordinance. These fees and costs are recoverable by the county or city from the defendant unless the defendant is found not guilty or the action is dismissed, in which case the state shall pay the witness fees and mileage in cases prosecuted under state law.

83 Acts, ch 186, §10141, 10201; 84 Acts, ch 1178, §12; 84 Acts, ch 1301, §16; 85 Acts, ch 197, §43

Referred to in §331.424

815.14 Fee for public defender.

The amount of restitution for the expense of the public defender for each case under section 910.3 or the total cost of legal assistance required to be reimbursed under section 815.9, subsection 3, shall include all expenses incurred in the representation of the person combined with the attorney fees for the public defender calculated at the same hourly rate

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of compensation specified under section 815.7. The expense of the public defender may exceed the fee limitations established in section 13B.4. The expense of the public defender required to be reimbursed is subject to a determination of the extent to which the person is reasonably able to pay, as provided for in section 815.9 and chapter 910.

2002 Acts, ch 1067, §19; 2012 Acts, ch 1063, §12

815.15 Violations of local ordinances — reimbursement.

1. If an attorney is appointed in a case to represent an indigent person for an alleged violation of a local ordinance that may require a term of confinement, the office of the state public defender shall seek reimbursement from the political subdivision of the state that was the plaintiff in the case for the compensation paid to and the expenses incurred by the attorney.

2. A political subdivision of the state shall reimburse the office of the state public defender for the compensation and expenses paid from the indigent defense fund in section 815.11 to an attorney who represented the indigent person pursuant to subsection 1.

2017 Acts, ch 88, §6, 7

CHAPTER 816

DOUBLE JEOPARDY

Referred to in §801.1

816.1 Conviction or acquittal — when a bar.
816.2 Prosecutions barred.
816.3 Exceptions — limitation.
816.4 Trial of former jeopardy issue.

816.1 Conviction or acquittal — when a bar.

A conviction or acquittal by a judgment upon a verdict shall bar another prosecution for the same offense, notwithstanding a defect in form or substance in the indictment on which the conviction or acquittal took place.

[R60, §4719; C73, §4364; C97, §5339; C24, 27, 31, 35, 39, §**13807;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §777.20; C79, 81, §816.1]

816.2 Prosecutions barred.

When a defendant has been convicted or acquitted upon an indictment for an offense consisting of different degrees, the conviction or acquittal shall be a bar to another indictment for the same offense charged in the former or for any lower degree of that offense, or for an offense necessarily included therein.

[R60, §4720; C73, §4365; C97, §5340; C24, 27, 31, 35, 39, §**13808;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §777.21; C79, 81, §816.2]

816.3 Exceptions — limitation.

A prosecution is not barred:

1. By a former prosecution before a court which lacked jurisdiction over the defendant or the offense.

2. By a former prosecution procured by the defendant without the knowledge of a prosecuting officer authorized to commence a prosecution for the maximum offense which might have been charged on the facts known to the defendant, and with the purpose of avoiding the sentence which otherwise might be imposed.

3. If subsequent proceedings resulted in the invalidation, setting aside, reversal or vacating of the conviction, unless the defendant was adjudged not guilty; but in no case where a conviction for a lesser included crime has been invalidated, set aside, reversed or

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vacated shall the defendant be subsequently prosecuted for a higher degree of the crime for which the defendant was originally convicted.

[C79, 81, §816.3]

86 Acts, ch 1237, §45

816.4 Trial of former jeopardy issue.

When the defendant's only plea to the indictment is a former conviction or acquittal, the order of trial prescribed in rule of criminal procedure 2.19 shall be reversed, and the defendant shall first offer evidence in support of the defense.

[R60, §4787; C73, §4422; C97, §5374; C24, 27, 31, 35, 39, §**13855;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §780.14; C79, 81, §816.4]

CHAPTER 817

LAW ENFORCEMENT, GOVERNOR, AND ATTORNEY GENERAL — SPECIAL POWERS

Referred to in §801.1

817.1 Photographs — measurements — Bertillon system.
817.2 Power of governor and attorney general.
817.3 Certified law enforcement officers — oaths, signatures, and testimony.

817.1 Photographs — measurements — Bertillon system.

It shall be lawful for the sheriff of any county or the chief of police in any city in this state, to take or procure the taking of the photograph of any person held to answer on a charge of any felony, such person being in the custody of such officer, or to make and record any measurements of such prisoner, by the Bertillon or other system, and to exchange such photographs, or measurements, or copies of the same, with other sheriffs and police officers, or to distribute the same by mail for the purpose of securing evidence for the identification of such person held to answer, if the identity and past record of the said person are unknown to the sheriff or chief of police; and the cost of such photographs and measurements, and of distributing the same, may be allowed by the court as a part of the costs in the case.

[S13, §5499-a; C24, 27, 31, 35, 39, §**13904;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §782.8; C79, 81, §817.1]

817.2 Power of governor and attorney general.

The governor and attorney general shall each have the power to call to their aid in the enforcement of the law any peace officer; and when such officers are so called upon it shall be their duty faithfully to render such assistance as may be required, in any part of the state, and such peace officers while so acting shall have the same powers throughout the state as possessed by the sheriff of the county in which such peace officer is acting.

[C24, 27, 31, 35, 39, §**13411;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §748.6; C79, 81, §817.2]

Referred to in §331.653

817.3 Certified law enforcement officers — oaths, signatures, and testimony.

A law enforcement officer, as defined in section 80B.3, who is certified by the Iowa law enforcement academy, may administer oaths, acknowledge signatures, and take voluntary testimony pursuant to the officer's duties as provided by law.

2010 Acts, ch 1057, §3

Referred to in §9B.17

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CHAPTER 818

INTERSTATE EXTRADITION COMPACT

Repealed by 2011 Acts, ch 43, §6; see chapter 820

CHAPTER 819

UNIFORM ACT TO SECURE WITNESSES FROM WITHOUT THE STATE

Referred to in §331.756(69), 801.1

819.1	Witnesses required to testify in another state.	819.3	Fees and enforcement of order.
819.2	Witnesses from another state required to testify in this state.	819.4	Exemptions — arrest — service of process.
		819.5	Definition of state.

819.1 Witnesses required to testify in another state.

A person residing or physically present within this state may be required to attend as a witness in a criminal action pending or grand jury investigation commenced in another state if compliance with the following criteria is accomplished:

1. The laws of such other state require or command persons residing or physically present within that state to attend and testify in this state.

2. A judge of a court of record in the other state certifies under the seal of such court that there is a criminal action pending in such court or that a grand jury investigation has commenced; that a person residing or physically present within this state is a material witness in such action or grand jury investigation; and that the person's presence will be required for a number of days which shall be specified in such certification.

3. The certification described in subsection 2 of this section shall have been presented to any judge of the district court of the county in which the prospective witness is found.

4. The judge described in subsection 3 of this section shall make an order directing the witness to appear at a specific time and place for the hearing. If at the hearing the judge determines that the witness is material and necessary, either for the prosecution or defense in a criminal action, or for a grand jury investigation, and that it will not cause undue hardship to the witness to be compelled to attend and testify in such proceedings and that the provisions of subsections 2 and 3 of this section are complied with, the judge shall make an order, with a copy of the certificate attached, directing the witness to attend and testify in the court where the action is pending or the place where such grand jury has commenced at the time and place specified in the certificate.

[S13, §5499-b; C24, 27, 31, 35, 39, §**13893;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §781.14; C79, 81, §819.1]

819.2 Witnesses from another state required to testify in this state.

If a person, in any state whose law makes provision for commanding persons within that state to attend and testify in criminal actions pending or grand jury investigations commenced in this state, is a material witness in a district court action pending or a grand jury investigation commenced in this state, a judge of such court shall, in order to obtain the presence of such witness, issue a certificate under the seal of the court stating these facts and specifying the number of days the witness will be required.

[S13, §5499-d; C24, 27, 31, 35, 39, §**13895;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §781.16; C79, 81, §819.2]

Referred to in §819.3

819.3 Fees and enforcement of order.

1. A witness named in an order described in section 819.2 is entitled to ten cents per mile for each mile traveled by the most direct route to and from the proceedings the witness is

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required to attend, and is also entitled to ten dollars per day for each day spent in such travel or in attending the proceedings as a witness.

2. If such witness fails without good cause to attend and testify as directed by such order the witness shall forfeit the right to receive mileage and per diem, and shall be guilty of contempt of court for which the witness may be punished accordingly.

[S13, §5499-e; C24, 27, 31, 35, 39, §**13896;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §781.17; C79, 81, §819.3]

83 Acts, ch 123, §203, 209; 2021 Acts, ch 76, §150

819.4 Exemptions — arrest — service of process.

1. If a person comes into this state in obedience to an order directing the person to attend and testify in this state, the person shall not while in this state pursuant to such order be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before the person's entrance into this state under the order.

2. If a person passes through this state while going to another state in obedience to an order to attend and testify in that state or while returning therefrom, the person shall not while so passing through this state be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before the person's entrance into this state pursuant to the order to testify.

[S13, §5499-e; C24, 27, 31, 35, 39, §**13896;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §781.17; C79, 81, §819.4]

2021 Acts, ch 76, §150

819.5 Definition of state.

The word *"state"* shall include any state or territory of the United States and the District of Columbia.

[C79, 81, §819.5]

CHAPTER 819A

UNIFORM ACT FOR RENDITION OF PRISONERS AS WITNESSES IN CRIMINAL PROCEEDINGS

Repealed by 2011 Acts, ch 43, §7

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CHAPTER 820

UNIFORM CRIMINAL EXTRADITION ACT

Referred to in §331.756(69), 602.6405

820.1 Definitions.
820.2 Arrest of fugitives.
820.3 Demand in writing.
820.4 Investigation by attorney general.
820.5 Persons imprisoned in another state.
820.6 Criminal acts committed in third state.
820.7 Warrant for arrest.
820.8 Authority of warrant.
820.9 Authority of peace officer.
820.10 Testing legality of arrest.
820.11 Penalty for willful disobedience.
820.12 Confinement in jail.
820.13 Arrest on affidavit.
820.14 Arrest without warrant.
820.15 Holding to await requisition.
820.16 Bail — exceptions.
820.17 Discharge or recommitment.
820.18 Forfeiture of bond.
820.19 Criminal prosecution pending.
820.20 Guilt or innocence of person held.
820.21 Warrant recalled.
820.22 Receiving person extradited.
820.23 Application for extradition.
820.24 Expenses — how paid.
820.25 Waiver by person arrested.
820.26 State's rights not deemed waived.
820.27 Trial for other crimes.
820.28 Construction of chapter.
820.29 Title.

820.1 Definitions.

Where appearing in this chapter, the term *"governor"* includes any person performing the functions of governor by authority of the law of this state. The term *"executive authority"* includes the governor, and any person performing the functions of governor in a state other than this state, and the term *"state"*, referring to a state other than this state, includes any other state or territory, organized or unorganized, of the United States of America.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.1; C79, 81, §820.1]

820.2 Arrest of fugitives.

Subject to the provisions of this chapter, the provisions of the Constitution of the United States controlling, and any and all Acts of Congress enacted in pursuance thereof, it is the duty of the governor of this state to have arrested and delivered up to the executive authority of any other state of the United States any person charged in that state with treason, felony, or other crime, who has fled from justice and is found in this state.

[C51, §3283; R60, §4522; C73, §4175; C97, §5172; C24, 27, 31, 35, 39, §**13502;** C46, §759.6; C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.2; C79, 81, §820.2]

820.3 Demand in writing.

No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing alleging, except in cases arising under section 820.6, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter the accused fled from the state, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of the person's bail, probation or parole. The indictment, information, or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that state; and the copy of indictment, information, affidavit, judgment of conviction or sentence must be authenticated by the executive authority making the demand.

[R60, §4521; C73, §4174; C97, §5171; C24, 27, 31, 35, 39, §**13501;** C46, §759.5; C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.3; C79, 81, §820.3]

Referred to in §820.6

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820.4 Investigation by attorney general.

When a demand shall be made upon the governor of this state by the executive authority of another state for the surrender of a person so charged with crime, the governor may call upon the attorney general or any prosecuting officer in this state to investigate or assist in investigating the demand, and to report to the governor the situation and circumstances of the person so demanded, and whether the person ought to be surrendered.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.4; C79, 81, §820.4]

820.5 Persons imprisoned in another state.

1. When it is desired to have returned to this state a person charged in this state with a crime, and such person is imprisoned or is held under criminal proceedings then pending against the person in another state, the governor of this state may agree with the executive authority of such other state for the extradition of such person before the conclusion of such proceedings or the person's term of sentence in such other state, upon condition that such person be returned to such other state at the expense of this state as soon as the prosecution in this state is terminated.

2. The governor of this state may also surrender on demand of the executive authority of any other state any person in this state who is charged in the manner provided in section 820.23 with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.5; C79, 81, §820.5]

2018 Acts, ch 1041, §127

820.6 Criminal acts committed in third state.

The governor of this state may also surrender, on demand of the executive authority of any other state, any person in this state charged in such other state in the manner provided in section 820.3 with committing an act in this state, or in a third state, intentionally resulting in a crime in the state whose executive authority is making the demand, and the provisions of this chapter not otherwise inconsistent, shall apply to such cases, even though the accused was not in that state at the time of the commission of the crime, and has not fled therefrom.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.6; C79, 81, §820.6]

Referred to in §820.3, 820.13, 820.15

820.7 Warrant for arrest.

If the governor decides that the demand should be complied with, the governor shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to any peace officer or other person whom the governor may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

[C51, §3283; R60, §4522; C73, §4175; C97, §5172; C24, 27, 31, 35, 39, §**13502;** C46, §759.6; C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.7; C79, 81, §820.7]

Referred to in §820.25

820.8 Authority of warrant.

Such warrant shall authorize the peace officer or other person to whom directed to arrest the accused at any time and any place where the accused may be found within the state and to command the aid of all peace officers or other persons in the execution of the warrant, and to deliver the accused, subject to the provisions of this chapter to the duly authorized agent of the demanding state.

[C51, §3283, 3289; R60, §4522, 4528; C73, §4175, 4181; C97, §5172, 5178; C24, 27, 31, 35, 39, §**13502, 13508;** C46, §759.6, 759.12; C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.8; C79, 81, §820.8]

Referred to in §820.25

820.9 Authority of peace officer.

Every such peace officer or other person empowered to make the arrest, shall have the same authority, in arresting the accused, to command assistance therein, as peace officers

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have by law in the execution of any criminal process directed to them, with like penalties against those who refuse their assistance.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.9; C79, 81, §820.9]

820.10 Testing legality of arrest.

No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding the person shall have appointed to receive the person unless the person shall first be taken forthwith before a judge of a court of record in this state, who shall inform the person of the demand made for surrender and of the crime with which the person is charged, and that the person has the right to demand and procure legal counsel; and if the prisoner or the prisoner's counsel shall state that the prisoner or they desire to test the legality of the prisoner's arrest, the judge of such court of record shall fix a reasonable time to be allowed the prisoner within which to apply for a writ of habeas corpus. When such writ is applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the prosecuting officer of the county in which the arrest is made and in which the accused is in custody, and to the said agent of the demanding state.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.10; C79, 81, §820.10]

Referred to in §820.11, 820.25

820.11 Penalty for willful disobedience.

Any officer who shall deliver to the agent for extradition of the demanding state a person in the officer's custody under the governor's warrant, in willful disobedience to section 820.10, shall be guilty of a simple misdemeanor.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.11; C79, 81, §820.11]

2009 Acts, ch 133, §187

820.12 Confinement in jail.

1. The officer or persons executing the governor's warrant of arrest, or the agent of the demanding state to whom the prisoner may have been delivered may, when necessary, confine the prisoner in the jail of any county or city through which the officer or person may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or person having charge of the prisoner is ready to proceed on the officer's or person's route, such officer or person being chargeable with the expense of keeping.

2. The officer or agent of a demanding state to whom a prisoner may have been delivered following extradition proceedings in another state, or to whom a prisoner may have been delivered after waiving extradition in such other state, and who is passing through this state with such a prisoner for the purpose of immediately returning such prisoner to the demanding state may, when necessary, confine the prisoner in the jail of any county or city through which the officer or agent may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or agent having charge of the prisoner is ready to proceed on the officer's or agent's route, such officer or agent, however, being chargeable with the expense of keeping; provided, however, that such officer or agent shall produce and show to the keeper of such jail satisfactory written evidence of the fact that the officer or agent is actually transporting such prisoner to the demanding state after a requisition by the executive authority of such demanding state. Such prisoner shall not be entitled to demand a new requisition while in this state.

[C24, 27, 31, 35, 39, §**13512;** C46, §759.16; C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.12; C79, 81, §820.12]

2018 Acts, ch 1041, §127

820.13 Arrest on affidavit.

Whenever any person within this state shall be charged on the oath of any credible person before any judge or magistrate of this state with the commission of any crime in any other state and, except in cases under section 820.6, with having fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of bail, probation or parole, or whenever complaint shall have been made

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before any judge or magistrate in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in such other state and that the accused has been charged in such state with the commission of the crime, and, except in cases arising under section 820.6, has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of bail, probation or parole and is believed to be in this state, the judge or magistrate shall issue a warrant directed to any peace officer commanding the officer to apprehend the person named therein, wherever the person may be found in this state, and to bring the person before the same or any other judge, magistrate or court who or which may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

[C51, §3284; R60, §4523; C73, §4176; C97, §5173; C24, 27, 31, 35, 39, §**13503;** C46, §759.7; C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.13; C79, 81, §820.13]

Referred to in §820.14

820.14 Arrest without warrant.

The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against the accused under oath setting forth the ground for the arrest as in section 820.13; and thereafter the accused's answer shall be heard as if the accused had been arrested on a warrant.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.14; C79, 81, §820.14]

2008 Acts, ch 1032, §90

820.15 Holding to await requisition.

If from the examination before the judge or magistrate it appears that the person held is the person charged with having committed the crime alleged and, except in cases arising under section 820.6, that the person has fled from justice, the judge or magistrate must, by a warrant reciting the accusation, commit the person to the county jail for such a time not exceeding thirty days and specified in the warrant, as will enable the arrest of the accused to be made under a warrant of the governor on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused give bail as provided in section 820.16, or until the accused shall be legally discharged.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.15; C79, 81, §820.15]

2008 Acts, ch 1032, §91

820.16 Bail — exceptions.

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or magistrate in this state may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as the judge or magistrate deems proper, conditioned for the prisoner's appearance before the judge or magistrate at a time specified in such bond, and for the prisoner's surrender, to be arrested upon the warrant of the governor of this state.

[C51, §3285, 3286; R60, §4524, 4525; C73, §4177, 4178; C97, §5174, 5175; C24, 27, 31, 35, 39, §**13504, 13505;** C46, §759.8, 759.9; C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.16; C79, 81, §820.16]

Referred to in §820.15, 820.17

820.17 Discharge or recommitment.

If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant or bond, a judge or magistrate may discharge or recommit the accused for a further period not to exceed sixty days, or a judge or magistrate may again

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take bail for the accused's appearance and surrender, as provided in section 820.16, but within a period not to exceed sixty days after the date of such new bond.

[C51, §3288; R60, §4527; C73, §4180; C97, §5177; C24, 27, 31, 35, 39, §**13507;** C46, §759.11; C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.17; C79, 81, §820.17]

820.18 Forfeiture of bond.

If the prisoner is admitted to bail, and fails to appear and surrender according to the conditions of the prisoner's bond, the judge, or magistrate by proper order, shall declare the bond forfeited and order the prisoner's immediate arrest without warrant if the prisoner be within this state. Recovery may be had on such bond in the name of the state as in the case of other bonds given by the accused in criminal proceedings within this state.

[C51, §3287; R60, §4526; C73, §4179; C97, §5176; C24, 27, 31, 35, 39, §**13506;** C46, §759.10; C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.18; C79, 81, §820.18]

820.19 Criminal prosecution pending.

If a criminal prosecution has been instituted against such person under the laws of this state and is still pending the governor, in the governor's discretion, either may surrender the person on demand of the executive authority of another state or hold the person until the person has been tried and discharged or convicted and punished in this state.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.19; C79, 81, §820.19]

820.20 Guilt or innocence of person held.

The guilt or innocence of the accused as to the crime of which the accused is charged may not be inquired into by the governor or in any proceeding after the demand for extradition accompanied by a charge of crime in legal form as above provided shall have been presented to the governor, except as it may be involved in identifying the person held as the person charged with the crime.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.20; C79, 81, §820.20]

820.21 Warrant recalled.

The governor may recall the governor's warrant of arrest or may issue another warrant whenever the governor deems proper.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.21; C79, 81, §820.21]

820.22 Receiving person extradited.

Whenever the governor of this state shall demand a person charged with crime or with escaping from confinement or breaking the terms of the person's bail, probation, or parole in this state, from the executive authority of any other state, or from the chief judge or an associate judge of the superior court of the District of Columbia authorized to receive such demand under the laws of the United States, the governor shall issue a warrant under the seal of this state, to some agent, commanding the agent to receive the person so charged if delivered to the agent and convey the person to the proper officer of the county in this state in which the offense was committed.

[C51, §3282; R60, §4518; C73, §4171; C97, §5169; C24, 27, 31, 35, 39, §**13497;** C46, §759.1; C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.22; C79, 81, §820.22]

2016 Acts, ch 1073, §181

820.23 Application for extradition.

1. When the return to this state of a person charged with crime in this state is required, the prosecuting attorney shall present to the governor the prosecuting attorney's written application for a requisition for the return of the person charged, in which application shall be stated the name of the person so charged, the crime charged against the person, the approximate time, place and circumstances of its commission, the state in which the person is believed to be, including the location of the accused therein at the time the application is made and certifying that in the opinion of the prosecuting attorney the ends of justice require the

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arrest and return of the accused to this state for trial and that the proceeding is not instituted to enforce a private claim.

2. When the return to this state is required of a person who has been convicted of a crime in this state and has escaped from confinement or broken the terms of the person's bail, probation, or parole, the prosecuting attorney of the county in which the offense was committed, the parole board, or the warden of the institution or sheriff of the county, from which escape was made, shall present to the governor a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which the person was convicted, the circumstances of the person's escape from confinement or of the breach of the terms of the person's bail, probation, or parole, and the state in which the person is believed to be, including the location of the person therein at the time application is made.

3. The application shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge or magistrate, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The prosecuting officer, parole board, warden, or sheriff may also attach such further affidavits and other documents in duplicate as the prosecuting officer, parole board, warden, or sheriff shall deem proper to be submitted with such application. One copy of the application, with the action of the governor indicated by endorsement thereon, and one of the certified copies of the indictment, complaint, information, and affidavits or of the judgment of conviction or of the sentence shall be filed in the office of the governor to remain of record in that office. The other copies of all papers shall be forwarded with the governor's requisition.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.23; C79, 81, §820.23]

2017 Acts, ch 54, §71; 2019 Acts, ch 24, §94

Referred to in §820.5

820.24 Expenses — how paid.

When the punishment of the crime shall be the confinement of the criminal in the penitentiary, the expenses shall be paid by the department of corrections; and in all other cases they shall be paid out of the county treasury in the county wherein the crime is alleged to have been committed. The expenses shall be the fees paid to the officers of the state on whose governor the requisition is made, and all necessary and actual traveling expenses incurred in returning the prisoner.

[C51, §3282; R60, §4518; C73, §4171, 4184; C97, §5169, 5181; C24, 27, 31, 35, 39, §**13498, 13499, 13511;** C46, §759.2, 759.3, 759.15; C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.24; C79, 81, §820.24]

2003 Acts, ch 145, §286; 2016 Acts, ch 1138, §6

820.25 Waiver by person arrested.

1. Any person arrested in this state charged with having committed any crime in another state or alleged to have escaped from confinement, or broken the terms of bail, probation or parole may waive the issuance and service of the warrant provided for in sections 820.7 and 820.8 and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of any court of record within this state a writing which states that the person consents to return to the demanding state; provided, however, that before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of the person's rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in section 820.10.

2. If and when such consent has been duly executed it shall forthwith be forwarded to the office of the governor of this state and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent; provided, however, that nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding

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state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this state.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.25; C79, 81, §820.25]

2018 Acts, ch 1041, §127

820.26 State's rights not deemed waived.

Nothing in this chapter contained shall be deemed to constitute a waiver by this state of its right, power or privilege to try such demanded person for crime committed within this state, or of its right, power or privilege to regain custody of such person by extradition proceedings or otherwise for the purpose of trial, sentence or punishment for any crime committed within this state, nor shall any proceedings had under this chapter which result in, or fail to result in, extradition be deemed a waiver by this state of any of its rights, privileges or jurisdiction in any way whatsoever.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.26; C79, 81, §820.26]

820.27 Trial for other crimes.

After a person has been brought back to this state by, or after waiver of extradition proceedings, the person may be tried in this state for other crimes which the person may be charged with having committed here as well as that specified in the requisition for the person's extradition.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.27; C79, 81, §820.27]

820.28 Construction of chapter.

The provisions of this chapter shall be so interpreted and construed as to effectuate its general purposes to make uniform the law of those states which enact it.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.28; C79, 81, §820.28]

820.29 Title.

This chapter may be cited as the *"Uniform Criminal Extradition Act"*.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.29; C79, 81, §820.29]

CHAPTER 821

AGREEMENT ON DETAINERS COMPACT

Referred to in §602.6405, 906.4

821.1	Agreement with other states.	821.5	Escape in another state.
821.2	Court defined.	821.6	Transfer of custody.
821.3	Cooperation.	821.7	Detainer administrator.
821.4	Habitual criminals.	821.8	Copies of law transmitted.

821.1 Agreement with other states.

The agreement on detainers is hereby enacted into law and entered into by this state with all other jurisdictions legally joining therein in the form substantially as follows and the contracting states solemnly agree that:

1. *Article I.* The party states find that charges outstanding against a prisoner, detainers based on untried indictments, informations or complaints, and difficulties in securing speedy trial of persons already incarcerated in other jurisdictions, produce uncertainties which obstruct programs of prisoner treatment and rehabilitation. Accordingly, it is the policy of the party states and the purpose of this agreement to encourage the expeditious and orderly disposition of such charges and determination of the proper status of any and all detainers based on untried indictments, informations or complaints. The party states also find that proceedings with reference to such charges and detainers, when emanating from another

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jurisdiction, cannot properly be had in the absence of cooperative procedures. It is the further purpose of this agreement to provide such cooperative procedures.

2. *Article II.* As used in this agreement:

a. "State" shall mean a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.

b. "Sending state" shall mean a state in which a prisoner is incarcerated at the time that the prisoner initiates a request for final disposition pursuant to article III hereof or at the time that a request for custody or availability is initiated pursuant to article IV hereof.

c. "Receiving state" shall mean the state in which trial is to be had on an indictment, information or complaint pursuant to article III or article IV hereof.

3. *Article III.*

a. Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information or complaint on the basis of which a detainer has been lodged against the prisoner, the prisoner shall be brought to trial within one hundred eighty days after the prisoner shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of the prisoner's imprisonment and the prisoner's request for a final disposition to be made of the indictment, information or complaint: Provided that for good cause shown in open court, the prisoner or the prisoner's counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the appropriate official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner.

b. The written notice and request for final disposition referred to in paragraph *"a"* hereof shall be given or sent by the prisoner to the warden, commissioner of corrections or other official having custody of the prisoner, who shall promptly forward it together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.

c. The warden, commissioner of corrections or other official having custody of the prisoner shall promptly inform the prisoner of the source and contents of any detainer lodged against the prisoner and shall also inform the prisoner of the prisoner's right to make a request for final disposition of the indictment, information or complaint on which the detainer is based.

d. Any request for final disposition made by a prisoner pursuant to paragraph *"a"* hereof shall operate as a request for final disposition of all untried indictments, informations or complaints on the basis of which detainers have been lodged against the prisoner from the state to whose prosecuting official the request for final disposition is specifically directed. The warden, commissioner of corrections or other official having custody of the prisoner shall forthwith notify all appropriate prosecuting officers and courts in the several jurisdictions within the state to which the prisoner's request for final disposition is being sent of the proceeding being initiated by the prisoner. Any notification sent pursuant to this paragraph shall be accompanied by copies of the prisoner's written notice, request, and the certificate. If trial is not had on any indictment, information or complaint contemplated hereby prior to the return of the prisoner to the original place of imprisonment, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

e. Any request for final disposition made by a prisoner pursuant to paragraph *"a"* hereof shall also be deemed to be a waiver of extradition with respect to any charge or proceeding contemplated thereby or included therein by reason of paragraph *"d"* hereof, and a waiver of extradition to the receiving state to serve any sentence there imposed upon the prisoner, after completion of the prisoner's term of imprisonment in the sending state. The request for final disposition shall also constitute a consent by the prisoner to the production of the prisoner's

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body in any court where the prisoner's presence may be required in order to effectuate the purposes of this agreement and a further consent voluntarily to be returned to the original place of imprisonment in accordance with the provisions of this agreement. Nothing in this paragraph shall prevent the imposition of a concurrent sentence if otherwise permitted by law.

f. Escape from custody by the prisoner subsequent to the prisoner's execution of the request for final disposition referred to in paragraph "*a*" hereof shall void the request.

4. *Article IV.*

a. The appropriate officer of the jurisdiction in which an untried indictment, information or complaint is pending shall be entitled to have a prisoner against whom the officer has lodged a detainer and who is serving a term of imprisonment in any party state made available in accordance with article V, paragraph "*a*" hereof upon presentation of a written request for temporary custody or availability to the appropriate authorities of the state in which the prisoner is incarcerated: Provided that the court having jurisdiction of such indictment, information or complaint shall have duly approved, recorded and transmitted the request: And provided further that there shall be a period of thirty days after receipt by the appropriate authorities before the request be honored, within which period the governor of the sending state may disapprove the request for temporary custody or availability, either upon the governor's own motion or upon motion of the prisoner.

b. Upon receipt of the officer's written request as provided in paragraph "*a*" hereof, the appropriate authorities having the prisoner in custody shall furnish the officer with a certificate stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner. Said authorities simultaneously shall furnish all other officers and appropriate courts in the receiving state who have lodged detainers against the prisoner with similar certificates and with notices informing them of the request for custody or availability and of the reasons therefor.

c. In respect of any proceeding made possible by this article, trial shall be commenced within one hundred twenty days of the arrival of the prisoner in the receiving state, but for good cause shown in open court, the prisoner or the prisoner's counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

d. Nothing contained in this article shall be construed to deprive any prisoner of any right which the prisoner may have to contest the legality of the prisoner's delivery as provided in paragraph "*a*" hereof, but such delivery may not be opposed or denied on the ground that the executive authority of the sending state has not affirmatively consented to or ordered such delivery.

e. If trial is not had on any indictment, information or complaint contemplated hereby prior to the prisoner's being returned to the original place of imprisonment pursuant to article V, paragraph "*e*" hereof, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

5. *Article V.*

a. In response to a request made under article III or article IV hereof, the appropriate authority in a sending state shall offer to deliver temporary custody of such prisoner to the appropriate authority in the state where such indictment, information or complaint is pending against such person in order that speedy and efficient prosecution may be had. If the request for final disposition is made by the prisoner, the offer of temporary custody shall accompany the written notice provided for in article III of this agreement. In the case of a federal prisoner, the appropriate authority in the receiving state shall be entitled to temporary custody as provided by this agreement or to the prisoner's presence in federal custody at the place for trial, whichever custodial arrangement may be approved by the custodian.

b. The officer or other representative of a state accepting an offer of temporary custody shall present the following upon demand:

(1) Proper identification and evidence of the officer's or other representative's authority to act for the state into whose temporary custody the prisoner is to be given.

(2) A duly certified copy of the indictment, information or complaint on the basis of which

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the detainer has been lodged and on the basis of which the request for temporary custody of the prisoner has been made.

c. If the appropriate authority shall refuse or fail to accept temporary custody of said person, or in the event that an action on the indictment, information or complaint on the basis of which the detainer has been lodged is not brought to trial within the period provided in article III or article IV hereof, the appropriate court of the jurisdiction where the indictment, information or complaint has been pending shall enter an order dismissing the same with prejudice, and any detainer based thereon shall cease to be of any force or effect.

d. The temporary custody referred to in this agreement shall be only for the purpose of permitting prosecution on the charge or charges contained in one or more untried indictments, informations or complaints which form the basis of the detainer or detainers or for prosecution on any other charge or charges arising out of the same transaction. Except for the prisoner's attendance at court and while being transported to or from any place at which the prisoner's presence may be required, the prisoner shall be held in a suitable jail or other facility regularly used for persons awaiting prosecution.

e. At the earliest practicable time consonant with the purposes of this agreement, the prisoner shall be returned to the sending state.

f. During the continuance of temporary custody or while the prisoner is otherwise being made available for trial as required by this agreement, time being served on the sentence shall continue to run but good time shall be earned by the prisoner only if, and to the extent that, the law and practice of the jurisdiction which imposed the sentence may allow.

g. For all purposes other than that for which temporary custody as provided in this agreement is exercised, the prisoner shall be deemed to remain in the custody of and subject to the jurisdiction of the sending state and any escape from temporary custody may be dealt with in the same manner as an escape from the original place of imprisonment or in any other manner permitted by law.

h. From the time that a party state receives custody of a prisoner pursuant to this agreement until such prisoner is returned to the territory and custody of the sending state, the state in which the one or more untried indictments, informations or complaints are pending or in which trial is being had shall be responsible for the prisoner and shall also pay all costs of transporting, caring for, keeping and returning the prisoner. The provisions of this paragraph shall govern unless the states concerned shall have entered into a supplementary agreement providing for a different allocation of costs and responsibilities as between or among themselves. Nothing herein contained shall be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

6. *Article VI.*

a. In determining the duration and expiration dates of the time periods provided in articles III and IV of this agreement, the running of said time periods shall be tolled whenever and for as long as the prisoner is unable to stand trial, as determined by the court having jurisdiction of the matter.

b. No provision of this agreement, and no remedy made available by this agreement, shall apply to any person who is adjudged to be mentally ill.

7. *Article VII.* Each state party to this agreement shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this agreement, and who shall provide, within and without the state, information necessary to the effective operation of this agreement.

8. *Article VIII.* This agreement shall enter into full force and effect as to a party state when such state has enacted the same into law. A state party to this agreement may withdraw herefrom by enacting a statute repealing the same. However, the withdrawal of any state shall not affect the status of any proceedings already initiated by inmates or by state officers at the time such withdrawal takes effect, nor shall it affect their rights in respect thereof.

9. *Article IX.* This agreement shall be liberally construed so as to effectuate its purposes. The provisions of this agreement shall be severable and if any phrase, clause, sentence or provision of this agreement is declared to be contrary to the Constitution of any party

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state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this agreement shall be held contrary to the Constitution of any state party hereto, the agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

[C66, 71, 73, 75, 77, §759A.1; C79, 81, §821.1]
2008 Acts, ch 1032, §201

821.2 Court defined.

The phrase *"appropriate court"* as used in the agreement on detainers shall, with reference to the courts of this state, mean any court with criminal jurisdiction in the matter involved.

[C66, 71, 73, 75, 77, §759A.2; C79, 81, §821.2]

821.3 Cooperation.

All courts, departments, agencies, officers, and employees of this state and its political subdivisions are hereby directed to enforce the agreement on detainers and to cooperate with one another and with other party states in enforcing the agreement and effectuating its purpose.

[C66, 71, 73, 75, 77, §759A.3; C79, 81, §821.3]

821.4 Habitual criminals.

Nothing in this chapter or in the agreement on detainers shall be construed to require the application of section 902.8 to any person on account of any conviction had in a proceeding brought to final disposition by reason of the use of this agreement.

[C66, 71, 73, 75, 77, §759A.4; C79, 81, §821.4]

821.5 Escape in another state.

Escape from custody while in another state, pursuant to this agreement on detainers shall constitute an offense against the laws of this state to the same extent and degree as an escape from the institution in which the prisoner was confined immediately prior to having been sent to another state pursuant to the provisions of the agreement on detainers and shall be punishable in the same manner as an escape from said institution.

[C66, 71, 73, 75, 77, §759A.5; C79, 81, §821.5]

821.6 Transfer of custody.

It shall be lawful and mandatory upon the warden or other official in charge of a penal or correctional institution in this state to give over the person of any inmate thereof whenever so required by the operation of the agreement on detainers.

[C66, 71, 73, 75, 77, §759A.6; C79, 81, §821.6]

821.7 Detainer administrator.

Pursuant to the agreement on detainers, the governor is hereby authorized to designate an officer or alternate who shall be the central administrator of and information agent for the agreement on detainers and who, acting jointly with like officers of other party states, shall have power to formulate rules and regulations to carry out more effectively the terms of the agreement, and shall serve subject to the pleasure of the governor.

[C66, 71, 73, 75, 77, §759A.7; C79, 81, §821.7]

821.8 Copies of law transmitted.

Copies of this chapter shall, upon its approval, be transmitted to the governor of each state, the attorney general, and the administrator of general services of the United States, and the council of state governments.

[C66, 71, 73, 75, 77, §759A.8; C79, 81, §821.8]

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CHAPTER 822

POSTCONVICTION PROCEDURE

Referred to in §622.31A, 814.7, 815.9, 815.11

This chapter not enacted as a part of this title; transferred from chapter 663A in Code 1993

822.1	Statutes not applicable to convicted persons.	822.6A	Underlying trial court record part of application.
822.2	Situations where law applicable.	822.6B	Electronic access to trial court records.
822.3	How to commence proceeding — limitation.	822.6C	Associated costs.
822.3A	Pro se filings by applicants currently represented by counsel.	822.7	Court to hear application.
822.4	Facts to be presented.	822.8	Grounds must be all-inclusive.
822.5	Payment of costs.	822.9	Appeal.
822.6	Determination of relief.	822.10	Rule of construction.
		822.11	Citation.

822.1 Statutes not applicable to convicted persons.

The provisions of sections 663.1 through 663.44, inclusive, shall not apply to persons convicted of, or sentenced for, a public offense.

[C71, 73, 75, 77, 79, 81, §663A.1]

C93, §822.1

822.2 Situations where law applicable.

1. Any person who has been convicted of, or sentenced for, a public offense and who claims any of the following may institute, without paying a filing fee, a proceeding under this chapter to secure relief:

a. The conviction or sentence was in violation of the Constitution of the United States or the Constitution or laws of this state.

b. The court was without jurisdiction to impose sentence.

c. The sentence exceeds the maximum authorized by law.

d. There exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice.

e. The person's sentence has expired, or probation, parole, or conditional release has been unlawfully revoked, or the person is otherwise unlawfully held in custody or other restraint.

f. The person's reduction of sentence pursuant to sections 903A.1 through 903A.7 has been unlawfully forfeited and the person has exhausted the appeal procedure of section 903A.3, subsection 2.

g. The conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error formerly available under any common law, statutory or other writ, motion, petition, proceeding, or remedy, except alleged error relating to restitution, court costs, or fees under section 904.702 or chapter 815 or 910.

h. The results of DNA profiling ordered pursuant to an application filed under section 81.10 would have changed the outcome of the trial or voided the factual basis of a guilty plea had the profiling been conducted prior to the conviction.

2. This remedy is not a substitute for nor does it affect any remedy, incident to the proceedings in the trial court, or of direct review of the sentence or conviction. Except as otherwise provided in this chapter, it comprehends and takes the place of all other common law, statutory, or other remedies formerly available for challenging the validity of the conviction or sentence. It shall be used exclusively in place of them.

[C71, 73, 75, 77, 79, 81, §663A.2; 81 Acts, ch 198, §1, 2]

83 Acts, ch 147, §10, 14; 86 Acts, ch 1075, §3

C93, §822.2

2006 Acts, ch 1010, §162; 2019 Acts, ch 149, §7

Referred to in §822.3, 822.3A, 822.5, 822.7, 822.9

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822.3 How to commence proceeding — limitation.

A proceeding is commenced by filing an application verified by the applicant with the clerk of the district court in which the conviction or sentence took place. However, if the applicant is seeking relief under section 822.2, subsection 1, paragraph *"f"*, the application shall be filed with the clerk of the district court of the county in which the applicant is being confined within ninety days from the date the disciplinary decision is final. All other applications must be filed within three years from the date the conviction or decision is final or, in the event of an appeal, from the date the writ of procedendo is issued. However, this limitation does not apply to a ground of fact or law that could not have been raised within the applicable time period. For purposes of this section, a ground of fact includes the results of DNA profiling ordered pursuant to an application filed under section 81.10. An allegation of ineffective assistance of counsel in a prior case under this chapter shall not toll or extend the limitation periods in this section nor shall such claim relate back to a prior filing to avoid the application of the limitation periods. Facts within the personal knowledge of the applicant and the authenticity of all documents and exhibits included in or attached to the application must be sworn to affirmatively as true and correct. The supreme court may prescribe the form of the application and verification. The clerk shall docket the application upon its receipt and promptly bring it to the attention of the court and deliver a copy to the county attorney and the attorney general.

[C71, 73, 75, 77, 79, 81, §663A.3]
84 Acts, ch 1193, §1; 89 Acts, ch 96, §1
C93, §822.3
2006 Acts, ch 1010, §163; 2019 Acts, ch 140, §34; 2019 Acts, ch 149, §8
Referred to in §602.8102(115), 822.4

822.3A Pro se filings by applicants currently represented by counsel.

1. Except as otherwise provided in subsection 3, an applicant seeking relief under section 822.2 who is currently represented by counsel shall not file any pro se document, including an application, brief, reply brief, or motion, in any Iowa court. The court shall not consider, and opposing counsel shall not respond to, such pro se filings.

2. This section does not prohibit an applicant for postconviction relief from proceeding without the assistance of counsel.

3. A represented applicant for postconviction relief may file the following pro se documents:

a. A pro se motion seeking disqualification of counsel, which a court may grant upon a showing of good cause.

b. A pro se notice of appeal.

2019 Acts, ch 140, §35; 2022 Acts, ch 1110, §2
See also §814.6A

822.4 Facts to be presented.

The application shall identify the proceedings in which the applicant was convicted, give the date of the entry of the judgment of conviction or sentence complained of, specifically set forth the grounds upon which the application is based, and clearly state the relief desired. Facts within the personal knowledge of the applicant shall be set forth separately from other allegations of facts and shall be verified as provided in section 822.3. Affidavits, records, or other evidence supporting its allegations shall be attached to the application or the application shall recite why they are not attached. The application shall identify all previous proceedings, together with the grounds therein asserted, taken by the applicant to secure relief from the conviction or sentence. Argument, citations, and discussion of authorities are unnecessary.

[C71, 73, 75, 77, 79, 81, §663A.4]
C93, §822.4

822.5 Payment of costs.

If the applicant is unable to pay court costs and stenographic and printing expenses, these costs and expenses shall be made available to the applicant in the trial court, and on review. Unless the applicant is confined in a state institution and is seeking relief under section 822.2,

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subsection 1, paragraphs *"e"* and *"f"*, the costs and expenses of legal representation shall also be made available to the applicant in the preparation of the application, in the trial court, and on review if the applicant is unable to pay. However, nothing in this section shall be interpreted to require payment of expenses of legal representation, including stenographic, printing, or other legal services or consultation, when the applicant is self-represented or is utilizing the services of an inmate.

[C71, 73, 75, 77, 79, 81, §663A.5; 82 Acts, ch 1108, §1]
91 Acts, ch 219, §18
C93, §822.5
98 Acts, ch 1016, §1, 3; 98 Acts, ch 1132, §1; 2006 Acts, ch 1010, §164
Referred to in §610A.1

822.6 Determination of relief.

1. Within thirty days after the docketing of the application, or within any further time the court may fix, the state shall respond by answer or by motion which may be supported by affidavits. At any time prior to entry of judgment the court may grant leave to withdraw the application. The court may make appropriate orders for amendment of the application or any pleading or motion, for pleading over, for filing further pleadings or motions, or for extending the time of the filing of any pleading. In considering the application the court shall take account of substance regardless of defects of form.

2. When a court is satisfied, on the basis of the application, the answer or motion, and the record, that the applicant is not entitled to postconviction relief and no purpose would be served by any further proceedings, the court may indicate to the parties its intention to dismiss the application and the reasons for dismissal. The applicant shall be given an opportunity to reply to the proposed dismissal. In light of the reply, or on default thereof, the court may order the application dismissed or grant leave to file an amended application or direct that the proceedings otherwise continue. Disposition on the pleadings and record is not proper if a material issue of fact exists.

3. The court may grant a motion by either party for summary disposition of the application, when it appears from the pleadings, depositions, answers to interrogatories, and admissions and agreements of fact, together with any affidavits submitted, that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.

[C71, 73, 75, 77, 79, 81, §663A.6]
C93, §822.6
2018 Acts, ch 1041, §127; 2019 Acts, ch 24, §95; 2019 Acts, ch 45, §1; 2019 Acts, ch 140, §36

822.6A Underlying trial court record part of application.

The underlying trial court record containing the conviction for which an applicant seeks postconviction relief, as well as the court file containing any previous application filed by the applicant relating to the same conviction, shall automatically become part of the record in a claim for postconviction relief under this chapter.

2019 Acts, ch 45, §2

822.6B Electronic access to trial court records.

1. Upon the filing of an application, the clerk of the district court shall make the underlying trial court record accessible to the applicant's attorney, the county attorney, and the attorney general, without the necessity of a court order. If the underlying trial court record is not available in electronic format, the clerk of the district court shall convert the record to an electronic format and make the record available to the applicant's attorney, the county attorney, and the attorney general, without the necessity of a court order.

2. Upon request by an attorney of record, the clerk of the district court shall make the court file containing any previous application filed by the applicant relating to the same conviction accessible to the applicant's attorney, the county attorney, and the attorney general, without the necessity of a court order. If the court file containing any previous application is not available in an electronic format, the clerk of the district court shall convert the court file containing any previous application to an electronic format and make the court file containing

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any previous application available to the applicant's attorney, the county attorney, and the attorney general, without the necessity of a court order.

2019 Acts, ch 45, §3

822.6C Associated costs.

Costs shall not be charged to the applicant, the applicant's attorney, the county attorney, or the attorney general for converting a court file to an electronic format or for otherwise providing access to a court file under this chapter.

2019 Acts, ch 45, §4

822.7 Court to hear application.

The application shall be heard in, and before any judge of the court in which the conviction or sentence took place. However, if the applicant is seeking relief under section 822.2, subsection 1, paragraph "*f*", the application shall be heard in, and before any judge of the court of the county in which the applicant is being confined. A record of the proceedings shall be made and preserved. All rules and statutes applicable in civil proceedings including pretrial and discovery procedures are available to the parties. The court may receive proof of affidavits, depositions, oral testimony, or other evidence, and may order the applicant brought before it for the hearing. If the court finds in favor of the applicant, it shall enter an appropriate order with respect to the conviction or sentence in the former proceedings, and any supplementary orders as to rearraignment, retrial, custody, bail, discharge, correction of sentence, or other matters that may be necessary and proper. The court shall make specific findings of fact, and state expressly its conclusions of law, relating to each issue presented. This order is a final judgment.

[C71, 73, 75, 77, 79, 81, §663A.7; 81 Acts, ch 198, §3]

C93, §822.7

2006 Acts, ch 1010, §165

822.8 Grounds must be all-inclusive.

All grounds for relief available to an applicant under this chapter must be raised in the applicant's original, supplemental or amended application. Any ground finally adjudicated or not raised, or knowingly, voluntarily, and intelligently waived in the proceeding that resulted in the conviction or sentence, or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the original, supplemental, or amended application.

[C71, 73, 75, 77, 79, 81, §663A.8]

C93, §822.8

822.9 Appeal.

An appeal from a final judgment entered under this chapter may be taken, perfected, and prosecuted either by the applicant or by the state in the manner and within the time after judgment as provided in the rules of appellate procedure for appeals from final judgments in criminal cases. However, if a party is seeking an appeal under section 822.2, subsection 1, paragraph "*f*", the appeal shall be by writ of certiorari.

[C71, 73, 75, 77, 79, 81, §663A.9]

85 Acts, ch 157, §3; 90 Acts, ch 1043, §1; 92 Acts, ch 1212, §38

C93, §822.9

96 Acts, ch 1018, §1; 2006 Acts, ch 1010, §166

822.10 Rule of construction.

This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

[C71, 73, 75, 77, 79, 81, §663A.10]

C93, §822.10

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822.11 Citation.
This chapter may be cited as the *"Uniform Postconviction Procedure Act"*.
[C71, 73, 75, 77, 79, 81, §663A.11]
C93, §822.11

CHAPTERS 823 to 899

RESERVED

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SUBTITLE 3

CRIMINAL CORRECTIONS

CHAPTER 900

RESERVED

CHAPTER 901

JUDGMENT AND SENTENCING PROCEDURES

Referred to in §232.55, 715E.1, 716.13, 716.14, 717B.1, 901A.2, 904.602

901.1	Short title.	901.5B	Pronouncement of judgment and sentence — social security number.
901.2	Presentence investigation.	901.6	Judgment entered.
901.3	Presentence investigation report.	901.7	Commitment to custody.
901.4	Presentence investigation report confidential — access.	901.8	Consecutive sentences.
901.4A	Substance use disorder evaluation.	901.9	Information for parole board.
901.4B	Presentence determinations and statements.	901.10	Reduction of sentences.
901.5	Pronouncing judgment and sentence.	901.11	Parole or work release eligibility determination — certain offenses.
901.5A	Reopening of a sentence. Repealed by 2023 Acts, ch 86, §14.	901.12	Minimum sentence — parole or work release eligibility — certain drug offenses.

901.1 Short title.

Chapters 901 through 909 shall be known and may be cited as the *"Iowa Corrections Code"*. [C79, 81, §901.1]
94 Acts, ch 1023, §71; 2021 Acts, ch 80, §375

901.2 Presentence investigation.

1. Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction of a public offense may be rendered, the court shall receive from the state, from the judicial district department of correctional services, and from the defendant any information which may be offered which is relevant to the question of sentencing. The court may consider information from other sources.

2. *a.* The court shall not order a presentence investigation when the offense is a class "A" felony. If, however, the board of parole determines that the Iowa medical and classification center reception report for a class "A" felon is inadequate, the board may request and shall be provided with additional information from the appropriate judicial district department of correctional services.

b. The court shall order a presentence investigation when the offense is a class "B", class "C", or class "D" felony. A presentence investigation for a class "B", class "C", or class "D" felony shall not be waived. The court may order, with the consent of the defendant, that the presentence investigation begin prior to the acceptance of a plea of guilty, or prior to a verdict of guilty.

c. The court may order a presentence investigation when the offense is an aggravated misdemeanor.

d. The court may order a presentence investigation when the offense is a serious misdemeanor only upon a finding of exceptional circumstances warranting an investigation. Notwithstanding section 901.3, a presentence investigation ordered by the court for a serious misdemeanor shall include information concerning only the following:

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(1) A brief personal and social history of the defendant.
(2) The defendant's criminal record.
(3) The harm to the victim, the victim's immediate family, and the community, including any completed victim impact statement or statements and restitution plan.

3. The court may withhold execution of any judgment or sentence for such time as shall be reasonably necessary for an investigation with respect to deferment of judgment, deferment of sentence, or suspension of sentence and probation. The investigation shall be made by the judicial district department of correctional services.

4. The purpose of the report by the judicial district department of correctional services is to provide the court pertinent information for purposes of sentencing and to include suggestions for correctional planning for use by correctional authorities subsequent to sentencing.

[S13, §5447-a; C24, 27, 31, 35, 39, §**3800;** C46, 50, 54, 58, 62, 66, 71, 73, §247.20; C75, 77, §789A.3; C79, 81, §901.2]

83 Acts, ch 38, §2; 84 Acts, ch 1126, §1; 89 Acts, ch 156, §2; 90 Acts, ch 1251, §62; 94 Acts, ch 1099, §1; 99 Acts, ch 12, §12; 2000 Acts, ch 1122, §2; 2013 Acts, ch 30, §257; 2013 Acts, ch 90, §240; 2023 Acts, ch 86, §10

Referred to in §903B.10, 907.3A

901.3 Presentence investigation report.

1. If a presentence investigation is ordered by the court, the investigator shall promptly inquire into all of the following:

a. The defendant's characteristics, family and financial circumstances, needs, and potentialities.

b. The defendant's criminal record and social history.

c. The circumstances of the offense.

d. The time the defendant has been in detention.

e. The harm to the victim, the victim's immediate family, and the community. Additionally, the presentence investigator shall provide a victim impact statement form to each victim, if one has not already been provided, and shall file the completed statement or statements with the presentence investigation report.

f. The defendant's potential as a candidate for the community service sentence program established pursuant to section 907.13.

g. Any mitigating circumstances relating to the offense and the defendant's potential as a candidate for deferred judgment, deferred sentencing, a suspended sentence, or probation, if the defendant is charged with or convicted of assisting suicide pursuant to section 707A.2.

h. Whether the defendant has a history of mental health issues or a substance use disorder. If so, the investigator shall inquire into the treatment options available in both the community of the defendant and the correctional system.

2. All local and state mental and correctional institutions, courts, and police agencies shall furnish to the investigator on request the defendant's criminal record and other relevant information. The originating source of specific mental health or substance use disorder information including the histories, treatment, and use of medications shall not be released to the presentence investigator unless the defendant authorizes the release of such information. If the defendant refuses to release the information, the presentence investigator may note the defendant's refusal to release mental health or substance use disorder information in the presentence investigation report and rely upon other mental health or substance use disorder information available to the presentence investigator. With the approval of the court, a physical examination or psychiatric evaluation of the defendant may be ordered, or the defendant may be committed to an inpatient or outpatient psychiatric facility for an evaluation of the defendant's personality and mental health. The results of any such examination or evaluation shall be included in the report of the investigator.

[C75, 77, §789A.4; C79, 81, §901.3; 82 Acts, ch 1069, §1]

86 Acts, ch 1178, §2; 90 Acts, ch 1251, §63; 91 Acts, ch 219, §23; 96 Acts, ch 1002, §4; 2011 Acts, ch 7, §1 – 3; 2013 Acts, ch 30, §222; 2023 Acts, ch 19, §1321, 1322

Referred to in §901.2

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901.4 Presentence investigation report confidential — access.

The presentence investigation report is confidential and the court shall provide safeguards to ensure its confidentiality, including but not limited to sealing the report, which may be opened only by further court order. The defendant's attorney and the attorney for the state shall have access to the presentence investigation report at least three days prior to the date set for sentencing. The defendant's appellate attorney and the appellate attorney for the state shall have access to the presentence investigation report upon request and without the necessity of a court order. The report shall remain confidential except upon court order. However, the court may conceal the identity of the person who provided confidential information. The report of a medical examination or psychological or psychiatric evaluation shall be made available to the attorney for the state and to the defendant upon request. The reports are part of the record but shall be sealed and opened only on order of the court. If the defendant is committed to the custody of the Iowa department of corrections and is not a class "A" felon, an employee of the department, if authorized by the director of the department, an employee of a judicial district department of correctional services, if authorized by the director of the judicial district department of correctional services, and an employee of the board of parole, if authorized by the chairperson or a member of the board of parole, shall have access to the presentence investigation report. Pursuant to section 904.602, the presentence investigation report may also be released by ordinary or electronic mail by the department of corrections or a judicial district department of correctional services to another jurisdiction for the purpose of providing interstate probation and parole compact or interstate compact for adult offender supervision services or evaluations, or to a substance use disorder or mental health services provider when referring a defendant for services. The defendant or the defendant's attorney may file with the presentence investigation report, a denial or refutation of the allegations, or both, contained in the report. The denial or refutation shall be included in the report.

[C75, 77, §789A.5; C79, 81, §901.4]

83 Acts, ch 38, §3; 83 Acts, ch 96, §124, 159, 160; 89 Acts, ch 279, §7; 98 Acts, ch 1095, §1; 98 Acts, ch 1169, §17; 99 Acts, ch 112, §20; 2003 Acts, 1st Ex, ch 2, §50, 209; 2004 Acts, ch 1101, §92; 2004 Acts, ch 1106, §1; 2004 Acts, ch 1175, §465, 468; 2005 Acts, ch 171, §6; 2006 Acts, ch 1007, §1; 2010 Acts, ch 1159, §16; 2021 Acts, ch 11, §5; 2023 Acts, ch 19, §1323

Referred to in §8.98

901.4A Substance use disorder evaluation.

Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction may be rendered, the court may order the defendant to submit to and complete a substance use disorder evaluation, if the court determines that there is reason to believe that the defendant regularly uses alcohol or other controlled substances and may be in need of treatment. An order made pursuant to this section may be made in addition to any other sentence or order of the court.

90 Acts, ch 1251, §64; 2023 Acts, ch 19, §1324

Referred to in §901.5

901.4B Presentence determinations and statements.

1. Before imposing sentence, the court shall do all of the following:

a. Verify that the defendant and the defendant's attorney have read and discussed the presentence investigation report and any addendum to the report.

b. Provide the defendant's attorney an opportunity to speak on the defendant's behalf.

c. Address the defendant personally in order to permit the defendant to make a statement or present any information to mitigate the defendant's sentence.

d. Provide the prosecuting attorney an opportunity to speak.

2. After hearing any statements presented pursuant to subsection 1, and before imposing sentence, the court shall address any victim of the crime who is present at the sentencing and shall allow any victim to be reasonably heard, including but not limited to by presenting a victim impact statement in the manner described in section 915.21.

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3. For purposes of this section, *"victim"* means the same as defined in section 915.10.
2019 Acts, ch 140, §37

901.5 Pronouncing judgment and sentence.

After receiving and examining all pertinent information, including the presentence investigation report and victim impact statements, if any, the court shall consider the following sentencing options. The court shall determine which of them is authorized by law for the offense, and of the authorized sentences, which of them or which combination of them, in the discretion of the court, will provide maximum opportunity for the rehabilitation of the defendant, and for the protection of the community from further offenses by the defendant and others. At the time fixed by the court for pronouncement of judgment and sentence, the court shall act accordingly:

1. If authorized by section 907.3, the court may defer judgment and sentence for an indefinite period in accordance with chapter 907.

2. If the defendant is not an habitual offender as defined by section 902.8, the court may pronounce judgment and impose a fine.

3. The court may pronounce judgment and impose a fine or sentence the defendant to confinement, or both, and suspend the execution of the sentence or any part of it as provided in chapter 907.

4. The court may pronounce judgment and impose a fine or sentence the defendant to confinement, or both.

5. If authorized by section 907.3, the court may defer the sentence and assign the defendant to the judicial district department of correctional services.

6. The court may pronounce judgment and sentence the defendant to confinement and then reconsider the sentence as provided by section 902.4 or 903.2.

7. The court shall inform the defendant of the mandatory minimum sentence, if one is applicable.

8. The court may order the defendant to complete any treatment indicated by a substance use disorder evaluation ordered pursuant to section 901.4A or any other section.

9. *a.* The court shall order DNA profiling of a defendant convicted of an offense that requires profiling under section 81.2.

b. Notwithstanding section 81.2, the court may order the defendant to provide a DNA sample to be submitted for DNA profiling if appropriate. In determining the appropriateness of ordering DNA profiling, the court shall consider the deterrent effect of DNA profiling, the likelihood of repeated offenses by the defendant, and the seriousness of the offense.

10. If the defendant is being sentenced for an aggravated misdemeanor or a felony, the court shall publicly announce the following:

a. That the defendant's term of incarceration may be reduced from the maximum sentence because of statutory earned time, work credits, and program credits.

b. That the defendant may be eligible for parole before the sentence is discharged.

c. In the case of multiple sentences, whether the sentences shall be served consecutively or concurrently.

11. In addition to any sentence or other penalty imposed against the defendant for an offense under chapter 124, the court shall consider the provisions of 21 U.S.C. §862, regarding the denial of federal benefits to drug traffickers and possessors convicted under state or federal law, and may enter an order specifying the range and scope of benefits to be denied to the defendant, according to the provisions of 21 U.S.C. §862. For the purposes of this subsection, "*federal benefit*" means the issuance of any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or through the appropriation of funds of the United States, but does not include any retirement, welfare, social security, health, disability, veterans, public housing, or similar benefit for which payments or services are required for eligibility. The supreme court may adopt rules establishing sentencing guidelines consistent with this subsection and 21 U.S.C. §862. The clerk of the district court shall send a copy of any order issued pursuant to this subsection to the denial of federal benefits program of the United States department of justice, along with any other forms and information required by the department.

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12. In addition to any sentence or other penalty imposed against the defendant for an offense under chapter 124, the court shall consider the denial of state benefits to the defendant, and may enter an order specifying the range and scope of benefits to be denied to the defendant, comparable to the federal benefits denied under subsection 11. For the purposes of this subsection, *"state benefit"* means the issuance of any grant, contract, loan, professional license, or commercial license provided by a state agency, department, program, or otherwise through the appropriation of funds of the state, but does not include any retirement, welfare, health, disability, veterans, public housing, or similar benefit. The supreme court may adopt rules establishing sentencing guidelines consistent with this subsection and comparable to the guidelines for denial of federal benefits in 21 U.S.C. §862. The clerk of the district court shall send a copy of any order issued pursuant to this subsection to each state agency, department, or program required to deny benefits pursuant to such an order.

13. In addition to any other sentence or other penalty imposed against the defendant, the court shall impose a special sentence if required under section 903B.1 or 903B.2.

14. Notwithstanding any provision in section 907.3 or any other provision of law prescribing a mandatory minimum sentence for the offense, if the defendant, other than a child being prosecuted as a youthful offender, is guilty of a public offense other than a class "A" felony, and was under the age of eighteen at the time the offense was committed, the court may suspend the sentence in whole or in part, including any mandatory minimum sentence, or with the consent of the defendant, defer judgment or sentence, and place the defendant on probation upon such conditions as the court may require.

[C79, 81, §901.5]

84 Acts, ch 1063, §1; 86 Acts, ch 1178, §3; 90 Acts, ch 1251, §65; 92 Acts, ch 1023, §1; 96 Acts, ch 1218, §68; 98 Acts, ch 1073, §9; 98 Acts, ch 1138, §26; 2000 Acts, ch 1122, §3; 2000 Acts, ch 1173, §2, 10; 2001 Acts, ch 165, §3; 2003 Acts, ch 109, §1; 2003 Acts, ch 156, §8; 2003 Acts, ch 179, §77; 2004 Acts, ch 1101, §93; 2005 Acts, ch 58, §1; 2005 Acts, ch 158, §14, 19, 37; 2006 Acts, ch 1101, §16; 2011 Acts, ch 38, §30; 2013 Acts, ch 30, §223; 2013 Acts, ch 42, §14; 2018 Acts, ch 1172, §102, 104; 2023 Acts, ch 19, §1325

Referred to in §232.8, 462A.14, 602.8103, 707.6A, 708.2D, 901.5B, 902.13, 907.3
Modification of no-contact orders, §664A.5
Fines, see chapter 909
Surcharge on penalty, chapter 911

901.5A Reopening of a sentence. Repealed by 2023 Acts, ch 86, §14.

901.5B Pronouncement of judgment and sentence — social security number.

1. Prior to pronouncement of judgment and sentence pursuant to section 901.5, or prior to pleading guilty for an offense that does not require a court appearance, the defendant shall provide the defendant's social security number to the clerk of the district court or the court.

2. The clerk of the district court shall duly note the social security number in the case file.

3. The defendant's social security number shall be considered a confidential record exempted from public access under section 22.7, but shall be disclosed by the clerk of the district court for the limited purpose of collecting court debt pursuant to section 602.8107.

4. Failure or refusal to provide a social security number pursuant to this section shall not delay the pronouncement of judgment and sentence pursuant to section 901.5.

2008 Acts, ch 1172, §26

901.6 Judgment entered.

If judgment is not deferred, and no sufficient cause is shown why judgment should not be pronounced and none appears to the court upon the record, judgment shall be pronounced and entered. In every case in which judgment is entered, the court shall include in the judgment entry the number of the particular section of the Code and the name of the offense

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under which the defendant is sentenced and a statement of the days credited pursuant to section 903A.5 shall be incorporated into the sentence.

[C51, §3066; R60, §4873, 4874; C73, §4506, 4507; C97, §5438; C24, §13958; C27, 31, 35, §13958-a1; C39, §**13958.2;** C46, 50, 54, 58, 62, 66, §789.11; C71, 73, 75, 77, §789.11, 791.8; C79, 81, §901.6]

83 Acts, ch 38, §4; 83 Acts, ch 147, §11, 14

901.7 Commitment to custody.

In imposing a sentence of confinement for more than one year, the court shall commit the defendant to the custody of the director of the Iowa department of corrections. Upon entry of judgment and sentence, the clerk of the district court immediately shall notify the director of the commitment. The court shall make an order as appropriate for the temporary custody of the defendant pending the defendant's transfer to the custody of the director. The court shall order the county where a person was convicted to pay the cost of temporarily confining the person and of transporting the person to the state institution where the person is to be confined in execution of the judgment. The order shall require that a person transported to a state institution pursuant to this section shall be accompanied by a person of the same sex.

[C79, 81, §901.7]

83 Acts, ch 96, §125, 159; 85 Acts, ch 21, §49

Referred to in §602.8102(134), 904.503

901.8 Consecutive sentences.

If a person is sentenced for two or more separate offenses, the sentencing judge may order the second or further sentence to begin at the expiration of the first or succeeding sentence. If a person is sentenced for escape under section 719.4 or for a crime committed while confined in a detention facility or penal institution, the sentencing judge shall order the sentence to begin at the expiration of any existing sentence. If the person is presently in the custody of the director of the Iowa department of corrections, the sentence shall be served at the facility or institution in which the person is already confined unless the person is transferred by the director. Except as otherwise provided in section 903A.7, if consecutive sentences are specified in the order of commitment, the several terms shall be construed as one continuous term of imprisonment.

[S13, §5718-a13; C24, 27, 31, 35, 39, §**13961;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §789.14; C79, 81, §901.8]

83 Acts, ch 96, §126, 159; 97 Acts, ch 131, §1, 4

Referred to in §903.4

901.9 Information for parole board.

At the time of committing a defendant to the custody of the director of the Iowa department of corrections for incarceration, the trial judge and prosecuting attorney shall, and the defense attorney may, furnish the board of parole with a full statement of their recommendations relating to release or parole.

83 Acts, ch 38, §1; 83 Acts, ch 96, §160

901.10 Reduction of sentences.

1. A court sentencing a person for the person's first conviction under section 124.406, 124.413, or 902.7 may, at its discretion, sentence the person to a term less than provided by the statute if mitigating circumstances exist and those circumstances are stated specifically in the record.

2. A court sentencing a person for a violation of section 124.401, subsection 1, paragraph "*g*", shall not grant any reduction of sentence.

3. Notwithstanding subsection 1, if the sentence under section 124.413 involves an amphetamine or methamphetamine offense under section 124.401, subsection 1, paragraph "*a*" or "*b*", the court shall not grant any reduction of sentence unless the defendant pleads guilty. If the defendant pleads guilty, the court may, at its discretion, reduce the mandatory minimum sentence by up to one-third. If the defendant additionally cooperates in the prosecution of other persons involved in the sale or use of controlled substances, and if the

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prosecutor requests an additional reduction in the defendant's sentence because of such cooperation, the court may grant a further reduction in the defendant's mandatory minimum sentence, up to one-half of the remaining mandatory minimum sentence.

4. A court sentencing a person for the person's first conviction under section 124.401D may, at its discretion, sentence the person to a term less than the maximum term provided under section 902.9, subsection 1, paragraph *"a"*,* if mitigating circumstances exist and those circumstances are stated specifically in the record. However, the court shall not grant any reduction of sentence unless the defendant pleads guilty. If the defendant pleads guilty, the court may, at its discretion, reduce the maximum sentence by up to one-third. If the defendant cooperates in the prosecution of other persons involved in the sale or use of controlled substances, and if the prosecutor requests an additional reduction in the defendant's sentence because of such cooperation, the court may grant a further reduction in the defendant's maximum sentence.

5. The state may appeal the discretionary decision on the grounds that the stated mitigating circumstances do not warrant a reduction of the sentence.

85 Acts, ch 41, §1; 98 Acts, ch 1138, §28; 99 Acts, ch 12, §14; 2000 Acts, ch 1144, §5; 2013 Acts, ch 30, §259; 2023 Acts, ch 86, §11

*Paragraph "a" of section 902.9, subsection 1 was stricken by 2023 Acts, ch 86, §12; corrective legislation is pending

901.11 Parole or work release eligibility determination — certain offenses.

1. At the time of sentencing, the court shall determine when a person convicted under section 124.401, subsection 1, paragraph *"b"*, shall first become eligible for parole or work release within the parameters described in section 124.413, subsection 3, based upon all the pertinent information including the person's criminal record, a validated risk assessment, and the negative impact the offense has had on the victim or other persons.

2. At the time of sentencing, the court shall determine when a person convicted of child endangerment as described in section 902.12, subsection 2, shall first become eligible for parole or work release within the parameters specified in section 902.12, subsection 2, based upon all pertinent information including the person's criminal record, a validated risk assessment, and whether the offense involved multiple intentional acts or a series of intentional acts, or whether the offense involved torture or cruelty.

3. At the time of sentencing, the court shall determine when a person convicted of robbery in the first degree as described in section 902.12, subsection 3, shall first become eligible for parole or work release within the parameters specified in section 902.12, subsection 3, based upon all pertinent information including the person's criminal record, a validated risk assessment, and the negative impact the offense has had on the victim or other persons.

4. At the time of sentencing, the court shall determine when a person convicted of robbery in the second degree as described in section 902.12, subsection 4, shall first become eligible for parole or work release within the parameters specified in section 902.12, subsection 4, based upon all pertinent information including the person's criminal record, a validated risk assessment, and the negative impact the offense has had on the victim or other persons.

5. At the time of sentencing, the court shall determine when a person convicted of arson in the first degree as described in section 902.12, subsection 5, shall first become eligible for parole or work release within the parameters specified in section 902.12, subsection 5, based upon all pertinent information including the person's criminal record, a validated risk assessment, and the negative impact the offense has had on the victim or other persons.

6. At the time of sentencing, the court shall determine when a person convicted of sexual exploitation of a minor as described in section 902.12, subsection 6, shall first become eligible for parole or work release within the parameters specified in section 902.12, subsection 6, based upon all pertinent information including the person's criminal record, a validated risk assessment, and the negative impact the offense has had on the victim or other persons.

7. At the time of sentencing, the court shall determine when a person convicted of human trafficking as described in section 902.12, subsection 7, shall first become eligible for parole or work release within the parameters specified in section 902.12, subsection 7, based upon

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all pertinent information including the person's criminal record, a validated risk assessment, and the negative impact the offense has had on the victim or other persons.

2016 Acts, ch 1104, §6; 2017 Acts, ch 122, §13; 2019 Acts, ch 140, §6, 38; 2020 Acts, ch 1063, §381; 2023 Acts, ch 74, §4; 2024 Acts, ch 1175, §1

Referred to in §124.413, 902.12

901.12 Minimum sentence — parole or work release eligibility — certain drug offenses.

1. Effective July 1, 2016, and notwithstanding section 124.413, a person whose sentence commenced prior to July 1, 2016, for a conviction under section 124.401, subsection 1, paragraph *"b"*, who has not previously been convicted of a forcible felony, and who does not have a prior conviction under section 124.401, subsection 1, paragraph *"a"*, *"b"*, or *"c"*, shall first be eligible for parole or work release after the person has served one-half of the minimum term of confinement prescribed in section 124.413.

2. Effective July 1, 2017, a person whose sentence commenced prior to July 1, 2017, for a conviction under section 124.401, subsection 1, paragraph *"c"*, shall not be required to serve a minimum term of confinement as prescribed in section 124.413.

3. When the board of parole considers a person for parole or work release pursuant to this section, the board shall consider all pertinent information including the person's criminal record, a validated risk assessment, and the negative impact the offense has had on the victim or other persons.

2016 Acts, ch 1104, §7; 2017 Acts, ch 122, §14, 15

Referred to in §124.413

CHAPTER 901A

SEXUALLY PREDATORY OFFENSES

Referred to in §692.15, 901.1, 901C.3

901A.1 Definitions.
901A.2 Enhanced sentencing.
901A.3 and 901A.4 Repealed by 2000 Acts, ch 1030, §3, 4.

901A.1 Definitions.

1. As used in this chapter, the term *"sexually predatory offense"* means any serious or aggravated misdemeanor or felony which constitutes:

a. A violation of any provision of chapter 709.

b. Sexual exploitation of a minor in violation of section 728.12, subsection 1.

c. Enticing a minor in violation of section 710.10, subsection 1.

d. Pandering involving a minor in violation of section 725.3, subsection 2.

e. Any offense involving an attempt to commit an offense contained in this section.

f. An offense under prior law of this state or an offense committed in another jurisdiction which would constitute an equivalent offense under paragraphs *"a"* through *"e"*.

2. As used in this chapter, the term *"prior conviction"* includes a plea of guilty, deferred judgment, deferred or suspended sentence, or adjudication of delinquency, regardless of whether a prior conviction occurred before, on, or after March 31, 2000.

3. As used in this chapter, the term *"sexually violent offense"* means the same as defined in section 229A.2.

96 Acts, ch 1082, §3; 97 Acts, ch 23, §79; 2000 Acts, ch 1030, §1, 2, 4; 2001 Acts, ch 17, §5; 2002 Acts, ch 1139, §23, 27; 2010 Acts, ch 1193, §68, 78

901A.2 Enhanced sentencing.

1. A person convicted of a sexually predatory offense which is a serious or aggravated misdemeanor, who has a prior conviction for a sexually predatory offense, shall be sentenced to and shall serve twice the maximum period of incarceration for the offense, notwithstanding any other provision of the Code to the contrary, prior to being eligible for

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parole or work release. A person sentenced under this subsection shall not have the person's sentence reduced under chapter 903A or otherwise by more than fifteen percent.

2. A person convicted of a sexually predatory offense which is a serious or aggravated misdemeanor, who has two or more prior convictions for sexually predatory offenses, shall be sentenced to and shall serve a period of incarceration of ten years, notwithstanding any other provision of the Code to the contrary. A person sentenced under this subsection shall not have the person's sentence reduced under chapter 903A or otherwise by more than fifteen percent.

3. Except as otherwise provided in subsection 5, a person convicted of a sexually predatory offense which is a felony, who has a prior conviction for a sexually predatory offense, shall be sentenced to and shall serve twice the maximum period of incarceration for the offense, or twenty-five years, whichever is greater, notwithstanding any other provision of the Code to the contrary. A person sentenced under this subsection shall not have the person's sentence reduced under chapter 903A or otherwise by more than fifteen percent.

4. Except as otherwise provided in subsection 5, a person convicted of a sexually predatory offense which is a felony who has previously been sentenced under subsection 3 shall be sentenced to life in prison on the same terms as a class "A" felon under section 902.1, notwithstanding any other provision of the Code to the contrary. In order for a person to be sentenced under this subsection, the prosecuting attorney shall allege and prove that this section is applicable to the person.

5. A person who has been convicted of a violation of section 709.3, subsection 1, paragraph *"b"*, shall, upon a second conviction for a violation of section 709.3, subsection 1, paragraph *"b"*, be committed to the custody of the director of the Iowa department of corrections for the rest of the person's life. In determining whether a conviction is a first or second conviction under this subsection, a prior conviction for a criminal offense committed in another jurisdiction which would constitute a violation of section 709.3, subsection 1, paragraph *"b"*, if committed in this state, shall be considered a conviction under this subsection. The terms and conditions applicable to sentences for class "A" felons under chapters 901 through 909 shall apply to persons sentenced under this subsection.

6. A person who has been placed in a transitional release program, released with supervision, or discharged pursuant to chapter 229A, and who is subsequently convicted of a sexually predatory offense or a sexually violent offense, shall be sentenced to life in prison on the same terms as a class "A" felon under section 902.1, notwithstanding any other provision of the Code to the contrary. The terms and conditions applicable to sentences for class "A" felons under chapters 901 through 909 shall apply to persons sentenced under this subsection. However, if the person commits a sexually violent offense which is a misdemeanor offense under chapter 709, the person shall be sentenced to life in prison, with eligibility for parole as provided in chapter 906.

7. A person sentenced under the provisions of this section shall not be eligible for deferred judgment, deferred sentence, or suspended sentence.

8. In addition to any other sentence imposed on a person convicted of a sexually predatory offense pursuant to subsection 1, 2, or 3, the person shall be sentenced to an additional term of parole or work release not to exceed two years. The board of parole shall determine whether the person should be released on parole or placed in a work release program. The sentence of parole supervision shall commence immediately upon the person's release by the board of parole and shall be under the terms and conditions as set out in chapter 906. Violations of parole or work release shall be subject to the procedures set out in chapter 904 or 908 or rules adopted under those chapters. For purposes of disposition of a parole violator upon revocation of parole or work release, the sentence of an additional term of parole or work release shall be considered part of the original term of commitment to the department of corrections.

96 Acts, ch 1082, §4; 98 Acts, ch 1171, §19, 20; 2002 Acts, ch 1139, §24, 27; 2013 Acts, ch 90, §255; 2018 Acts, ch 1165, §106; 2019 Acts, ch 59, §231; 2024 Acts, ch 1182, §53

901A.3 and 901A.4 Repealed by 2000 Acts, ch 1030, §3, 4.

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CHAPTER 901B

INTERMEDIATE CRIMINAL SANCTIONS

Referred to in §901.1, 901A.2, 902.1, 903B.1, 903B.2

901B.1 Corrections continuum — intermediate criminal sanctions program.

901B.1 Corrections continuum — intermediate criminal sanctions program.

1. The corrections continuum consists of the following:

a. LEVEL ONE. Noncommunity-based corrections sanctions including the following:

(1) Self-monitored sanctions. Self-monitored sanctions which are not monitored for compliance including, but not limited to, fines and community service.

(2) Other than self-monitored sanctions. Other than self-monitored sanctions which are monitored for compliance by other than the district department of correctional services including, but not limited to, mandatory mediation, victim and offender reconciliation, and noncommunity-based corrections supervision.

b. LEVEL TWO. Probation and parole options consisting of the following:

(1) Monitored sanctions. Monitored sanctions are administrative supervision sanctions which are monitored for compliance by the district department of correctional services and include, but are not limited to, low-risk offender-diversion programs.

(2) Supervised sanctions. Supervised sanctions are regular probation or parole supervision and any conditions established in the probation or parole agreement or by court order.

(3) Intensive supervision sanctions. Intensive supervision sanctions provide levels of supervision above sanctions in subparagraph (2) but are less restrictive than sanctions under paragraph *"c"* and include electronic monitoring, day reporting, day programming, live-out programs for persons on work release or who have violated chapter 321J, and institutional work release under section 904.910.

c. LEVEL THREE. Quasi-incarceration sanctions. Quasi-incarceration sanctions are those supported by residential facility placement or twenty-four hour electronic monitoring including, but not limited to, the following:

(1) Residential treatment facilities.
(2) Operating while intoxicated offender treatment facilities.
(3) Work release facilities.
(4) House arrest with electronic monitoring.
(5) A substance use disorder treatment facility as established and operated by the department of health and human services or the department of corrections.

d. LEVEL FOUR. Short-term incarceration designed to be of short duration, including, but not limited to, the following:

(1) Twenty-one day shock incarceration for persons who violate chapter 321J.
(2) Jail for less than thirty days.
(3) Violators' facilities.
(4) Prison with sentence reconsideration.

e. LEVEL FIVE. Incarceration which consists of the following:

(1) Prison.
(2) Jail for thirty days or longer.

2. *"Intermediate criminal sanctions program"* means a program structured around the corrections continuum in subsection 1, describing sanctions and services available in each level of the continuum in the district and containing the policies of the district department of correctional services regarding placement of a person in a particular level of sanction and the requirements and conditions under which a defendant will be transferred between levels in the corrections continuum under the program.

3. *a.* Each judicial district and judicial district department of correctional services shall implement an intermediate criminal sanctions program. An intermediate criminal sanctions

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program shall consist of only levels two, three, and sublevels one and three of level four of the corrections continuum and shall be operated in accordance with an intermediate criminal sanctions plan adopted by the chief judge of the judicial district and the director of the judicial district department of correctional services. The plan adopted shall be designed to reduce probation revocations to prison through the use of incremental, community-based sanctions for probation violations.

b. The plan shall be subject to rules adopted by the department of corrections. The rules shall include provisions for transferring individuals between levels in the continuum. The provisions shall include a requirement that the reasons for the transfer be in writing and that an opportunity for the individual to contest the transfer be made available.

c. A copy of the program and plan shall be filed with the chief judge of the judicial district, the department of corrections, and the subunit of the department of health and human services responsible for criminal and juvenile justice planning.

4. *a.* The district department of correctional services shall place an individual committed to it under section 907.3 to the sanction and level of supervision which is appropriate to the individual based upon a current risk assessment evaluation. Placements may be to levels two and three of the corrections continuum. The district department may, with the approval of the department of corrections, place an individual in a level four violator facility established pursuant to section 904.207 only as a penalty for a violation of a condition imposed under this section.

b. The district department may transfer an individual along the intermediate criminal sanctions program operated pursuant to subsection 3 as necessary and appropriate during the period the individual is assigned to the district department. However, nothing in this section shall limit the district department's ability to seek a revocation of the individual's probation pursuant to section 908.11.

96 Acts, ch 1193, §15; 2000 Acts, ch 1201, §14; 2001 Acts, ch 184, §10, 11; 2003 Acts, 1st Ex, ch 2, §51, 209; 2013 Acts, ch 90, §212; 2017 Acts, ch 148, §23; 2023 Acts, ch 19, §1326, 1327
Referred to in §904.101, 907.3

CHAPTER 901C

EXPUNGEMENT OF CRIMINAL RECORDS

Referred to in §901.1, 901A.2

901C.1 Definition.
901C.2 Not-guilty verdicts and criminal-charge dismissals — expungement.
901C.3 Misdemeanor — expungement.

901C.1 Definition.

As used in this chapter, unless the context otherwise requires, *"expunge"* and *"expungement"* mean the same as expunged in section 907.1.

2016 Acts, ch 1073, §184, 188
Former §901C.1 transferred to §901C.2; 2016 Acts, ch 1073, §188

901C.2 Not-guilty verdicts and criminal-charge dismissals — expungement.

1. *a.* Except as provided in paragraph *"b"*, upon application of a defendant or a prosecutor in a criminal case, or upon the court's own motion in a criminal case, the court shall enter an order expunging the record of such criminal case if the court finds that the defendant has established that all of the following have occurred, as applicable:

(1) The criminal case contains one or more criminal charges in which an acquittal was entered for all criminal charges, or in which all criminal charges were otherwise dismissed.

(2) All court costs, fees, and other financial obligations ordered by the court or assessed by the clerk of the district court have been paid.

(3) A minimum of one hundred eighty days have passed since entry of the judgment of

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acquittal or of the order dismissing the case relating to all criminal charges, unless the court finds good cause to waive this requirement for reasons including but not limited to the fact that the defendant was the victim of identity theft or mistaken identity.

(4) The case was not dismissed due to the defendant being found not guilty by reason of insanity.

(5) The defendant was not found incompetent to stand trial in the case.

b. The court shall not enter an order expunging the record of a criminal case under paragraph *"a"* unless all the parties in the case have had time to object on the grounds that one or more of the relevant conditions in paragraph *"a"* have not been established.

2. The record in a criminal case expunged under this section is a confidential record exempt from public access under section 22.7 but shall be made available by the clerk of the district court, upon request and without court order, to the defendant or to an agency or person granted access to the deferred judgment docket under section 907.4, subsection 2.

3. This section does not apply to dismissals related to a deferred judgment under section 907.9.

4. This section applies to all public offenses, as defined under section 692.1.

5. The court shall advise the defendant of the provisions of this section upon either the acquittal or the dismissal of all criminal charges in a case.

6. The supreme court may prescribe rules governing the procedures applicable to the expungement of the record of a criminal case under this section.

7. This section shall apply to all relevant criminal cases that occurred prior to, on, or after January 1, 2016.

2015 Acts, ch 83, §1, 2
C2016, §901C.1
2016 Acts, ch 1073, §182, 183, 188
C2017, §901C.2

901C.3 Misdemeanor — expungement.

1. Upon application of a defendant convicted of a misdemeanor offense in the county where the conviction occurred, the court shall enter an order expunging the record of such a criminal case, as a matter of law, if the defendant has proven all of the following:

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

b. The defendant has no pending criminal charges.

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

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

2. The following misdemeanors shall not be expunged:

a. A conviction under section 123.46.

b. A simple misdemeanor conviction under section 123.47, subsection 3, or similar local ordinance.

c. A conviction under section 321.218, 321A.32, or 321J.21.

d. A conviction under section 321J.2.

e. A conviction for a sex offense as defined in section 692A.101.

f. A conviction for involuntary manslaughter under section 707.5.

g. A conviction for assault under section 708.2, subsection 3.

h. A conviction under section 708.2A.

i. A conviction for harassment under section 708.7.

j. A conviction for stalking under section 708.11.

k. A conviction for removal of an officer's communication or control device under section 708.12.

l. A conviction for trespass under section 716.8, subsection 3 or 4.

m. A conviction under chapter 717C.

n. A conviction under chapter 719.

o. A conviction under chapter 720.

p. A conviction under section 721.2.

q. A conviction under section 721.10.

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r. A conviction under section 723.1.
s. A conviction under chapter 724.
t. A conviction under chapter 726.
u. A conviction under chapter 728.
v. A conviction under chapter 901A.
w. A conviction for a comparable offense listed in 49 C.F.R. §383.51(b) (table 1) or 49 C.F.R. §383.51(e) (table 4).
x. A conviction under prior law of an offense comparable to an offense enumerated in this subsection.

3. A person shall be granted an expungement of a record under this section one time in the person's lifetime. However, the one application may request the expungement of records relating to more than one misdemeanor offense if the misdemeanor offenses arose from the same transaction or occurrence, and the application contains the misdemeanor offenses to be expunged.

4. The expunged record under this section is a confidential record exempt from public access under section 22.7 but shall be made available by the clerk of the district court upon court order.

5. Notwithstanding section 692.2, after receipt of notice from the clerk of the district court that a record of conviction has been expunged under subsection 1, the record of conviction shall be removed from the criminal history data files maintained by the department of public safety if such a record was maintained in the criminal history data files.

6. The supreme court may prescribe rules governing the procedures applicable to the expungement of a criminal case under this section.

7. This section applies to a misdemeanor conviction that occurred prior to, on, or after July 1, 2019.

2019 Acts, ch 140, §2; 2022 Acts, ch 1132, §16

CHAPTER 901D

SOBRIETY AND DRUG MONITORING PROGRAM

Repealed pursuant to terms of former §901D.10; 2017 Acts, ch 76, §12; 2019 Acts, ch 66, §3

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CHAPTER 902

FELONIES

Referred to in §663A.1, 708.2A, 708.2D, 901.1, 901A.2

902.1 Class "A" felony.
902.2 Commutation procedure for class "A" felons.
902.3 Indeterminate sentence.
902.3A Determinate sentencing and additional term of years for class "D" felons. Repealed by 2003 Acts, ch 156, §22.
902.4 Reconsideration of felon's sentence.
902.5 Place of confinement.
902.6 Release.
902.7 Minimum sentence — use of a dangerous weapon.
902.8 Minimum sentence — habitual offender.
902.8A Minimum sentence for conspiring to manufacture, or delivery of, amphetamine or methamphetamine to a minor.
902.9 Maximum sentence for felons.
902.10 Application for involuntary hospitalization.
902.11 Minimum sentence — eligibility of prior forcible felon for parole or work release.
902.12 Minimum sentence for certain felonies — eligibility for parole or work release.
902.13 Minimum sentence for certain domestic abuse assault offenses.
902.14 Enhanced penalty — sexual abuse or lascivious acts with a child.

902.1 Class "A" felony.

1. Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction of a class "A" felony may be rendered, the court shall enter a judgment of conviction and shall commit the defendant into the custody of the director of the Iowa department of corrections for the rest of the defendant's life. Nothing in the Iowa corrections code pertaining to deferred judgment, deferred sentence, suspended sentence, or reconsideration of sentence applies to a class "A" felony, and a person convicted of a class "A" felony shall not be released on parole unless the governor commutes the sentence to a term of years.

2. *a.* Notwithstanding subsection 1, a defendant convicted of murder in the first degree in violation of section 707.2, and who was under the age of eighteen at the time the offense was committed shall receive one of the following sentences:

(1) Commitment to the director of the department of corrections for the rest of the defendant's life with no possibility of parole unless the governor commutes the sentence to a term of years.

(2) Commitment to the custody of the director of the department of corrections for the rest of the defendant's life with the possibility of parole after serving a minimum term of confinement as determined by the court.

(3) Commitment to the custody of the director of the department of corrections for the rest of the defendant's life with the possibility of parole.

b. (1) The prosecuting attorney shall provide reasonable notice to the defendant, after conviction and prior to sentencing, of the state's intention to seek a life sentence with no possibility of parole under paragraph *"a"*, subparagraph (1).

(2) In determining which sentence to impose, the court shall consider all circumstances including but not limited to the following:

(a) The impact of the offense on each victim, as defined in section 915.10, through the use of a victim impact statement, as defined in section 915.10, under any format permitted by section 915.13. The victim impact statement may include comment on the sentence of the defendant.

(b) The impact of the offense on the community.

(c) The threat to the safety of the public or any individual posed by the defendant.

(d) The degree of participation in the murder by the defendant.

(e) The nature of the offense.

(f) The defendant's remorse.

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(g) The defendant's acceptance of responsibility.
(h) The severity of the offense, including any of the following:
(i) The commission of the murder while participating in another felony.
(ii) The number of victims.
(iii) The heinous, brutal, cruel manner of the murder, including whether the murder was the result of torture.
(i) The capacity of the defendant to appreciate the criminality of the conduct.
(j) Whether the ability to conform the defendant's conduct with the requirements of the law was substantially impaired.
(k) The level of maturity of the defendant.
(l) The intellectual and mental capacity of the defendant.
(m) The nature and extent of any prior juvenile delinquency or criminal history of the defendant, including the success or failure of previous attempts at rehabilitation.
(n) The mental health history of the defendant.
(o) The level of compulsion, duress, or influence exerted upon the defendant, but not to such an extent as to constitute a defense.
(p) The likelihood of the commission of further offenses by the defendant.
(q) The chronological age of the defendant and the features of youth, including immaturity, impetuosity, and failure to appreciate risks and consequences.
(r) The family and home environment that surrounded the defendant.
(s) The circumstances of the murder including the extent of the defendant's participation in the conduct and the way familial and peer pressure may have affected the defendant.
(t) The competencies associated with youth, including but not limited to the defendant's inability to deal with peace officers or the prosecution or the defendant's incapacity to assist the defendant's attorney in the defendant's defense.
(u) The possibility of rehabilitation.
(v) Any other information considered relevant by the sentencing court.

3. *a.* Notwithstanding subsections 1 and 2, a defendant convicted of a class "A" felony, other than murder in the first degree in violation of section 707.2, and who was under the age of eighteen at the time the offense was committed shall receive one of the following sentences:
(1) Commitment to the custody of the director of the department of corrections for the rest of the defendant's life with the possibility of parole after serving a minimum term of confinement as determined by the court.
(2) Commitment to the custody of the director of the department of corrections for the rest of the defendant's life with the possibility of parole.

b. In determining which sentence to impose, the court shall consider all circumstances including but not limited to the following:
(1) The impact of the offense on each victim, as defined in section 915.10, through the use of a victim impact statement, as defined in section 915.10, under any format permitted by section 915.13. The victim impact statement may include comment on the sentence of the defendant.
(2) The impact of the offense on the community.
(3) The threat to the safety of the public or any individual posed by the defendant.
(4) The degree of participation in the offense by the defendant.
(5) The nature of the offense.
(6) The defendant's remorse.
(7) The defendant's acceptance of responsibility.
(8) The severity of the offense, including any of the following:
(a) The commission of the offense while participating in another felony.
(b) The number of victims.
(c) The heinous, brutal, cruel manner of the offense, including whether the offense involved torture.
(9) The capacity of the defendant to appreciate the criminality of the conduct.
(10) Whether the ability to conform the defendant's conduct with the requirements of the law was substantially impaired.
(11) The level of maturity of the defendant.

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(12) The intellectual and mental capacity of the defendant.

(13) The nature and extent of any prior juvenile delinquency or criminal history of the defendant, including the success or failure of previous attempts at rehabilitation.

(14) The mental health history of the defendant.

(15) The level of compulsion, duress, or influence exerted upon the defendant, but not to such an extent as to constitute a defense.

(16) The likelihood of the commission of further offenses by the defendant.

(17) The chronological age of the defendant and the features of youth, including immaturity, impetuosity, and failure to appreciate risks and consequences.

(18) The family and home environment that surrounded the defendant.

(19) The circumstances of the offense including the extent of the defendant's participation in the conduct and the way the familial and peer pressure may have affected the defendant.

(20) The competencies associated with youth, including but not limited to the defendant's inability to deal with peace officers or the prosecution or the defendant's incapacity to assist the defendant's attorney in the defendant's defense.

(21) The possibility of rehabilitation.

(22) Any other information considered relevant by the sentencing court.

4. If a defendant is paroled pursuant to subsection 2 or 3, the defendant shall be subject to the same set of procedures set out in chapters 901B, 904, 906, and 908, and rules adopted under those chapters for persons on parole.

[C79, 81, §902.1]

83 Acts, ch 96, §127, 159; 2011 Acts, ch 131, §147, 148, 158; 2015 Acts, ch 65, §1, 2, 4, 5; 2015 Acts, ch 138, §50, 53, 161; 2024 Acts, ch 1182, §54

Referred to in §901A.2, 902.2, 903A.2

902.2 Commutation procedure for class "A" felons.

A person who has been sentenced to life imprisonment under section 902.1 may, no more frequently than once every ten years, make an application to the governor requesting that the person's sentence be commuted to a term of years. The director of the Iowa department of corrections may make a request to the governor that a person's sentence be commuted to a term of years at any time. Upon receipt of a request for commutation, the governor shall send a copy of the request to the Iowa board of parole for investigation and recommendations as to whether the person should be considered for commutation. The board shall conduct an interview of the class "A" felon and shall make a report of its findings and recommendations to the governor.

[S13, §5718-a18; C24, 27, 31, 35, 39, §**3786;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §247.5; C79, 81, §902.2]

95 Acts, ch 128, §1

Referred to in §903A.2, 914.2, 914.3

902.3 Indeterminate sentence.

When a judgment of conviction of a felony other than a class "A" felony is entered against a person, the court, in imposing a sentence of confinement, shall commit the person into the custody of the director of the Iowa department of corrections for an indeterminate term, the maximum length of which shall not exceed the limits as fixed by section 902.9, unless otherwise prescribed by statute, nor shall the term be less than the minimum term imposed by law, if a minimum sentence is provided. However, if the court suspends a person's sentence under section 321J.2, subsection 5, paragraph *"a"*, the court shall order the offender to serve time in the county jail as provided in section 321J.2, subsection 5, paragraph *"a"*, notwithstanding any provision to the contrary in section 903.4.

[S13, §5718-a13; C24, 27, 31, 35, 39, §**13960;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §789.13; C79, 81, §902.3; 82 Acts, ch 1239, §3]

83 Acts, ch 96, §128, 159; 86 Acts, ch 1220, §43; 99 Acts, ch 12, §15; 2002 Acts, ch 1042, §2; 2010 Acts, ch 1124, §4, 9

Referred to in §904.108

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902.3A Determinate sentencing and additional term of years for class "D" felons. Repealed by 2003 Acts, ch 156, §22.

902.4 Reconsideration of felon's sentence.

For a period of one year from the date when a person convicted of a felony, other than a class "A" or class "B" felony, begins to serve a sentence of confinement, the court, on its own motion or on the recommendation of the director of the Iowa department of corrections, may order the person to be returned to the court, at which time the court may review its previous action and reaffirm it or substitute for it any sentence permitted by law. Copies of the order to return the person to the court shall be provided to the attorney for the state, the defendant's attorney, and the defendant. Upon a request of the attorney for the state, the defendant's attorney, or the defendant if the defendant has no attorney, the court may, but is not required to, conduct a hearing on the issue of reconsideration of sentence. The court shall not disclose its decision to reconsider or not to reconsider the sentence of confinement until the date reconsideration is ordered or the date the one-year period expires, whichever occurs first. The district court retains jurisdiction for the limited purposes of conducting such review and entering an appropriate order notwithstanding the timely filing of a notice of appeal. The court's final order in the proceeding shall be delivered to the defendant personally or by regular mail. The court's decision to take the action or not to take the action is not subject to appeal. However, for the purposes of appeal, a judgment of conviction of a felony is a final judgment when pronounced.

[C79, 81, §902.4]

83 Acts, ch 96, §129, 159; 84 Acts, ch 1139, §1; 84 Acts, ch 1149, §1; 97 Acts, ch 189, §1; 2001 Acts, ch 165, §5; 2003 Acts, ch 151, §59; 2017 Acts, ch 122, §16

Referred to in §901.5, 902.6

902.5 Place of confinement.

The director of the Iowa department of corrections shall determine the appropriate place of confinement of any person committed to the director's custody, in any institution administered by the director, and may transfer the person from one institution to another during the person's period of confinement.

[S13, §5718-a5; C24, 27, 31, 35, 39, §**13963;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §789.16; C79, 81, §902.5]

83 Acts, ch 96, §130, 159

902.6 Release.

A person who has been committed to the custody of the director of the Iowa department of corrections shall remain in custody until released by the order of the board of parole, in accordance with the law governing paroles, or by order of the judge after reconsideration of a felon's sentence pursuant to section 902.4 or until the maximum term of the person's confinement, as fixed by law, has been completed.

[S13, §5718-a18; C24, 27, 31, 35, 39, §**3786;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §247.5; C79, 81, §902.6]

83 Acts, ch 96, §131, 159

902.7 Minimum sentence — use of a dangerous weapon.

At the trial of a person charged with participating in a forcible felony, if the trier of fact finds beyond a reasonable doubt that the person is guilty of a forcible felony and that the person represented that the person was in the immediate possession and control of a dangerous weapon, displayed a dangerous weapon in a threatening manner, or was armed with a dangerous weapon while participating in the forcible felony the convicted person shall serve a minimum of five years of the sentence imposed by law. A person sentenced

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pursuant to this section shall not be eligible for parole until the person has served the minimum sentence of confinement imposed by this section.

[C79, 81, §902.7]

95 Acts, ch 126, §1

Referred to in §901.10
Definition of forcible felony, §702.11

902.8 Minimum sentence — habitual offender.

A habitual offender is any person convicted of a class "C" or a class "D" felony, who has twice before been convicted of any felony in a court of this or any other state, or of the United States. An offense is a felony if, by the law under which the person is convicted, it is so classified at the time of the person's conviction. A person convicted of a third qualifying felony shall be sentenced as a habitual offender and shall serve a minimum of seven years of the sentence imposed by law. A person sentenced as a habitual offender shall not be eligible for parole until the person has served the minimum sentence of confinement of seven years. Earned time accrued pursuant to chapter 903A shall not reduce the minimum sentence of confinement of seven years.

[S13, §4871-a, 5091-a; C24, 27, 31, 35, 39, §**13396, 13400;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §747.1, 747.5; C79, 81, §902.8]

2026 Acts, ch 1177, §1

Referred to in §321J.2, 821.4, 901.5, 907.3
Court to inform defendant of mandatory minimum, §901.5(7)
Section amended

902.8A Minimum sentence for conspiring to manufacture, or delivery of, amphetamine or methamphetamine to a minor.

A person who has been convicted for a first violation under section 124.401D shall not be eligible for parole until the person has served a minimum term of confinement of ten years.

99 Acts, ch 12, §16

Referred to in §903A.5

902.9 Maximum sentence for felons.

1. The maximum sentence for any person convicted of a felony shall be that prescribed by statute or, if not prescribed by statute, if other than a class "A" felony shall be determined as follows:

a. Reserved.

b. A class "B" felon shall be confined for no more than twenty-five years.

c. A habitual offender shall be confined for no more than twenty years.

d. A class "C" felon, not an habitual offender, shall be confined for no more than ten years, and in addition shall be sentenced to a fine of at least one thousand three hundred seventy dollars but not more than thirteen thousand six hundred sixty dollars.

e. A class "D" felon, not an habitual offender, shall be confined for no more than five years, and in addition shall be sentenced to a fine of at least one thousand twenty-five dollars but not more than ten thousand two hundred forty-five dollars.

2. The surcharges required by sections 911.1, 911.2A, and 911.5 shall be added to a fine imposed on a class "C" or class "D" felon, as provided by those sections, and are not a part of or subject to the maximums set in this section.

[C79, 81, §902.9]

84 Acts, ch 1134, §1; 84 Acts, ch 1219, §38; 86 Acts, ch 1220, §44; 92 Acts, ch 1163, §121; 93 Acts, ch 110, §9; 99 Acts, ch 12, §17; 99 Acts, ch 65, §6, 7; 2001 Acts, ch 168, §4; 2002 Acts, ch 1042, §3; 2002 Acts, ch 1050, §55; 2004 Acts, ch 1111, §7; 2013 Acts, ch 30, §224; 2014 Acts, ch 1097, §12; 2020 Acts, ch 1074, §16, 45, 93; 2023 Acts, ch 86, §12; 2026 Acts, ch 1177, §2

Referred to in §48A.11, 124.401, 321J.2, 707.3, 708.2D, 708A.2, 709.23, 716.10, 716.12, 724.4A, 726.6, 726.6A, 728.12, 901.10, 902.3, 907.14
Enhanced penalties in weapons free zones, see §724.4A
Habitual offender, §902.8
Fines, see chapter 909
Surcharge on penalty, chapter 911
Subsection 1, paragraph c amended

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902.10 Application for involuntary hospitalization.

For the purposes of chapter 229, the director of the Iowa department of corrections is an interested person and all applicable provisions of chapter 229, relating to involuntary hospitalization, apply to persons who have been committed to the custody of the Iowa department of corrections as a result of a conviction of a public offense.

[C79, 81, §902.10]

83 Acts, ch 96, §132, 159

902.11 Minimum sentence — eligibility of prior forcible felon for parole or work release.

A person serving a sentence for conviction of a felony, who has a criminal record of one or more prior convictions for a forcible felony or a crime of a similar gravity in this or any other state, shall be denied parole or work release unless the person has served at least one-half of the maximum term of the defendant's sentence. However, the mandatory sentence provided for by this section does not apply if either of the following apply:

1. The sentences for the prior forcible felonies expired at least five years before the date of conviction for the present felony.

2. The sentence being served is on a conviction for operating a motor vehicle while under the influence of alcohol or a drug under chapter 321J.

88 Acts, ch 1091, §2; 96 Acts, ch 1151, §1, 2; 2003 Acts, ch 156, §10

902.12 Minimum sentence for certain felonies — eligibility for parole or work release.

1. A person serving a sentence for conviction of the following felonies, including a person serving a sentence for conviction of the following felonies prior to July 1, 2003, shall be denied parole or work release unless the person has served at least seven-tenths of the maximum term of the person's sentence:

a. Murder in the second degree in violation of section 707.3.

b. Attempted murder in violation of section 707.11, except as provided in section 707.11, subsection 5.

c. Sexual abuse in the second degree in violation of section 709.3.

d. Kidnapping in the second degree in violation of section 710.3.

e. Robbery in the second degree in violation of section 711.3, except as determined in subsection 4.

f. Vehicular homicide in violation of section 707.6A, subsection 1 or 2, if the person was also convicted under section 321.261, subsection 4, based on the same facts or event that resulted in the conviction under section 707.6A, subsection 1 or 2.

g. Continuous sexual abuse of a child in violation of section 709.23.

2. A person serving a sentence for a conviction of child endangerment as defined in section 726.6, subsection 2, paragraph "*b*", that is described and punishable under section 726.6, subsection 6, shall be denied parole or work release until the person has served between three-tenths and seven-tenths of the maximum term of the person's sentence as determined under section 901.11, subsection 2.

3. A person serving a sentence for a conviction for robbery in the first degree in violation of section 711.2 for a conviction that occurs on or after July 1, 2018, shall be denied parole or work release until the person has served between one-half and seven-tenths of the maximum term of the person's sentence as determined under section 901.11, subsection 3.

4. A person serving a sentence for a conviction for robbery in the second degree in violation of section 711.3 for a conviction that occurs on or after July 1, 2016, shall be denied parole or work release until the person has served between one-half and seven-tenths of the maximum term of the person's sentence as determined under section 901.11, subsection 4.

5. A person serving a sentence for a conviction for arson in the first degree in violation of section 712.2 that occurs on or after July 1, 2019, shall be denied parole or work release until the person has served between one-half and seven-tenths of the maximum term of the person's sentence as determined under section 901.11, subsection 5.

6. A person serving a sentence for a conviction of sexual exploitation of a minor in violation of section 728.12, subsection 1, shall be denied parole or work release until the

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person has served between one-half and seven-tenths of the maximum term of the person's sentence as determined under section 901.11, subsection 6.

7. A person serving a sentence for a conviction of human trafficking punishable as a class "B" felony in violation of section 710A.2, subsection 1, 3, 4, 5, 6, 7, 8, or 9, shall be denied parole or work release until the person has served between one-half and seven-tenths of the maximum term of the person's sentence as determined under section 901.11, subsection 7.

96 Acts, ch 1151, §3; 98 Acts, ch 1007, §1, 2; 98 Acts, ch 1088, §3; 2003 Acts, ch 156, §11, 12; 2004 Acts, ch 1150, §1; 2006 Acts, ch 1082, §3; 2016 Acts, ch 1104, §8; 2017 Acts, ch 122, §17; 2019 Acts, ch 140, §7, 8, 39; 2023 Acts, ch 32, §2; 2023 Acts, ch 74, §5; 2024 Acts, ch 1175, §2

Referred to in §901.11, 903A.2, 904.301B, 904.911, 906.4, 906.15

Section not amended; internal reference changes applied

902.13 Minimum sentence for certain domestic abuse assault offenses.

1. A person who has been convicted of a third or subsequent offense of domestic abuse assault under section 708.2A, subsection 4, shall be denied parole or work release until the person has served between one-fifth of the maximum term and the maximum term of the person's sentence as provided in subsection 2.

2. The sentencing court shall determine, after receiving and examining all pertinent information referred to in section 901.5, the minimum term of confinement, within the parameters set forth in subsection 1, required to be served before a person may be paroled or placed on work release.

2017 Acts, ch 83, §5

Referred to in §708.2A, 903A.2, 907.3

902.14 Enhanced penalty — sexual abuse or lascivious acts with a child.

1. A person commits a class "A" felony if the person commits a second or subsequent offense involving any combination of the following offenses:

a. Sexual abuse in the second degree in violation of section 709.3.

b. Sexual abuse in the third degree in violation of section 709.4.

c. Lascivious acts with a child in violation of section 709.8, subsection 1, paragraph "*a*" or "*b*".

d. Continuous sexual abuse of a child in violation of section 709.23.

2. In determining if a violation charged is a second or subsequent offense for purposes of criminal sentencing in this section, each previous violation on which conviction or deferral of judgment was entered prior to the date of the violation charged shall be considered and counted as a separate previous offense, regardless of whether the previous offense occurred before, on, or after July 1, 2005. Convictions or the equivalent of deferred judgments for violations in any other states under statutes substantially corresponding to the offenses listed in subsection 1 shall be counted as previous offenses. The courts shall judicially notice the statutes of other states which define offenses substantially equivalent to the offenses listed in subsection 1 and can therefore be considered corresponding statutes.

2005 Acts, ch 158, §38; 2013 Acts, ch 30, §260; 2020 Acts, ch 1115, §5

CHAPTER 903

MISDEMEANORS

Referred to in §708.2A, 708.2D, 901.1, 901A.2

903.1	Maximum sentence for misdemeanants.	903.4	Providing place of confinement.
903.2	Reconsideration of misdemeanant's sentence.	903.5	Local facilities preferred for misdemeanants.
903.3	Work release.	903.6	Segregation of prisoners.

903.1 Maximum sentence for misdemeanants.

1. If a person eighteen years of age or older is convicted of a simple or serious

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misdemeanor and a specific penalty is not provided for or if a person under eighteen years of age has been waived to adult court pursuant to section 232.45 on a felony charge and is subsequently convicted of a simple, serious, or aggravated misdemeanor, the court shall determine the sentence, and shall fix the period of confinement or the amount of fine, which fine shall not be suspended by the court, within the following limits:

a. For a simple misdemeanor, there shall be a fine of at least one hundred five dollars but not to exceed eight hundred fifty-five dollars. The court may order imprisonment not to exceed thirty days in lieu of a fine or in addition to a fine.

b. For a serious misdemeanor, there shall be a fine of at least four hundred thirty dollars but not to exceed two thousand five hundred sixty dollars. In addition, the court may also order imprisonment not to exceed one year.

2. When a person is convicted of an aggravated misdemeanor, and a specific penalty is not provided for, the maximum penalty shall be imprisonment not to exceed two years. There shall be a fine of at least eight hundred fifty-five dollars but not to exceed eight thousand five hundred forty dollars. When a judgment of conviction of an aggravated misdemeanor is entered against any person and the court imposes a sentence of confinement for a period of more than one year the term shall be an indeterminate term.

3. A person under eighteen years of age convicted of a simple misdemeanor under chapter 321, 321G, 321I, 453A, 461A, 461B, 462A, 481A, 481B, 483A, 484A, or 484B, or a violation of a county or municipal curfew or traffic ordinance, except for an offense subject to section 805.8, may be required to pay a fine, not to exceed one hundred dollars, as fixed by the court, or may be required to perform community service as ordered by the court.

4. The surcharges required by sections 911.1, 911.2A, and 911.5 shall be added to a fine imposed on a misdemeanant as provided in those sections, and are not a part of or subject to the maximums set in this section.

[C51, §2676; R60, §4303; C73, §3967; C97, §4906; C24, 27, 31, 35, 39, §**12894;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §687.7; C79, 81, §903.1]

83 Acts, ch 183, §2, 3; 84 Acts, ch 1219, §39; 87 Acts, ch 149, §7; 88 Acts, ch 1158, §100; 88 Acts, ch 1167, §8, 9; 90 Acts, ch 1251, §66; 91 Acts, ch 240, §10; 92 Acts, ch 1160, §25; 93 Acts, ch 110, §10; 99 Acts, ch 153, §24; 2001 Acts, ch 168, §5; 2004 Acts, ch 1111, §8; 2004 Acts, ch 1119, §7; 2004 Acts, ch 1132, §95; 2006 Acts, ch 1166, §10, 11; 2014 Acts, ch 1097, §13; 2020 Acts, ch 1074, §17, 46, 93

Referred to in §124.401, 207.15, 228.7, 232.8, 331.302, 331.909, 364.3, 380.10, 709.15, 724.4A, 907.14
See also §701.8
Enhanced penalties in weapons free zones, see §724.4A
Fines, see chapter 909
Surcharge on penalty, chapter 911

903.2 Reconsideration of misdemeanant's sentence.

For a period of thirty days from the date when a person convicted of a misdemeanor begins to serve a sentence of confinement, the court may order the person to be returned to the court, at which time the court may review its previous action and reaffirm it or substitute for it any sentence permitted by law. The sentencing court retains jurisdiction for the limited purposes of conducting such review and entering an appropriate order notwithstanding the timely filing of a notice of appeal or an application for discretionary review. The court's final order in the proceeding shall be delivered to the defendant personally or by regular mail. Such action is discretionary with the court and its decision to take the action or not to take the action is not subject to appeal. The other provisions of this section notwithstanding, for the purposes of appeal a judgment of conviction is a final judgment when pronounced.

[C79, 81, §903.2]

84 Acts, ch 1139, §2; 2003 Acts, ch 151, §60

Referred to in §901.5

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903.3 Work release.

The court may direct that a prisoner sentenced to confinement in a county jail, alternate jail facility, or community correctional residential treatment facility, be released from custody during specified hours, as provided by sections 356.26 through 356.35.

[C79, 81, §903.3]

83 Acts, ch 39, §1; 2021 Acts, ch 80, §376

903.4 Providing place of confinement.

All persons sentenced to confinement for a period of one year or less shall be confined in a place to be furnished by the county where the conviction was had unless the person is presently committed to the custody of the director of the Iowa department of corrections, in which case the provisions of section 901.8 apply. All persons sentenced to confinement for a period of more than one year shall be committed to the custody of the director of the Iowa department of corrections to be confined in a place to be designated by the director and the cost of the confinement shall be borne by the state. The director may contract with local governmental units for the use of detention or correctional facilities maintained by the units for the confinement of such persons.

[C79, 81, §903.4]

83 Acts, ch 96, §133, 159; 2001 Acts, ch 165, §6; 2003 Acts, ch 156, §13

Referred to in §331.381, 902.3

903.5 Local facilities preferred for misdemeanants.

In designating places of confinement of misdemeanants, the department shall make optimum use of local facilities offering correctional programs, where such are available. Where a choice of facilities is offered, a choice of the facility nearest the prisoner's home shall be preferred, if such choice is compatible with the rehabilitation of the prisoner.

[C79, 81, §903.5]

903.6 Segregation of prisoners.

In any detention facility, persons who are serving a sentence of confinement shall be segregated from persons who are being detained for any other purpose, whenever such is possible.

[C79, 81, §903.6]

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CHAPTER 903A

REDUCTION OF SENTENCES

Referred to in §610A.3, 901.1, 901A.2, 902.8

903A.1	Conduct review.	903A.5	Time to be served — credit.
903A.2	Earned time.	903A.6	Good and honor time application.
903A.3	Loss or forfeiture of earned time.		
903A.4	Policies and procedures.	903A.7	Separate sentences.

903A.1 Conduct review.

The director of the Iowa department of corrections shall appoint independent administrative law judges whose duties shall include but are not limited to review, as provided in section 903A.3, of the conduct of inmates in institutions under the department. Sections 10A.801 and 17A.11 do not apply to administrative law judges appointed pursuant to this section.

83 Acts, ch 147, §2, 14, 15; 88 Acts, ch 1109, §31; 98 Acts, ch 1202, §44, 46

Referred to in §822.2, 903A.4

903A.2 Earned time.

1. Each inmate committed to the custody of the director of the department of corrections

is eligible to earn a reduction of sentence in the manner provided in this section. For purposes of calculating the amount of time by which an inmate's sentence may be reduced, inmates shall be grouped into the following three sentencing categories:

a. (1) Category "A" sentences are those sentences which are not subject to a maximum accumulation of earned time of fifteen percent of the total sentence of confinement under section 902.12 or 902.13 and are not category "C" sentences. To the extent provided in subsection 5, category "A" sentences also include life sentences imposed under section 902.1. An inmate of an institution under the control of the department of corrections who is serving a category "A" sentence is eligible for a reduction of sentence equal to one and two-tenths days for each day the inmate demonstrates good conduct and satisfactorily participates in any program or placement status identified by the director to earn the reduction. The programs include but are not limited to the following:

(a) Employment in the institution.
(b) Iowa state industries.
(c) An employment program established by the director.
(d) A treatment program established by the director.
(e) An inmate educational program approved by the director.

(2) However, an inmate required to participate in a sex offender treatment program shall not be eligible for any reduction of sentence until the inmate participates in and completes a sex offender treatment program established by the director.

(3) An inmate serving a category "A" sentence is eligible for an additional reduction of sentence of up to three hundred sixty-five days of the full term of the sentence of the inmate for exemplary acts. In accordance with section 903A.4, the director shall by policy identify what constitutes an exemplary act that may warrant an additional reduction of sentence.

b. (1) Category "B" sentences are those sentences which are subject to a maximum accumulation of earned time of fifteen percent of the total sentence of confinement under section 902.12 or 902.13 and are not category "C" sentences. An inmate of an institution under the control of the department of corrections who is serving a category "B" sentence is eligible for a reduction of sentence equal to fifteen eighty-fifths of a day for each day of good conduct by the inmate.

(2) An inmate required to participate in a domestic abuse treatment program shall not be eligible for any reduction of sentence until the inmate participates in and completes a domestic abuse treatment program established by the director.

c. Category "C" sentences are those sentences for attempted murder described in section 707.11, subsection 5. Notwithstanding paragraphs *"a"* or *"b"*, an inmate serving a category "C" sentence is ineligible for a reduction of sentence under this section.

2. Earned time accrued pursuant to this section may be forfeited in the manner prescribed in section 903A.3.

3. Time served in a jail, municipal holding facility, or another facility prior to actual placement in an institution under the control of the department of corrections and credited against the sentence by the court shall accrue for the purpose of reduction of sentence under this section. Time which elapses during an escape shall not accrue for purposes of reduction of sentence under this section.

4. Time which elapses between the date on which a person is incarcerated, based upon a determination of the board of parole that a violation of parole has occurred, and the date on which the violation of parole was committed shall not accrue for purposes of reduction of sentence under this section.

5. Earned time accrued by inmates serving life sentences imposed under section 902.1 shall not reduce the life sentence, or any mandatory minimum sentence imposed under section 902.1, except that earned time accrued shall be credited against the inmate's life sentence if the life sentence is commuted to a term of years under section 902.2, but shall not reduce any mandatory minimum sentence imposed under section 902.1.

83 Acts, ch 147, §3, 14, 15; 90 Acts, ch 1251, §67; 96 Acts, ch 1151, §4; 97 Acts, ch 131, §2, 4; 98 Acts, ch 1100, §88; 2000 Acts, ch 1173, §4, 10; 2003 Acts, 1st Ex, ch 2, §52, 209; 2005

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Acts, ch 158, §32; 2011 Acts, ch 22, §2; 2015 Acts, ch 65, §3 – 5; 2016 Acts, ch 1011, §119; 2017 Acts, ch 83, §6, 7; 2017 Acts, ch 122, §18 – 21; 2018 Acts, ch 1172, §64, 65
Referred to in §707.11, 822.2, 903A.3, 903A.4, 903A.7, 903B.1, 903B.2

903A.3 Loss or forfeiture of earned time.

1. Upon finding that an inmate has violated an institutional rule, has failed to complete a sex offender or domestic abuse treatment program as specified in section 903A.2, or has had an action or appeal dismissed under section 610A.2, the independent administrative law judge may order forfeiture of any or all earned time accrued and not forfeited up to the date of the violation by the inmate and may order forfeiture of any or all earned time accrued and not forfeited up to the date the action or appeal is dismissed, unless the court entered such an order under section 610A.3. The independent administrative law judge has discretion within the guidelines established pursuant to section 903A.4, to determine the amount of time that should be forfeited based upon the severity of the violation. Prior violations by the inmate may be considered by the administrative law judge in the decision.

2. The orders of the administrative law judge are subject to appeal to the superintendent or warden of the institution, or the superintendent's or warden's designee, who may either affirm, modify, remand for correction of procedural errors, or reverse an order. However, sanctions shall not be increased on appeal.

3. The director of the Iowa department of corrections or the director's designee may restore all or any portion of previously forfeited earned time for acts of heroism or for meritorious actions. The director shall establish by rule the requirements as to which activities may warrant the restoration of earned time and the amount of earned time to be restored.

4. The inmate disciplinary procedure, including but not limited to the method of awarding or forfeiting time pursuant to this chapter, is not a contested case subject to chapter 17A.

83 Acts, ch 147, §4, 14, 15; 84 Acts, ch 1244, §3; 88 Acts, ch 1109, §32; 95 Acts, ch 167, §5; 2000 Acts, ch 1173, §5, 10; 2003 Acts, 1st Ex, ch 2, §53, 209; 2018 Acts, ch 1172, §66
Referred to in §822.2, 903A.1, 903A.2, 903A.4

903A.4 Policies and procedures.

The director of the Iowa department of corrections shall develop policy and procedural rules to implement sections 903A.1 through 903A.3. The rules may specify disciplinary offenses which may result in the loss of earned time, and the amount of earned time which may be lost as a result of each disciplinary offense. The director shall establish rules as to what constitutes "*satisfactory participation*" for purposes of a reduction of sentence under section 903A.2, for programs that are available or unavailable. The rules shall specify that earned time shall be calculated on a monthly basis as it accrues. The department shall generate an earned time report for each inmate which shall include the amount of actual time served, the number of earned time credits which have not been lost or forfeited, and the amount of time remaining on an inmate's sentence.

83 Acts, ch 147, §5, 14, 15; 2000 Acts, ch 1173, §6, 10
Referred to in §822.2, 903A.2, 903A.3

903A.5 Time to be served — credit.

1. An inmate shall not be discharged from the custody of the director of the Iowa department of corrections until the inmate has served the full term for which the inmate was sentenced, less earned time and other credits earned and not forfeited, unless the inmate is pardoned or otherwise legally released. Earned time accrued and not forfeited shall apply to reduce a mandatory minimum sentence being served pursuant to section 124.406, 124.413, or 902.8A. An inmate shall be deemed to be serving the sentence from the day on which the inmate is received into the institution. If an inmate was confined to a county jail, municipal holding facility, or other correctional or mental facility at any time prior to sentencing, or after sentencing but prior to the case having been decided on appeal, because of failure to furnish bail or because of being charged with a nonbailable offense, the inmate shall be given credit for the days already served upon the term of the sentence. However, if a person commits any offense while confined in a county jail, municipal holding facility, or other

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correctional or mental health facility, the person shall not be granted credit for that offense. Unless the inmate was confined in a correctional facility, the sheriff of the county in which the inmate was confined or the officer in charge of the municipal holding facility in which the inmate was confined shall certify to the clerk of the district court from which the inmate was sentenced and to the department of corrections' records administrator at the Iowa medical and classification center the number of days so served. The department of corrections' records administrator, or the administrator's designee, shall apply credit as ordered by the court of proper jurisdiction or as authorized by this section and section 907.3, subsection 3.

2. An inmate shall not receive credit upon the inmate's sentence for time spent in custody in another state resisting return to Iowa following an escape. However, an inmate may receive credit upon the inmate's sentence while incarcerated in an institution or jail of another jurisdiction during any period of time the person is receiving credit upon a sentence of that other jurisdiction.

83 Acts, ch 147, §6, 14, 15; 90 Acts, ch 1168, §61; 95 Acts, ch 91, §8; 99 Acts, ch 12, §18; 99 Acts, ch 182, §4; 2000 Acts, ch 1173, §7, 10; 2000 Acts, ch 1204, §1; 2006 Acts, ch 1183, §23; 2011 Acts, ch 22, §3; 2011 Acts, ch 131, §77, 158; 2024 Acts, ch 1063, §1

Referred to in §822.2, 901.6

903A.6 Good and honor time application.

Sections 246.38, 246.39, 246.41, 246.42, 246.43, and 246.45, as the sections appear in the 1983 Code, remain in effect for inmates sentenced for offenses committed prior to July 1, 1983.

83 Acts, ch 147, §7, 13, 14

Referred to in §822.2

903A.7 Separate sentences.

1. Consecutive multiple sentences that are within the same category under section 903A.2 shall be construed as one continuous sentence for purposes of calculating reductions of sentence for earned time.

2. If a person is sentenced to serve both category "A" and category "B" sentences, category "B" sentences shall be served before category "A" sentences are served, and earned time accrued against the category "B" sentences shall not be used to reduce the category "A" sentences. If an inmate serving a category "A" sentence is sentenced to serve a category "B" sentence, the category "A" sentence shall be interrupted, and no further earned time shall accrue against that sentence until the category "B" sentence is completed.

3. If a person is sentenced to serve both a category "C" sentence and another category sentence, the category "C" sentence shall be served before the other category sentence is served, and no earned time shall accrue until the category "C" sentence has been served. If an inmate serving a category sentence other than a category "C" sentence is sentenced to serve a category "C" sentence, the sentence of the other category sentence shall be interrupted, and no further earned time shall accrue against that sentence until the category "C" sentence is completed.

83 Acts, ch 147, §8, 14; 97 Acts, ch 131, §3, 4; 98 Acts, ch 1100, §89; 2000 Acts, ch 1173, §8, 10; 2017 Acts, ch 122, §22

Referred to in §822.2, 901.8

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CHAPTER 903B

SEX OFFENDER SPECIAL SENTENCING AND HORMONE TREATMENT

Referred to in §216A.133, 607A.4, 901.1, 901A.2, 908.5

SUBCHAPTER I

SPECIAL SENTENCING

903B.1 Special sentence — class "B" or class "C" felonies.

903B.2 Special sentence — class "D" felonies or misdemeanors.

903B.3 through 903B.9 Reserved.

SUBCHAPTER II

HORMONAL INTERVENTION THERAPY

903B.10 Hormonal intervention therapy — certain sex offenses.

SUBCHAPTER I

SPECIAL SENTENCING

903B.1 Special sentence — class "B" or class "C" felonies.

A person convicted of a class "C" felony or greater offense under chapter 709 or section 728.12, or a class "B" felony under section 713.3, subsection 1, paragraph "*d*", shall also be sentenced, in addition to any other punishment provided by law, to a special sentence committing the person into the custody of the director of the Iowa department of corrections for the rest of the person's life, with eligibility for parole as provided in chapter 906. The board of parole shall determine whether the person should be released on parole or placed in a work release program. The special sentence imposed under this section shall commence upon completion of the sentence imposed under any applicable criminal sentencing provisions for the underlying criminal offense and the person shall begin the sentence under supervision as if on parole or work release. The person shall be placed on the corrections continuum in chapter 901B, and the terms and conditions of the special sentence, including violations, shall be subject to the same set of procedures set out in chapters 901B, 904, 906, and 908, and rules adopted under those chapters for persons on parole or work release. The revocation of release shall not be for a period greater than two years upon any first revocation, and five years upon any second or subsequent revocation. A special sentence shall be considered a category "A" sentence for purposes of calculating earned time under section 903A.2.

2005 Acts, ch 158, §39; 2009 Acts, ch 119, §59; 2021 Acts, ch 14, §1; 2023 Acts, ch 74, §6; 2024 Acts, ch 1182, §55

Referred to in §692A.106, 692A.125, 901.5, 906.15

903B.2 Special sentence — class "D" felonies or misdemeanors.

A person convicted of a misdemeanor or a class "D" felony offense under chapter 709, section 726.2, or section 728.12 shall also be sentenced, in addition to any other punishment provided by law, to a special sentence committing the person into the custody of the director of the Iowa department of corrections for a period of ten years, with eligibility for parole as provided in chapter 906. The board of parole shall determine whether the person should be released on parole or placed in a work release program. The special sentence imposed under this section shall commence upon completion of the sentence imposed under any applicable criminal sentencing provisions for the underlying criminal offense and the person shall begin the sentence under supervision as if on parole or work release. The person shall be placed on the corrections continuum in chapter 901B, and the terms and conditions of the special sentence, including violations, shall be subject to the same set of procedures set out in chapters 901B, 904, 906, and 908, and rules adopted under those chapters for persons on parole or work release. The revocation of release shall not be for a period greater than two years upon any first revocation, and five years upon any second or subsequent revocation. A special sentence shall be considered a category "A" sentence for purposes of calculating earned time under section 903A.2.

2005 Acts, ch 158, §40; 2009 Acts, ch 119, §60; 2024 Acts, ch 1182, §56

Referred to in §692A.106, 692A.125, 901.5, 906.15

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903B.3 through 903B.9 Reserved.

SUBCHAPTER II

HORMONAL INTERVENTION THERAPY

903B.10 Hormonal intervention therapy — certain sex offenses.

1. A person who has been convicted of a serious sex offense may, upon a first conviction and in addition to any other punishment provided by law, be required to undergo medroxyprogesterone acetate treatment as part of any conditions of release imposed by the court or the board of parole. The treatment prescribed in this section may utilize an approved pharmaceutical agent other than medroxyprogesterone acetate. Upon a second or subsequent conviction, the court or the board of parole shall require the person to undergo medroxyprogesterone acetate or other approved pharmaceutical agent treatment as a condition of release, unless, after an appropriate assessment, the court or board determines that the treatment would not be effective. In determining whether a conviction is a first or second conviction under this section, a prior conviction for a criminal offense committed in another jurisdiction which would constitute a violation of section 709.3, subsection 1, paragraph *"b"*, if committed in this state, shall be considered a conviction under this section. This section shall not apply if the person voluntarily undergoes a permanent surgical alternative approved by the court or the board of parole.

2. If a person is placed on probation and is not in confinement at the time of sentencing, the presentence investigation shall include a plan for initiation of treatment as soon as is reasonably possible after the person is sentenced. If the person is in confinement prior to release on probation or parole, treatment shall commence prior to the release of the person from confinement. Conviction of a serious sex offense shall constitute exceptional circumstances warranting a presentence investigation under section 901.2.

3. For purposes of this section, a *"serious sex offense"* means any of the following offenses in which the victim was a child who was, at the time the offense was committed, twelve years of age or younger:

a. Sexual abuse in the first degree, in violation of section 709.2.
b. Sexual abuse in the second degree, in violation of section 709.3.
c. Sexual abuse in the third degree, in violation of section 709.4.
d. Lascivious acts with a child, in violation of section 709.8.
e. Assault with intent, in violation of section 709.11.
f. Indecent contact with a minor, in violation of section 709.12.
g. Lascivious conduct with a minor, in violation of section 709.14.
h. Sexual exploitation in violation of section 709.15.
i. Sexual exploitation of a minor, in violation of section 728.12, subsections 1 and 2.
j. Continuous sexual abuse of a child in violation of section 709.23.

4. The department of corrections, in consultation with the board of parole, shall adopt rules which provide for the initiation of medroxyprogesterone acetate or other approved pharmaceutical agent treatment prior to the parole or work release of a person who has been convicted of a serious sex offense and who is required to undergo treatment as a condition of release by the board of parole. The department's rules shall also establish standards for the supervision of the treatment by the judicial district department of correctional services during the period of release. Each district department of correctional services shall adopt policies and procedures which provide for the initiation or continuation of medroxyprogesterone acetate or other approved pharmaceutical agent treatment as a condition of release for each person who is required to undergo the treatment by the court or the board of parole. The board of parole shall, in consultation with the department of corrections, adopt rules which relate to initiation or continuation of medroxyprogesterone acetate or other approved pharmaceutical agent treatment as a condition of any parole or work release. Any rules, standards, and policies and procedures adopted shall provide for

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the continuation of the treatment until the agency in charge of supervising the treatment determines that the treatment is no longer necessary.

5. A person who is required to undergo medroxyprogesterone acetate treatment, or treatment utilizing another approved pharmaceutical agent, pursuant to this section, shall be required to pay a reasonable fee to pay for the costs of providing the treatment. A requirement that a person pay a fee shall include provision for reduction, deferral, or waiver of payment if the person is financially unable to pay the fee.

6. A person who administers medroxyprogesterone acetate or any other pharmaceutical agent shall not be liable for civil damages for administering such pharmaceutical agents pursuant to this chapter.

98 Acts, ch 1171, §21
C99, §903B.1
2003 Acts, ch 180, §67; 2005 Acts, ch 158, §33, 41
CS2005, §903B.10
2013 Acts, ch 90, §256; 2020 Acts, ch 1115, §6

CHAPTER 904

DEPARTMENT OF CORRECTIONS

Referred to in §8.98, 218.95, 229.1, 901.1, 901A.2, 902.1, 903B.1, 903B.2

This chapter not enacted as a part of this title;
transferred from chapter 246 in Code 1993
See §218.95 for provisions pertaining to construction of
synonymous terms

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SUBCHAPTER I

ADMINISTRATION GENERALLY

904.101 Definitions.

For purposes of this chapter, unless the context otherwise requires:

1. *"Board"* means the board of corrections established in section 904.104.
2. *"Community-based correctional program"* means correctional programs and services, under the direction of a district director and the department, including but not limited to an intermediate criminal sanctions program in accordance with the corrections continuum in section 901B.1, designed to supervise and assist individuals who are charged with or have been convicted of a felony, an aggravated misdemeanor or a serious misdemeanor, or who are on probation or parole in lieu of or as a result of a sentence of incarceration imposed upon conviction of any of these offenses, or who are contracted to the district department for supervision and housing while on work release. A community-based correctional program shall be designed by a district department, under the direction and control of the department, in a manner that provides services in a manner free of disparities based upon an individual's race or ethnic origin.
3. *"Community-based corrections facility"* means property or buildings owned or operated by the department for a community-based correctional program.
4. *"Department"* means the Iowa department of corrections established in section 904.102.
5. *"Director"* means the director of the department.
6. *"District advisory board"* means the advisory board of a district department.
7. *"District department"* means a judicial district department of correctional services established under section 904.104A.
8. *"District director"* means the director of a district department, appointed by the director under section 904.301A.

83 Acts, ch 96, §2, 159
CS83, §217A.1
85 Acts, ch 21, §54
CS85, §246.101
C93, §904.101
2024 Acts, ch 1182, §57

904.102 Department established — institutions.

The Iowa department of corrections is established to be responsible for the control, treatment, and rehabilitation of offenders committed under law to the following institutions:

1. Iowa correctional institution for women.
2. Anamosa state penitentiary.
3. Iowa state penitentiary.
4. Iowa medical and classification center.
5. North central correctional facility at Rockwell City.
6. Mount Pleasant correctional facility.
7. Clarinda correctional facility.
8. Newton correctional facility.

9. Fort Dodge correctional facility.
10. Rehabilitation camps.
11. Other institutions related to an institution in subsections 1 through 10 but not attached to the campus of the main institution as program developments require.
12. Community-based corrections facilities.

83 Acts, ch 96, §3, 159
CS83, §217A.2
84 Acts, ch 1184, §1; 84 Acts, ch 1219, §9; 85 Acts, ch 21, §13, 54
CS85, §246.102
C93, §904.102
97 Acts, ch 130, §2 – 4; 2024 Acts, ch 1182, §58
Referred to in §7E.5, 135.11, 148C.4, 152.1, 263.22, 266.37, 321J.22, 357H.1, 904.101, 904.103, 904.108, 904.301, 904.318, 904.507A

904.103 Responsibilities of department.

The department shall administer the institutions listed in section 904.102. The department shall be responsible to the extent provided for by law for all of the following:

1. Iowa state industries.
2. Jail inspections.
3. Other duties provided for by law.
4. Policies for the operation and conduct of the department and the implementation of all department programs.
5. Adoption of rules in accordance with chapter 17A as necessary to transact its business and for the administration and exercise of its powers and duties.
6. The approval of the locations for all state institutions which are penal, reformatory, or corrective.

83 Acts, ch 96, §4, 159
CS83, §217A.3
85 Acts, ch 21, §54
CS85, §246.103
C93, §904.103
2024 Acts, ch 1170, §350; 2024 Acts, ch 1182, §59

904.104 Board created.

A board of corrections is created within the department. The board shall consist of seven members appointed by the governor subject to confirmation by the senate. Not more than four of the members shall be from the same political party. Members shall be electors of this state. Members of the board shall serve four-year staggered terms.

83 Acts, ch 96, §5, 158, 159
CS83, §217A.4
85 Acts, ch 21, §54
CS85, §246.104
92 Acts, ch 1163, §56
C93, §904.104
93 Acts, ch 46, §4
Referred to in §904.101
Confirmation, see §2.32

904.104A Judicial district departments of correctional services established.

1. There is established in each judicial district in this state a judicial district department of correctional services. Each district department shall furnish or contract for those services necessary to provide a community-based correctional program which meets the requirements of the department.
2. The district department is under the direction of the department and shall be administered by a district director employed by the department. A district department is a state agency for purposes of chapter 669.

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3. All employees of a district department shall be employees of the department.
[C79, 81, §905.2]
86 Acts, ch 1172, §3; 2023 Acts, ch 19, §2782; 2024 Acts, ch 1182, §82, 93
C2025, §904.104A
Referred to in §8D.13, 669.2, 708.2B, 904.101, 904.301A
Probation, see §907.1

904.104B District advisory board — expenses reimbursed.

1. A district advisory board is established for each district department, which shall serve in an advisory capacity to a district director without compensation, and shall be composed as follows:

a. One member shall be appointed annually by a district director from the board of supervisors of each county in the judicial district.

b. The district director shall on or before December 31 appoint two citizen members to serve on the district advisory board for the following calendar year.

2. The district advisory board shall meet as necessary.

3. The members of the district advisory board shall be reimbursed from funds of the district department for travel and other expenses necessarily incurred in attending meetings.

[C79, 81, S81, §905.3; 81 Acts, ch 117, §1243]
86 Acts, ch 1062, §1; 2000 Acts, ch 1057, §18; 2013 Acts, ch 90, §241; 2023 Acts, ch 19, §2783; 2024 Acts, ch 1170, §120; 2024 Acts, ch 1182, §83, 93
C2025, §904.104B

904.105 Board — duties.

The board of corrections shall:

1. Organize annually and select a chairperson and vice chairperson.

2. Provide advice and recommendations to the department regarding policies for the operation and conduct of the department and the implementation of all department programs.

3. Report immediately to the governor any failure by the director of the department to carry out any of the policy decisions or directives of the board.

4. Provide advice and recommendations to the department regarding the budget of the department prior to submission to the governor.

5. Report biennially to the governor a summary of releases recommended, paroles granted, parole revocations, and other information relating to the parole of inmates as the board deems advisable.

6. Provide advice and recommendations to the department regarding rules necessary to transact its business and for the administration and exercise of its powers and duties.

7. Make recommendations from time to time to the governor and the general assembly.

8. Provide advice and recommendations regarding the locations for all state institutions which are penal, reformatory, or corrective.

9. Establish and utilize such ad hoc advisory committees as determined necessary by the board. The board shall establish appointment provisions, membership terms, operating guidelines, and any other operational requirements for committees established pursuant to this subsection. Members of committees established pursuant to this subsection shall serve without compensation but may be reimbursed for actual expenses.

10. Perform other functions as provided by law.

83 Acts, ch 96, §6, 159
CS83, §217A.5
85 Acts, ch 21, §14, 54
CS85, §246.105
86 Acts, ch 1245, §1501
C93, §904.105
2024 Acts, ch 1170, §77, 351, 352

904.105A Duties of district advisory board.

The district advisory board shall:

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1. Adopt bylaws and rules for the conduct of district advisory board business.

2. Advise the district director concerning suitable quarters at one or more sites in the district as may be necessary for the district department's community-based correctional program.

3. Recruit and promote local financial support for the district department's community-based correctional program from private sources such as community service funds, business, industrial and private foundations, voluntary agencies, and other lawful sources.

[C79, 81, §905.4; 81 Acts, ch 207, §2]

83 Acts, ch 89, §2; 83 Acts, ch 96, §135, 159; 84 Acts, ch 1244, §4; 91 Acts, ch 267, §420; 2001 Acts, ch 104, §7; 2023 Acts, ch 19, §2784; 2024 Acts, ch 1182, §84, 93

C2025, §904.105A

904.106 Meetings — expenses.

Meetings may be called by the chairperson or upon written request of any three members of the board. The chairperson shall preside at all meetings or in the chairperson's absence, the vice chairperson shall preside. The members of the board shall be paid their actual expenses while attending the meetings. Each member of the board may also be able to receive compensation as provided in section 7E.6.

83 Acts, ch 96, §7, 159

CS83, §217A.6

85 Acts, ch 21, §54

CS85, §246.106

86 Acts, ch 1245, §1502

C93, §904.106

2010 Acts, ch 1031, §410; 2024 Acts, ch 1170, §119

904.107 Director — appointment and qualifications.

The chief administrative officer for the department is the director. The director shall be appointed by the governor subject to confirmation by the senate and shall serve at the pleasure of the governor. The director shall be qualified in reformatory and prison management, knowledgeable in community-based corrections, and shall possess administrative ability. The director shall also have experience in the field of criminology and discipline and in the supervision of inmates in corrective penal institutions. The director shall not be selected on the basis of political affiliation, and while employed as the director, shall not be a member of a political committee, participate in a political campaign, be a candidate for a partisan elective office, and shall not contribute to a political campaign fund, except that the director may designate on the checkoff portion of the federal income tax return a party or parties to which a contribution is made pursuant to the checkoff. The director shall not hold any other office under the laws of the United States or of this or any state or hold any position for profit and shall devote full time to the duties of office.

83 Acts, ch 96, §8, 159

CS83, §217A.7

85 Acts, ch 21, §54

CS85, §246.107

C93, §904.107

2017 Acts, ch 144, §12, 14

Confirmation, see §2.32

904.108 Director — duties, powers.

1. The director shall:

a. Supervise the operations of the institutions under the department's jurisdiction and may delegate the powers and authorities given the director by statute to officers or employees of the department.

b. Supervise state agents whose duties relate primarily to the department.

c. Establish and maintain a program to oversee women's institutional and community

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corrections programs and to provide community support to ensure continuity and consistency of programs. The person responsible for implementing this section shall report to the director.

d. Establish and maintain acceptable standards of treatment, training, education, and rehabilitation in the various state penal and corrective institutions which shall include habilitative services and treatment for offenders with an intellectual disability. For the purposes of this paragraph, *"habilitative services and treatment"* means medical, mental health, social, educational, counseling, and other services which will assist a person with an intellectual disability to become self-reliant. However, the director may also provide rehabilitative treatment and services to other persons who require the services. The director shall identify all individuals entering the correctional system who are persons with an intellectual disability, as defined in section 4.1. Identification shall be made by a qualified professional in the area of intellectual disability. In assigning an offender with an intellectual disability, or an offender with an inadequately developed intelligence or with impaired mental abilities, to a correctional facility, the director shall consider both the program needs and the security needs of the offender. The director shall consult with the department of health and human services in providing habilitative services and treatment to offenders with mental illness or an intellectual disability. The director may enter into agreements with the department of health and human services to utilize mental health institutions and share staff and resources for purposes of providing habilitative services and treatment, as well as providing other special needs programming. Any agreement to utilize mental health institutions and to share staff and resources shall provide that the costs of the habilitative services and treatment shall be paid from state funds. Not later than twenty days prior to entering into any agreement to utilize mental health institution staff and resources, other than the use of a building or facility, for purposes of providing habilitative services and treatment, as well as other special needs programming, the directors of the departments of corrections and health and human services shall each notify the chairpersons and ranking members of the joint appropriations subcommittees that last handled the appropriation for their respective departments of the pending agreement. Use of a building or facility shall require approval of the general assembly if the general assembly is in session or, if the general assembly is not in session, the legislative council may grant temporary authority, which shall be subject to final approval of the general assembly during the next succeeding legislative session.

e. Employ, assign, and reassign personnel as necessary for the performance of duties and responsibilities assigned to the department. Employees shall be selected on the basis of fitness for work to be performed with due regard to training and experience and are subject to chapter 8A, subchapter IV.

f. Establish standards of mental fitness which shall govern the initial recruitment, selection, and appointment of correctional officers. To promote these standards, the director shall by rule require a battery of psychological tests to determine cognitive skills, personality characteristics and suitability of all applicants for a correctional career.

g. Examine all state institutions which are penal, reformatory, or corrective to determine their efficiency for adequate care, custody, and training of their inmates and report the findings to the board.

h. Prepare a budget for the department, subject to the advice and recommendations of the board, and other reports as required by law.

i. Develop long-range correctional planning and an ongoing five-year corrections master plan. The director shall annually report to the general assembly to inform its members as to the status and content of the planning and master plan.

j. Supervise rehabilitation camps within the state as may be established by the director. Persons committed to institutions under the department may be transferred to the facilities of the camp system and upon transfer shall be subject to the same laws as pertain to the transferring institution.

k. Adopt rules, subject to the advice and recommendations of the board, pertaining to the internal management of institutions and agencies under the director's charge and necessary to carry out the duties and powers outlined in this section.

l. Adopt rules, policies, and procedures, subject to the advice and recommendations of the

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board, pertaining to community-based correctional programs, and the supervision of parole and work release.

m. Provide routine administrative and support services to the board of parole.

n. Cooperate with Iowa state university of science and technology to provide, for purposes of agricultural research, development, and testing, the use of resources, including property, facilities, labor, and services, connected with institutions listed in section 904.102. However, use of the resources by the university is subject to approval by the director. Before granting approval, the director shall require that the university compensate the department for the use of the resources, on terms specified by the director.

o. Establish and maintain a correctional training program.

2. The director, with the advice and recommendations of the board, may establish for any inmate sentenced pursuant to section 902.3 a furlough program under which inmates sentenced to and confined in any institution under the jurisdiction of the department may be temporarily released. A furlough for a period not to exceed fourteen days may be granted when an immediate member of an inmate's family is seriously ill or has died, when an inmate is to be interviewed by a prospective employer, or when an inmate is authorized to participate in a training program not available within the institution. Furloughs for a period not to exceed fourteen days may also be granted in order to allow inmates to participate in programs or activities that serve rehabilitative objectives.

3. The director may establish a sales bonus system for the sales representatives for prison industry products. If a sales bonus system is established, the system shall not affect the status of the sales representatives under chapter 8A, subchapter IV.

4. The director may expend moneys from the support allocation of the department as reimbursement for replacement or repair of personal items of the department's employees damaged or destroyed by clients of the department during the employee's tour of duty. However, the reimbursement shall not exceed three hundred dollars for each item. The director shall establish rules in accordance with chapter 17A to carry out the purpose of this subsection.

5. The director may obtain assistance for the department for construction, facility planning, and project accomplishment with the department of administrative services and by contracting under chapter 28E for data processing with the department of health and human services or the department of administrative services.

6. The director may charge an inmate a correctional fee for custodial expenses incurred or which may be incurred while the inmate is in the custody of the department. The custodial expenses may include, but are not limited to, board and room, medical and dental fees including any necessary transportation fee not to exceed five dollars per visit, education costs, clothing costs, and the costs of supervision, services, and treatment to the inmate. The correctional fee shall not exceed the actual cost of keeping the inmate in custody. The correctional fees collected pursuant to this subsection shall be credited as a reimbursement to the appropriate correctional institution. This subsection does not limit the right of the director to obtain any other remedy authorized by law.

83 Acts, ch 96, §9, 159
CS83, §217A.8
84 Acts, ch 1150, §1; 84 Acts, ch 1245, §4; 85 Acts, ch 21, §15, 54
CS85, §246.108
86 Acts, ch 1245, §315, 1503, 1504; 87 Acts, ch 139, §1
C93, §904.108
96 Acts, ch 1111, §3; 96 Acts, ch 1129, §111; 96 Acts, ch 1219, §76; 97 Acts, ch 190, §3; 98 Acts, ch 1090, §76, 84; 98 Acts, ch 1131, §4; 99 Acts, ch 114, §46; 2002 Acts, ch 1175, §47; 2003 Acts, ch 88, §1; 2003 Acts, ch 145, §278, 279, 286; 2008 Acts, ch 1180, §22; 2012 Acts, ch 1019, §141; 2023 Acts, ch 19, §1328, 1329, 2779; 2025 Acts, ch 66, §1, 2
Referred to in §904.109, 904.115

904.109 Powers of governor — report of abuses.

1. Section 904.108, subsection 1, paragraph *"a"*, does not limit the general supervisory or

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examining powers vested in the governor by the laws or constitution of the state, or legally vested by the governor in a committee appointed by the governor.

2. The superintendent of an institution shall make reports to the board and the director as requested by the board and the director and the director shall report, in writing, to the governor any abuses found to exist in any of the institutions.

83 Acts, ch 96, §15, 159
CS83, §217A.20
85 Acts, ch 21, §54
CS85, §246.109
C93, §904.109
2021 Acts, ch 76, §150

904.110 Official seal.

The department shall have an official seal with the words "Iowa Department of Corrections" and an engraved design. Every commission, order, or other paper of an official nature executed by the department may be attested with the seal.

83 Acts, ch 96, §10, 159
CS83, §217A.9
85 Acts, ch 21, §54
CS85, §246.110
C93, §904.110
2025 Acts, ch 66, §3

904.111 Chapter 28E agreements.

The department of corrections may enter into agreements, as provided for in chapter 28E, with a district department of correctional services as necessary.

84 Acts, ch 1184, §20
C85, §217A.10
85 Acts, ch 21, §54
CS85, §246.111
C93, §904.111

904.112 Institutional receipts.

Institutional receipts of the department of corrections shall be deposited in the general fund of the state except as follows:

1. Reimbursement for services provided to another institution or state agency, rentals charged to employees or other persons for room, apartment, or housing, and charges for meals.

2. Receipts which are specifically required to be otherwise expended or deposited under this chapter.

84 Acts, ch 1184, §3
C85, §217A.11
85 Acts, ch 21, §54
CS85, §246.112
C93, §904.112
97 Acts, ch 190, §4

904.113 Gifts.

The department may accept gifts of real or personal property from the federal government or any source. The director may exercise powers with reference to the property so accepted as necessary or appropriate to its preservation and the purposes for which it is given.

83 Acts, ch 96, §53, 159
CS83, §217A.75
85 Acts, ch 21, §54
CS85, §246.113
C93, §904.113

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904.114 Travel expenses.

The director, staff members, assistants, and employees, in addition to salary, shall receive their necessary traveling expenses by the nearest practicable route, when engaged in the performance of official business. Permission shall not be granted to any person to travel to another state except by approval of the director or the director's designee.

83 Acts, ch 96, §11, 159
CS83, §217A.16
85 Acts, ch 21, §54
CS85, §246.114
C93, §904.114
2011 Acts, ch 127, §52, 89; 2025 Acts, ch 66, §4

904.115 Report by department.

Annually at the time provided by law, the department shall make a report to the governor and the general assembly, which shall cover the annual period ending with June 30 preceding the date of the report and shall include:

1. An itemized statement of the department's expenditures for each program under the department's administration.
2. Adequate and complete statistical reports for the state as a whole concerning payments made under the department's administration.
3. Recommendations concerning changes in laws under the department's administration as the board deems necessary.
4. Observations and recommendations of the board and the director relative to the programs of the department.
5. Information concerning long-range planning and the master plan as provided by section 904.108, subsection 1, paragraph *"i"*.
6. Other information the board or the director deems advisable, or which is requested by the governor or the general assembly.

83 Acts, ch 96, §12, 159
CS83, §217A.17
85 Acts, ch 21, §54
CS85, §246.115
C93, §904.115

904.116 Institutional appropriations and expenditures — legislative oversight.

1. The department of corrections shall not revise the allocations to the correctional institutions under the control of the department from the amounts allocated to the institutions, unless notice of the revisions is given prior to their effective date to the legislative services agency. The notice shall include information on the department's rationale for making the changes and details concerning the workload and performance measures upon which the revisions are based.

2. *a.* The department of corrections shall report to the legislative services agency on a monthly basis the current expenditures and full-time equivalent positions of the department's various allocations with a comparison of actual to budgeted expenditures and full-time equivalent positions.

b. The department of corrections shall furnish performance measure data designed to enable comparison of this data with historical expenditure information, and shall assist the legislative services agency in developing information to be used in legislative oversight of all programs operated by the department.

90 Acts, ch 1247, §9
C91, §246.116
C93, §904.116
2003 Acts, ch 35, §45, 49; 2013 Acts, ch 30, §261

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904.117 Interstate compact fund.

An interstate compact fund is established under the control of the department. All interstate compact fees collected by the department pursuant to section 907B.4 shall be deposited into the fund and the moneys shall be used by the department to offset the costs of complying with the interstate compact for adult offender supervision in chapter 907B. Notwithstanding section 8.33, moneys remaining in the fund at the end of a fiscal year shall not revert to the general fund of the state. Notwithstanding section 12C.7, interest and earnings deposited in the fund shall be credited to the fund.

2003 Acts, 1st Ex, ch 2, §54, 209; 2004 Acts, ch 1101, §94
Referred to in §907B.4

904.118 Federal receipts fund.

1. A federal receipts fund is established in the state treasury under the control of the department. The fund shall consist of all of the following:

a. All federal moneys received by the department, including but not limited to moneys received for federally contracted services, but excluding moneys required to be deposited in the special fund pursuant to section 8.41.

b. Any other moneys appropriated to or deposited in the fund.

2. Moneys in the fund are appropriated to the department for purposes of the operations of the department and any other use authorized or required under the federal law or contract pursuant to which the moneys were paid. This subsection does not apply to federal moneys the expenditure of which is otherwise provided for by law, including but not limited to federal moneys described in section 904.301B, subsection 14.

3. Notwithstanding section 8.33, moneys in the fund that remain unencumbered or unobligated at the close of a fiscal year shall not revert but shall remain available for expenditure for the purposes designated. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

2025 Acts, ch 154, §23, 24, 25
Section applies retroactively to the fiscal year beginning July 1, 2023; 2025 Acts, ch 154, §25

904.118A Central warehouse fund.

The department shall establish a fund for maintaining and operating a central warehouse and supply depot and distribution facility for surplus government products, canned goods, paper products, other staples, and for such other items as determined by the department. A department or agency of the state or a political subdivision of this state may purchase such products, goods, staples, or other items from the central warehouse and supply depot. The fund shall be permanent and shall be composed of the receipts from the sales of merchandise and the recovery of handling, operating, and delivery charges for such merchandise. Notwithstanding section 8.33, moneys credited to the fund shall not revert to any other fund. Notwithstanding section 12C.7, interest and earnings on moneys deposited in the fund shall be credited to the fund.

2008 Acts, ch 1180, §23

904.119 Private sector housing of inmates — prohibition.

The department shall not enter into any agreement with a private sector for-profit entity for the purpose of housing inmates committed to the custody of the director.

2007 Acts, ch 103, §1

904.120 through 904.200 Reserved.

SUBCHAPTER II

INSTITUTIONS

904.201 Iowa medical and classification center.

1. The Iowa medical and classification center at Oakdale shall be utilized as a forensic

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psychiatric hospital for persons displaying evidence of mental illness or psychosocial disorders and requiring diagnostic services or treatment in a security setting, as a security unit for persons requiring confinement in a security setting, and as a classification unit for the reception, orientation, and classification of inmates before placement in the most appropriate correctional institutions according to necessary security and custody arrangements and the assessed service needs of the inmates.

2. The medical director of the department or the medical director's designee shall secure the professional care and treatment of each person confined at the center and maintain a complete record on the condition of each person confined at the center.

3. *a.* The forensic psychiatric hospital may admit the following persons:

(1) Residents transferred from an institution under the jurisdiction of the department of health and human services or the Iowa department of corrections.

(2) Persons committed by the courts as mentally incompetent to stand trial pursuant to section 812.6.

(3) Persons referred by the courts for psychosocial diagnosis and recommendations as part of the pretrial or presentence procedure or determination of mental competency to stand trial.

(4) Prisoners transferred from county and city jails for diagnosis, evaluation, or treatment for mental illness.

b. Other persons may be admitted providing the admissions are not inconsistent with law and are within the capacity of the facilities and staff to accommodate the persons.

4. The classification unit shall admit inmates for purposes of orientation and classification before placement in the most appropriate correctional institutions.

5. The director may house inmates from any correctional institution at the center in order to provide the inmates with suitable security or medical treatment, or both. Unless an inmate is determined to be mentally ill, the inmate shall not be subjected involuntarily to psychiatric treatment.

6. All admissions to the forensic psychiatric hospital shall be by written application only. Application shall be made by the head of the state institution, agency, governmental body, or court requesting admission to the medical director of the department or the medical director's designee. An application may be denied by the medical director of the department or the medical director's designee, with the approval of the director, if the admission will result in an overcrowded condition or if adequate staff or facilities are not available. The decision regarding admission and discharge of persons shall be made by the medical director of the department or the medical director's designee, subject to approval of the director.

7. When a person transferred to the center from any other state institution or admitted by request or order of any agency, governmental body, or court no longer requires special treatment in the security setting, the person may be returned to the source from which received. The state institution, agency, governmental body, or court that referred the person for hospitalization shall retain constructive jurisdiction over the person. Persons without legal encumbrances may be discharged directly from the center upon concurrence of the medical director of the department or the medical director's designee and the head of the referring institution, agency, governmental body, or court. The support, commitment, and release statutes applicable to a person at the state institution from which transferred shall remain applicable while the person is at the center.

8. Chapter 230 governs the determination of costs and charges for the care and treatment of persons with mental illness admitted to the forensic psychiatric hospital.

85 Acts, ch 21, §29, 54
CS85, §246.201
C93, §904.201
96 Acts, ch 1129, §113; 2004 Acts, ch 1084, §15; 2004 Acts, ch 1106, §2; 2013 Acts, ch 30, §261; 2023 Acts, ch 19, §1330; 2024 Acts, ch 1161, §133, 137

904.202 Intake and classification center.

The director may provide facilities and personnel for a diagnostic intake and classification center. The work of the center shall include a scientific study of each inmate, the inmate's

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career and life history, the causes of the inmate's criminal acts and recommendations for the inmate's custody, care, training, employment, and counseling with a view to rehabilitation and to the protection of society. To facilitate the work of the center and to aid in the rehabilitation of the inmates, the trial judge, prosecuting attorney, and presentence investigators shall furnish the director with any previously authorized presentence investigation report and a full statement of facts and circumstances attending the commission of the offense so far as known or believed by them. If the department develops and utilizes an inmate classification system, it must, within a reasonable time, present evidence from independent experts as to the effectiveness and validity of the classification system.

83 Acts, ch 96, §36, 159
CS83, §217A.52
84 Acts, ch 1184, §2; 85 Acts, ch 21, §54
CS85, §246.202
C93, §904.202
2001 Acts, ch 131, §4
Referred to in §331.756(37)

904.203 through 904.206 Repealed by 2017 Acts, ch 167, §26.

904.207 Violator facility.

The director may establish a violator facility as a freestanding facility, or designate a portion of an existing correctional facility for the purpose. A violator facility is for the temporary confinement of offenders who have violated conditions of release under work release or parole as defined in section 906.1, or probation granted as a result of suspension of a sentence to the custody of the director of the department of corrections. If a violator facility is established, the director shall adopt rules pursuant to chapter 17A, subject to the advice and recommendations of the board, to implement this section.

91 Acts, ch 219, §7
CS91, §246.207
C93, §904.207
93 Acts, ch 46, §6; 2016 Acts, ch 1051, §1; 2025 Acts, ch 66, §5
Referred to in §901B.1, 906.1, 908.9, 908.11

904.208 through 904.300 Reserved.

SUBCHAPTER III

PERSONNEL AND GENERAL MANAGEMENT OF INSTITUTIONS

904.301 Appointment of superintendents.

1. The director shall appoint, subject to the advice and recommendations of the board, the superintendents of the institutions provided for in section 904.102.

2. The superintendent has the immediate custody and control, subject to the orders and policies of the director, of all property used in connection with the institution except as otherwise provided by statute. The tenure of office of a superintendent shall be at the pleasure of the appointing authority but a superintendent may be removed for inability or refusal to properly perform the duties of the office.

83 Acts, ch 96, §16, 159
CS83, §217A.21
85 Acts, ch 21, §54
CS85, §246.301
C93, §904.301
2025 Acts, ch 66, §6

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904.301A Appointment of directors.

1. The director shall appoint, subject to the advice and recommendations of the board, a district director for each district department established in section 904.104A.

2. The district director has the immediate custody and control, subject to the orders and policies of the director, of all property used in connection with the district department except as otherwise provided by statute. The tenure of office of a district director shall be at the pleasure of the appointing authority but a district director may be removed for inability or refusal to properly perform the duties of the office.

2023 Acts, ch 19, §2780; 2024 Acts, ch 1182, §60; 2025 Acts, ch 66, §7
Referred to in §904.101

904.301B Duties of district director.

Each district director employed by the department shall be qualified in the administration of correctional programs. The district director shall:

1. Perform the duties and have the responsibilities delegated or specified by the department.

2. Manage the district department's community-based correctional program, in accordance with the policies of the department.

3. Employ, with approval of the department, and supervise the employees of the district department, including reserve peace officers, if a force of reserve peace officers has been established.

4. Prepare all budgets and fiscal documents, and certify for payment all expenses and payrolls lawfully incurred by the district department.

5. Act as secretary to the district advisory board, prepare its agenda, and record its proceedings. The district shall provide a copy of minutes from each meeting of the district advisory board to the legislative services agency.

6. Develop and submit to the department a plan for the establishment, implementation, and operation of a community-based correctional program in that judicial district, which program conforms to the guidelines drawn up by the department under this chapter and which conform to rules, policies, and procedures pertaining to the supervision of parole and work release adopted by the director concerning the community-based correctional program.

7. Negotiate and, upon approval by the department, implement contracts or other arrangements for utilization of local treatment and service resources authorized by subsection 15.

8. Administer the batterers' treatment program for domestic abuse offenders required in section 708.2B.

9. Notify the board of parole, thirty days prior to release, of the release from a residential facility operated by the district department of a person serving a sentence under section 902.12.

10. File with the director, within ninety days after the close of each fiscal year, a report covering the district advisory board's proceedings and a statement of receipts and expenditures during the preceding fiscal year.

11. Arrange for, upon approval of the department, by contract or on such alternative basis as may be mutually acceptable, and equip suitable quarters at one or more sites in the district as may be necessary for the district department's community-based correctional program, provided that the district director shall to the greatest extent feasible utilize existing facilities and shall keep capital expenditures for acquisition, renovation, and repair of facilities to a minimum. The district director shall not enter into lease-purchase agreements for the purposes of constructing, renovating, expanding, or otherwise improving a community-based correctional facility or office unless express authorization has been granted by the general assembly, and current funding is adequate to meet the lease-purchase obligation.

12. Have authority to accept property by gift, devise, bequest, or otherwise, and to sell or exchange any property so accepted and apply the proceeds thereof, or the property received in exchange therefor, to the purposes enumerated in subsection 11.

13. Recruit, promote, accept, and use local financial support for the district department's

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community-based correctional program from private sources such as community service funds, business, industrial and private foundations, voluntary agencies, and other lawful sources.

14. Accept and expend state and federal funds available directly to the district department for all or any part of the cost of its community-based correctional program.

15. Arrange, by contract or on an alternative basis mutually acceptable, and with approval of the director or that director's designee for utilization of existing local treatment and service resources, including but not limited to employment, job training, general, special, or remedial education; psychiatric and marriage counseling; and substance use disorder treatment and counseling.

16. Have authority to establish a force of reserve peace officers, either separately or collectively through a chapter 28E agreement, as provided in chapter 80D.

[C79, 81, §905.6; 81 Acts, ch 207, §4]

83 Acts, ch 96, §137, 159; 88 Acts, ch 1084, §3; 91 Acts, ch 218, §29; 91 Acts, ch 267, §421; 95 Acts, ch 77, §7; 2001 Acts, ch 104, §8; 2003 Acts, ch 35, §45, 49; 2003 Acts, ch 156, §14; 2023 Acts, ch 19, §2785; 2024 Acts, ch 1182, §85, 93

C2025, §904.301B

2025 Acts, ch 30, §102

Referred to in §904.118

904.302 Farm operations administrator.

The director may appoint a farm operations administrator for institutions under the control of the departments of corrections and health and human services. If appointed, the farm operations administrator, subject to the direction of the director shall do all of the following:

1. Manage and supervise all farming and nursery operations at institutions, farms and gardens of the departments of corrections and health and human services.

2. Determine priorities on the use of agricultural resources and labor for farming and nursery operations, and cooperate with Iowa state university of science and technology in all approved uses connected with the institution.

3. Develop an annual operations plan for crop and livestock production and utilization that will provide work experience and contribute to developing vocational skills of the institutions' inmates and residents. The department of health and human services must approve the parts of the plan that affect farm operations on property of institutions having programs of the department of health and human services.

4. Coordinate farm lease arrangements, farm input purchases, farm product distribution, machinery maintenance and replacement, and renovation of farm buildings, fences and livestock facilities.

5. Develop and maintain accounting records, budgeting and cash flow systems, and inventory records.

6. Advise and instruct institution staff and inmates in application of agricultural technology.

7. Implement actions to restore and maintain productivity of soil resources at the institutions through crop rotation, minimum tillage, contouring, terracing, waterways, pasture renovation, windbreaks, buffer zones, and wildlife habitat in accordance with United States department of agriculture natural resources conservation service plans and recommendations.

8. Pay property taxes levied against land leased by the department of corrections or department of health and human services as provided in section 427.1, subsection 1.

9. Administer the revolving farm fund created in section 904.706.

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10. Do any other farm management duties assigned by the director.

83 Acts, ch 96, §17, 159
CS83, §217A.22
85 Acts, ch 21, §54
CS85, §246.302
87 Acts, ch 139, §2
C93, §904.302
95 Acts, ch 216, §25; 2003 Acts, ch 130, §3, 5; 2023 Acts, ch 19, §1331, 1332
Referred to in §427.1(1)(b), 904.706

904.303 Officers and employees — compensation.

1. The director shall determine the number and compensation of subordinate officers and employees for each institution subject to chapter 8A, subchapter IV. Subject to this chapter, the officers and employees shall be appointed and discharged by the superintendent or district director, as applicable, who shall keep in the record of each subordinate officer and employee, the date of employment, the compensation, and the date of and the reasons for each discharge.

2. The superintendents, district directors, and employees of the correctional institutions shall receive salaries or compensation as determined by the director, shall receive a midshift meal when on duty, and shall be provided uniforms if uniforms are required to be worn when on duty. The uniforms shall be maintained and replaced by the department at no cost to the employees and shall remain the property of the department.

83 Acts, ch 96, §18, 159
CS83, §217A.23
85 Acts, ch 21, §16, 54
CS85, §246.303
C93, §904.303
2003 Acts, ch 145, §280; 2024 Acts, ch 1182, §61

904.303A Training — fund.

A training fund is established under the control of the department. The director shall provide training to all new officers or employees of the department free of charge. The department shall also offer in-service training which shall include classes for officers and employees in the areas of safety, first aid, emergency preparedness, and any other appropriate class determined by the director. Employees of a judicial district may also attend any in-service training offered by the department. The department may recover from the correctional institution or judicial district the actual costs of planning and conducting the training classes if an employee of the institution or judicial district attends an in-service training class. The costs that may be recovered by the department include the costs of course development, training materials, equipment and facility rental, instruction, and administration. Moneys received as reimbursement of the costs shall be deposited in the training fund for use in conducting future training classes. All cost reimbursement moneys, grants, or appropriations related to training shall be deposited in the fund. Notwithstanding section 8.33, moneys remaining in the training fund at the end of a fiscal year shall not revert to the general fund of the state. Notwithstanding section 12C.7, interest and earnings deposited in the training fund shall be credited to the training fund.

2001 Acts, ch 131, §5

904.304 Bonds.

The director shall require officers and employees of institutions under the director's control who are charged with the custody or control of money or property belonging to the state, to give an official bond properly conditioned and signed by sufficient sureties in a sum to be fixed by the director. The bond is subject to approval by the director and shall be filed in the office of the secretary of state.

83 Acts, ch 96, §19, 159
CS83, §217A.24

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85 Acts, ch 21, §54
CS85, §246.304
C93, §904.304

904.305 Dwelling house or quarters.

1. The director may furnish the superintendent of each of the institutions, in addition to salary, with a dwelling house or with appropriate quarters in lieu of a house, or the director may compensate the superintendent of each of the institutions in lieu of furnishing a house or quarters. If a superintendent of the institution is furnished with a dwelling house or quarters, either of which is owned by the state, the superintendent may also be furnished with water, heat, and electricity.

2. The director may furnish assistant superintendents or other employees, or both, with dwelling houses or with appropriate quarters, owned by the state. The assistant superintendent or employee, who is so furnished shall pay rent for the dwelling house or quarters in an amount to be determined by the superintendent of the institution, which shall be the fair market rental value of the house or quarters. If an assistant superintendent or employee is furnished with a dwelling house or quarters either of which is owned by the state, the assistant superintendent or employee may also be furnished with water, heat, and electricity. However, the furnishing of these utilities shall be considered in determining the fair market rental value of the house or quarters.

83 Acts, ch 96, §20, 159
CS83, §217A.25
85 Acts, ch 21, §54
CS85, §246.305
C93, §904.305
2019 Acts, ch 24, §104

904.306 Conferences.

Quarterly conferences of the superintendents and the district directors of the institutions shall be held with the director for the consideration of all matters relative to the management of the institutions. Full minutes of the meetings shall be preserved in the records of the director. The director may cause papers to be prepared and read at the conferences on appropriate subjects.

83 Acts, ch 96, §35, 159
CS83, §217A.51
85 Acts, ch 21, §54
CS85, §246.306
C93, §904.306
2024 Acts, ch 1182, §62

904.307 Annual reports.

1. The superintendent of each institution shall make an annual report to the director.

2. The district director of each district department shall make an annual report to the director.

83 Acts, ch 96, §37, 159
CS83, §217A.53
85 Acts, ch 21, §54
CS85, §246.307
88 Acts, ch 1049, §1
C93, §904.307
2024 Acts, ch 1182, §63

904.308 Cooperation.

The department and the director shall cooperate with any department or agency of the state government in any manner, including the exchange of employees, calculated to improve administration of the affairs of the institutions. Joint use of facilities by the department and

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another public agency as defined in section 28E.2 shall be only according to an agreement entered into under chapter 28E. All joint campuses shall have one superintendent and one business manager who shall be employed by the department with supervisory responsibility for the majority of the facility's population. Employment of the superintendent and business manager shall be done in consultation with the department which has responsibility for services for the other population at the facility.

83 Acts, ch 96, §49, 159
CS83, §217A.71
85 Acts, ch 21, §54
CS85, §246.308
C93, §904.308

904.309 Consultants.

The director may secure the services of consultants to furnish advice on administrative, professional, or technical problems to the director or the employees of institutions under the director's jurisdiction or to provide in-service training and instruction for the employees. The director may pay the consultants from funds appropriated to the department or to any institution under the department's jurisdiction.

83 Acts, ch 96, §50, 159
CS83, §217A.72
85 Acts, ch 21, §54
CS85, §246.309
C93, §904.309

904.310 Canteens.

The director may maintain a canteen at an institution under the director's jurisdiction for the sale to persons confined in or committed to the institution of items such as toilet articles, candy, tobacco products, notions, and other sundries, and may provide the necessary facilities, equipment, personnel, and merchandise for the canteen. The director shall specify the items to be sold in the canteen. The department may establish and maintain a permanent operating fund for each canteen. The fund shall consist of the receipts from the sale of commodities at the canteen and donations designated by inmates for reimbursement of victims' travel expenses. Any money in the fund over the amount needed to do normal business transactions, to reimburse any accounts which have subsidized the canteen fund, and to reimburse victims' travel expenses shall be considered profit. This money may remain in the institution's canteen fund and be used for any purchase which the superintendent or district director, as applicable, approves that will directly and collectively benefit the inmates of the institution or to reimburse victims' travel expenses.

83 Acts, ch 96, §54, 159
CS83, §217A.76
85 Acts, ch 21, §54
CS85, §246.310
86 Acts, ch 1075, §1; 89 Acts, ch 142, §1; 91 Acts, ch 260, §1220
C93, §904.310
2001 Acts, ch 131, §6; 2024 Acts, ch 1182, §64

904.310A Information or materials — distribution.

1. Funds appropriated to the department or other funds made available to the department shall not be used to distribute or make available any commercially published information or material to an inmate when such information or material is sexually explicit or features nudity.

2. The department shall adopt rules pursuant to chapter 17A to administer this section.

90 Acts, ch 1251, §29
C91, §246.310A

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91 Acts, ch 258, §38
C93, §904.310A
2018 Acts, ch 1168, §21

904.311 Contingent fund — inmate tort claim fund.

1. The director may permit the superintendent or the district director, as applicable, of each institution to retain a stated amount of funds in possession as a contingent fund for the payment of freight, postage, commodities purchased on authority of the director on a cash basis, salaries, inmate allowances, and bills granting discount for cash. If necessary, the director shall make proper requisition upon the director of the department of administrative services for a warrant on the treasurer of state to secure the contingent fund for each institution.

2. There is established in the office of the director an inmate tort claim fund. This fund shall be used to reimburse inmates for the damage or loss of personal property caused by the department. Reimbursement for a single loss may be up to one hundred dollars. Section 8.33 notwithstanding, moneys in the fund shall not revert but shall remain in the fund. The fund shall be replenished from the general appropriation to the institutions as necessary to meet the obligations of the fund.

3. Tort claims denied at the institution shall be forwarded to the state appeal board for its consideration as if originally filed with that body. This procedure shall be used in lieu of the procedure in chapter 669 for inmate tort claims of less than one hundred dollars.

83 Acts, ch 96, §38, 159
CS83, §217A.54
85 Acts, ch 21, §54
CS85, §246.311
88 Acts, ch 1049, §2
C93, §904.311
94 Acts, ch 1142, §7; 2003 Acts, ch 145, §286; 2018 Acts, ch 1041, §127; 2024 Acts, ch 1182, §65

904.311A Prison recycling funds.

A recycling fund for each prison institution is created as a separate and distinct fund in the state treasury. All moneys remitted to the department for the recycling operations of a prison institution shall be deposited in the fund established for that institution. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in each fund shall be credited to that fund. Notwithstanding section 8.33, moneys in each fund shall not revert to the general fund of the state at the close of a fiscal year but shall remain in that fund and be used as directed in this section in the succeeding fiscal year. The treasurer of state shall act as custodian of each fund and disburse moneys from each fund as directed by the department for the purpose of payment of operating expenses for recycling.

95 Acts, ch 207, §26; 97 Acts, ch 190, §5

904.312 Purchase of supplies.

1. The director shall adopt rules governing the purchase of all articles and supplies needed at the various institutions and the form and verification of vouchers for the purchases. When purchases are made by sample, the sample shall be properly marked and retained until after an award or delivery of the items is made. The director may purchase supplies from any institution under the director's control, for use in any other institution, and reasonable reimbursement shall be made for these purchases.

2. The director shall, whenever technically feasible, purchase and use degradable loose foam packing material manufactured from grain starches or other renewable resources, unless the cost of the packing material is more than ten percent greater than the cost of packing material made from nonrenewable resources. For the purposes of this subsection, "*packing material*" means material, other than an exterior packing shell, that is used to stabilize, protect, cushion, or brace the contents of a package.

83 Acts, ch 96, §39, 159

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CS83, §217A.55
85 Acts, ch 21, §54
CS85, §246.312
C93, §904.312
93 Acts, ch 176, §48; 2013 Acts, ch 30, §172

904.312A Motor vehicles.

1. The department of corrections shall provide for the purchase of qualified renewable fuels to power internal combustion engines that are used to operate motor vehicles and for the purchase of motor vehicles operating using engines powered by qualified renewable fuels in the same manner required for the director of the department of administrative services pursuant to section 8A.368. The department of corrections shall compile information regarding compliance with the provisions of this subsection in the same manner as the department of administrative services pursuant to section 8A.369. The department of corrections shall cooperate with the department of administrative services in preparing the annual state fleet qualified renewable fuels compliance report regarding compliance with this subsection as provided in section 8A.369.

2. *a.* Of all new passenger vehicles and light pickup trucks purchased by the department, a minimum of ten percent of all such vehicles and trucks purchased shall be equipped with engines which utilize alternative methods of propulsion, including but not limited to any of the following:

(1) A flexible fuel which is any of the following:

(a) E-85 gasoline as provided in section 214A.2.

(b) B-20 biodiesel blended fuel as provided in section 214A.2.

(c) A renewable fuel approved by the office of renewable fuels and coproducts pursuant to section 159A.3.

(2) Compressed or liquefied natural gas.

(3) Propane gas.

(4) Solar energy.

(5) Electricity.

b. The provisions of this subsection do not apply to vehicles and trucks purchased and directly used for law enforcement or off-road maintenance work.

94 Acts, ch 1119, §31; 2006 Acts, ch 1142, §70, 71; 2007 Acts, ch 22, §107; 2008 Acts, ch 1169, §40, 42; 2022 Acts, ch 1067, §41

Referred to in §8A.369

904.312B Purchase of biobased hydraulic fluids, greases, and other industrial lubricants.

The department when purchasing hydraulic fluids, greases, and other industrial lubricants shall give preference to purchasing biobased hydraulic fluids, greases, and other industrial lubricants as provided in section 8A.316.

98 Acts, ch 1082, §7; 2000 Acts, ch 1109, §7; 2003 Acts, ch 145, §281; 2011 Acts, ch 25, §79

904.312C Purchase of designated biobased products.

The department shall give preference to purchasing designated biobased products in the same manner as provided in section 8A.317.

2008 Acts, ch 1104, §7

904.313 Emergency purchases.

The purchase of materials or equipment for penal or correctional institutions under the department is exempted from the requirements of centralized purchasing and bidding by the department of administrative services if the materials or equipment are needed to make an emergency repair at an institution or the security of the institution would be jeopardized because the materials or equipment could not be purchased soon enough through centralized purchasing and bidding and, in either case, if the director approves the emergency purchase.

83 Acts, ch 96, §40, 159
CS83, §217A.56

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85 Acts, ch 21, §54
CS85, §246.313
C93, §904.313
2003 Acts, ch 145, §286

904.314 Plans and specifications for improvements.

1. The director shall cause plans and specifications to be prepared by the department of administrative services for all improvements authorized and costing over the competitive bid threshold in section 26.3, or as established in section 314.1B. An appropriation for any improvement costing over the competitive bid threshold in section 26.3, or as established in section 314.1B, shall not be expended until the adoption of suitable plans and specifications, prepared by a competent architect or engineer and accompanied by a detailed statement of the amount, quality, and description of all material and labor required for the completion of the improvement.

2. A plan shall not be adopted, and an improvement shall not be constructed, which contemplates an expenditure of money in excess of the appropriation.

83 Acts, ch 96, §41, 159
CS83, §217A.57
85 Acts, ch 21, §54
CS85, §246.314
86 Acts, ch 1245, §316
C93, §904.314
2003 Acts, ch 145, §286; 2006 Acts, ch 1017, §39, 42

904.315 Contracts for improvements.

1. The director of the department of administrative services shall, in writing, let all contracts for authorized improvements under chapter 8A, subchapter III, costing in excess of the competitive bid threshold in section 26.3, or as established in section 314.1B. Upon prior authorization by the director, improvements costing five thousand dollars or less may be made by the superintendent or district director, as applicable, of any institution.

2. A contract is not required for improvements at a state institution where the labor of inmates is to be used if the contract is not for a construction, reconstruction, demolition, or repair project or improvement with an estimated cost in excess of one hundred thousand dollars.

83 Acts, ch 96, §42, 159
CS83, §217A.58
85 Acts, ch 21, §54
CS85, §246.315
86 Acts, ch 1245, §317
C93, §904.315
2000 Acts, ch 1229, §22; 2003 Acts, ch 145, §282; 2006 Acts, ch 1017, §40, 42; 2009 Acts, ch 178, §28; 2010 Acts, ch 1190, §27; 2024 Acts, ch 1182, §66

904.316 Payment for improvements.

The director of the department of administrative services shall not authorize payment for construction purposes until satisfactory proof has been furnished to the director of the department of administrative services by the proper officer or supervising architect, that the contract has been complied with by the parties. Payments shall be made in a manner similar to that in which the current expenses of the institutions are paid.

83 Acts, ch 96, §43, 159
CS83, §217A.59
85 Acts, ch 21, §54
CS85, §246.316
86 Acts, ch 1245, §318
C93, §904.316
2003 Acts, ch 145, §286

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904.317 Director may buy and sell real estate — options.

1. The director, subject to the advice and recommendations of the board, may secure options to purchase real estate and acquire and sell real estate for the proper uses of the institutions. Real estate shall be acquired and sold upon terms and conditions the director recommends subject to the advice and recommendations of the board. Upon sale of the real estate, the proceeds shall be deposited in a corrections capital reinvestment fund, which is established in the state treasury under the purview of the department. There is appropriated from the fund to the department the proceeds, which may be used to purchase other real estate, for capital improvements upon property under the director's supervision, or for upgrades to the Iowa corrections offender network system. Notwithstanding section 8.33, moneys in the fund that remain unencumbered or unobligated at the close of a fiscal year shall not revert but shall remain available for expenditure for the purposes designated. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

2. The costs incident to the securing of options and acquisition and sale of real estate including, but not limited to, appraisals, invitations for offers, abstracts, and other necessary costs, may be paid from moneys appropriated for support and maintenance to the institution at which the real estate is located. The funding source for these costs shall be reimbursed from the proceeds of the sale.

83 Acts, ch 96, §51, 159
CS83, §217A.73
85 Acts, ch 21, §54
CS85, §246.317
86 Acts, ch 1244, §31
C93, §904.317
2023 Acts, ch 113, §26, 28; 2025 Acts, ch 66, §8; 2025 Acts, ch 154, §22

904.318 Fire protection contracts.

1. The director may enter into contracts with the governing body of any city for the protection from fire of any property under the director's primary control, located in any city or in territory contiguous to a city.

2. The director of the department of inspections, appeals, and licensing or the director's designee shall cause an annual inspection to be made of all the institutions listed in section 904.102 and shall make a written report of the inspection to the director.

83 Acts, ch 96, §52, 159
CS83, §217A.74
85 Acts, ch 21, §54
CS85, §246.318
C93, §904.318
2023 Acts, ch 19, §1708

904.319 Temporary quarters in emergency.

If the buildings at any institution under the management of the director are destroyed or rendered unfit for habitation by reason of fire, storms, or other like causes, to such an extent that the inmates cannot be confined and cared for at the institution, the director shall make temporary provision for the confinement and care of the inmates at some other place in the state. Like provision may be made in case of an epidemic among the inmates. The reasonable cost of the change including the cost of transfer of inmates, shall be paid from any moneys in the state treasury not otherwise appropriated.

83 Acts, ch 96, §46, 159
CS83, §217A.68
85 Acts, ch 21, §54
CS85, §246.319
C93, §904.319
2018 Acts, ch 1041, §117

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904.320 Private transportation of prisoners.

1. If the director contracts with a private person or entity for the transportation of inmates to or from an institution, the contract shall include provisions which require the following:

a. The private person or any officers or employees of the private person or private entity shall not have been convicted of any of the following:

(1) A felony.

(2) Within the three-year period immediately preceding the date of the execution of the contract, a violation of the laws pertaining to operation of motor vehicles punishable as a serious misdemeanor or greater offense.

(3) Domestic abuse assault in which bodily injury was inflicted or attempted to be inflicted.

(4) A crime involving illegal manufacture, use, possession, sale, or an attempt to illegally manufacture, use, possess, or sell alcohol or a controlled substance or other drug.

b. The person or persons actually transporting the prisoners shall be trained and proficient in the safe use of firearms.

c. Any employees of a private entity which has entered into the contract for transportation of prisoners shall only possess and use security and restraint equipment, including any firearms, which has been issued by the private entity.

d. The person or persons actually transporting the prisoners shall be trained and proficient in appropriate transportation procedures.

e. The person or entity complies, within one year of publication, with any applicable standards for the transportation of prisoners promulgated by the American corrections association.

2. The department shall adopt rules pertaining to contracts with private persons or entities providing transportation of inmates of institutions under the control of the department.

98 Acts, ch 1131, §5

904.321 Department of corrections survivor benefits fund.

1. A department of corrections survivor benefits fund is established in the state treasury under the control of the department. The fund shall consist of moneys transferred to the fund pursuant to section 99G.39 and any other moneys appropriated to or deposited in the fund. Moneys in the fund are appropriated to the department for the purposes set forth in subsection 2.

2. The department shall distribute the moneys credited to the fund in a fiscal year in the form of grants to nonprofit organizations that provide resources to assist surviving families of eligible employees of the department of corrections killed in the line of duty in paying costs associated with accident or health care coverage pursuant to section 509A.13D.

3. Notwithstanding section 8.33, moneys in the fund that remain unencumbered or unobligated at the close of a fiscal year shall not revert but shall remain available for expenditure for the purposes designated. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

2021 Acts, ch 166, §33 – 35

Referred to in §99G.39

904.322 through 904.400 Reserved.

SUBCHAPTER IV

INVESTIGATIONS

904.401 Investigation.

The director or director's designee shall visit and inspect the institutions under the director's control, and investigate the financial condition and management of the institutions at least once in six months.

83 Acts, ch 96, §28, 159

CS83, §217A.41

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85 Acts, ch 21, §54
CS85, §246.401
C93, §904.401
94 Acts, ch 1142, §8

904.402 Investigation of other institutions.

The director may investigate charges of abuse, neglect or mismanagement on the part of any officer or employee of any public or private institution subject to the director's supervision or control.

83 Acts, ch 96, §29, 159
CS83, §217A.42
85 Acts, ch 21, §54
CS85, §246.402
C93, §904.402

904.403 Investigatory powers — witnesses.

1. The director may exercise the following powers in an investigation:
a. Summon and compel the attendance of witnesses.
b. Examine the witnesses under oath, which the director may administer.
c. Have access to all books, papers, and property material to the investigation.
d. Order the production of books or papers material to the investigation.
2. Witnesses other than those in the employ of the state are entitled to the same fees as in civil cases in the district court.

83 Acts, ch 96, §30, 159
CS83, §217A.43
85 Acts, ch 21, §54
CS85, §246.403
C93, §904.403
2013 Acts, ch 30, §225
Referred to in §904.404

904.404 Contempt.

If a person fails or refuses to obey the orders of the director issued under section 904.403, or fails or refuses to give or produce evidence when required, the director shall petition the district court in the county where the offense occurs for an order of contempt and the court shall proceed as for contempt of court.

83 Acts, ch 96, §31, 159
CS83, §217A.44
85 Acts, ch 21, §54
CS85, §246.404
C93, §904.404

904.405 Recording of testimony.

The director shall cause the testimony taken at the investigation to be recorded. The recording of the testimony shall not be transcribed unless the testimony is part of a case that is appealed or an interested party requests a transcript and pays the cost of preparing the transcript. The recording of the testimony, or the transcription thereof, shall be filed and maintained in the director's office at the seat of government for at least five years from the date the testimony is taken or the date of a final decision in a case involving the testimony, whichever is later. However, a recording of testimony involving any employee of the department shall continue to be filed and maintained until the employee no longer is employed by the department.

83 Acts, ch 96, §32, 159
CS83, §217A.45
85 Acts, ch 21, §54
CS85, §246.405

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C93, §904.405
2001 Acts, ch 131, §7

904.406 through 904.500 Reserved.

SUBCHAPTER V

COMMITMENT, TRANSFER, AND GENERAL SUPERVISION OF INMATES

904.501 Reports to director.
The superintendent of each institution shall, within ten days after the commitment or entrance of a person to the institution, cause a true copy of the person's entrance record to be made and forwarded to the director. When an inmate leaves, is discharged, transferred, or dies in any institution, the superintendent or person in charge shall within ten days thereafter send the information to the office of the director on forms which the director prescribes.
83 Acts, ch 96, §24, 159
CS83, §217A.34
85 Acts, ch 21, §54
CS85, §246.501
C93, §904.501

904.502 Questionable commitment.
The superintendent or the district director, as applicable, shall within three days of the commitment or entrance of a person at the institution notify the director if there is any question as to the propriety of the commitment or detention of any person received at the institution, and the director upon notification shall inquire into the matter presented, and take appropriate action.
83 Acts, ch 96, §25, 159
CS83, §217A.35
85 Acts, ch 21, §54
CS85, §246.502
C93, §904.502
2024 Acts, ch 1182, §67

904.503 Transfers — persons with mental illness.
1. *a.* The director may transfer at the expense of the department an inmate of one institution to another institution under the director's control if the director is satisfied that the transfer is in the best interests of the institutions or inmates.

b. The director may transfer at the expense of the department an inmate under the director's jurisdiction from any institution supervised by the director to another institution under the control of the director of health and human services with the consent and approval of the director of health and human services and may transfer an inmate to any other institution for mental or physical examination or treatment retaining jurisdiction over the inmate when so transferred.

c. If the juvenile court waives its jurisdiction over a child over thirteen and under eighteen years of age pursuant to section 232.45 so that the child may be prosecuted as an adult and if the child is convicted of a public offense in the district court and committed to the custody of the director under section 901.7, the director may request transfer of the child to the state training school under this section. If the director of health and human services consents and approves the transfer, the child may be retained in temporary custody by the state training school until attaining the age of eighteen, at which time the child shall be returned to the custody of the director of the department of corrections to serve the remainder of the sentence imposed by the district court. If the child becomes a security risk or becomes a danger to other residents of the state training school at any time before reaching eighteen years of age,

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the director of health and human services may immediately return the child to the custody of the director of the department of corrections to serve the remainder of the sentence.

2. When the director has cause to believe that an inmate in a state correctional institution is mentally ill, the Iowa department of corrections may cause the inmate to be transferred to the Iowa medical and classification center, or to another appropriate facility within the department, for examination, diagnosis, or treatment. The inmate shall be confined at that center or facility or a state mental health institute until the expiration of the inmate's sentence or until the inmate is pronounced in good mental health. If the inmate is pronounced in good mental health before the expiration of the inmate's sentence, the inmate shall be returned to the state correctional institution until the expiration of the inmate's sentence.

3. When the director has reason to believe that a prisoner in a state correctional institution, whose sentence has expired, is mentally ill, the director shall cause examination to be made of the prisoner by competent physicians who shall certify to the director whether the prisoner is in good mental health or mentally ill. The director may make further investigation and if satisfied that the prisoner is mentally ill, the director may cause the prisoner to be transferred to one of the hospitals for persons with mental illness, or may order the prisoner to be confined in the Iowa medical and classification center.

2. [SS15, §5709-b, -e; C24, 27, 31, 35, 39, §**3755;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §246.16; 82 Acts, ch 1100, §11]

3. [C97, §5710; C24, 27, 31, 35, 39, §**3756;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §246.17; 82 Acts, ch 1100, §12]

83 Acts, ch 96, §21, 92, 159
CS83, §217A.31, 246.16
84 Acts, ch 1184, §14, 15; 84 Acts, ch 1214, §1
C85, §217A.31
85 Acts, ch 21, §17 – 19, 54
CS85, §246.503
89 Acts, ch 80, §1
C93, §904.503
96 Acts, ch 1129, §113; 2003 Acts, 1st Ex, ch 2, §55, 209; 2013 Acts, ch 30, §261; 2023 Acts, ch 19, §1333
Referred to in §229.26

904.504 Federal prisoners.

Inmates sentenced for any term by any court of the United States may be received by the superintendent of a state correctional institution and kept there in pursuance of their sentences. The director may transfer inmates at state correctional institutions to the federal bureau of prisons.

[C51, §3119; R60, §5138; C73, §4771; C97, §5676; C24, 27, 31, 35, 39, §**3750**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §246.11]

83 Acts, ch 96, §91, 159; 84 Acts, ch 1184, §13
C85, §217A.39
85 Acts, ch 21, §22, 54
CS85, §246.504
C93, §904.504

904.505 Disciplinary procedures — use of force.

1. Inmates who disobey the disciplinary rules of the institution to which they are committed shall be punished by the imposition of the penalties prescribed in the disciplinary rules, according to the following guidelines:

a. To ensure that sanctions are imposed only at such times and to such a degree as is necessary to regulate inmate behavior within the limits of the disciplinary rules and to promote a safe and orderly institutional environment.

b. To control inmate behavior in an impartial and consistent manner.

c. To ensure that disciplinary procedures are fair and that sanctions are not capricious or retaliatory.

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d. To prevent the commission of offenses through the deterrent effect of the sanctions available.

e. To define the elements of each offense and the penalties which may be imposed for violations, in order to give fair warning of prohibited conduct.

f. To provide procedures for preparation of reports of disciplinary actions, for conducting disciplinary hearings, and for processing of disciplinary appeals.

2. The superintendent or district director, as applicable, of each institution shall maintain a register of all penalties imposed on inmates and the cause for which the penalties were imposed.

3. A correctional officer of a correctional institution or the officer's assistant shall, in case an inmate resists the officer's or assistant's lawful authority, or refuses to obey the officer's or assistant's lawful command, only use such force as is reasonably necessary under all attendant circumstances. The use of a deadly weapon is justified under conditions of extreme necessity and as a last resort to protect the life or safety of a person. The use of a deadly weapon is not justified solely to prevent damage to or destruction of property where there is no danger to the life or safety of a person. An officer or assistant is justified in using force which causes injury or death to an inmate if the officer's or assistant's actions comply with the requirements of this subsection.

4. The disciplinary rules may impose a reasonable administrative fee for the filing of a report of a major disciplinary rule infraction for which an inmate is found guilty. A fee charged pursuant to this subsection shall be deposited in the general fund of the state.

85 Acts, ch 21, §21
CS85, §246.505
C93, §904.505
2010 Acts, ch 1031, §411; 2024 Acts, ch 1182, §68

904.506 Confiscation of currency.

1. Except as provided for by the director by rule, it is unlawful for an inmate of one of the penal or correctional facilities under the department to possess United States or foreign currency in the penal or correctional facility.

2. The director shall adopt rules as to circumstances under which the possession of currency by an inmate of a penal or correctional facility under the department is authorized.

3. The department may confiscate currency unlawfully possessed in violation of this section. Money confiscated pursuant to this section shall be deposited in a special fund in the state treasury which fund shall be established by the treasurer of state. Money deposited in the fund may be drawn upon by the department to pay for expenses incurred in operating the division's penal and correctional facilities and programs.

83 Acts, ch 51, §2, 7, 9; 83 Acts, ch 96, §159, 160
CS83, §217A.77
85 Acts, ch 21, §54
CS85, §246.506
C93, §904.506

904.507 Escape.

An inmate of a state correctional institution who escapes from it may be arrested and returned to the institution, by an officer or employee of a state correctional institution without any other authority than this chapter, and by any peace officer or other person on the request in writing of the superintendent or the state director.

[SS15, §2713-n15; C24, 27, 31, 35, 39, §**3738;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §245.15]

83 Acts, ch 96, §88, 159; 83 Acts, ch 101, §52; 84 Acts, ch 1184, §12
C85, §217A.38
85 Acts, ch 21, §54
CS85, §246.507
C93, §904.507

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904.507A Liability for escapee expenses.

If a person escapes from a state correctional institution including but not limited to those institutions listed in section 904.102, all necessary and legal expenses incurred by that person while absent from the state institution shall be paid out of any moneys in the state treasury not otherwise appropriated. The expenses shall be paid on claims filed with the department of administrative services.

98 Acts, ch 1086, §5; 2003 Acts, ch 145, §286

904.508 Property of inmate — inmate savings fund.

1. The superintendent of each institution shall receive and care for any property an inmate may possess on the inmate's person upon entering the institution, and on the discharge of the inmate, return the property to the inmate or the inmate's legal representatives, unless the property has been previously disposed of according to the inmate's written designation. The superintendent may place an inmate's money at interest, keeping an account of the money and returning the remaining money upon discharge.

2. Pursuant to section 904.702, the director shall establish and maintain an inmate savings fund in an interest-bearing account for the deposit of all or part of an inmate's allowances and amounts, except amounts directed to be deposited in the inmate telephone fund established in section 904.508A, sent to the inmate from a source other than the department. All or part of an inmate's allowances and amounts, except amounts directed to be deposited in the inmate telephone fund established in section 904.508A, from a source other than the department shall be deposited into the savings fund, until the inmate's deposit is equal to one hundred dollars as provided in section 906.9. If an inmate's deposits are equal to or in excess of one hundred dollars, the inmate may voluntarily withdraw from the savings fund. The director shall notify the inmate of this right to withdraw and shall provide the inmate with a written request form to facilitate the withdrawal. If the inmate withdraws and the inmate's deposits exceed the amount due as provided in section 906.9, the director shall disburse the excess amount as provided for allowances under section 904.702, except the director shall not deposit the excess amount in the inmate savings fund. If the inmate chooses to continue to participate in the savings fund, the inmate's deposits shall be returned to the inmate upon discharge, parole, or placement on work release. Otherwise, the inmate's deposits shall be disposed of as provided in subsection 3. An inmate's deposits into the savings fund may be used to provide the money due the inmate upon discharge, parole, or placement on work release, as required under section 906.9. Interest earned from the savings fund shall be placed in a separate account, and may be used for purchases approved by the director to directly and collectively benefit inmates.

3. Upon the death of an inmate, the superintendent of the institution shall immediately take possession of the decedent's property left at the institution, including the inmate's deposits into the inmate savings fund, and shall deliver the property to the person designated by the inmate to be contacted in case of an emergency. However, if the property left by the decedent cannot be delivered to the designated person, delivery may be made to the surviving spouse or an heir of the decedent. If the decedent's property cannot be delivered to the designated person and no surviving spouse or heir is known, the superintendent shall deliver the property to the treasurer of state for disposition as unclaimed property pursuant to chapter 556, after deducting expenses incurred in disposing of the decedent's body or property.

83 Acts, ch 96, §44, 159
CS83, §217A.66
85 Acts, ch 21, §25, 54
CS85, §246.508
89 Acts, ch 46, §1; 91 Acts, ch 219, §8
C93, §904.508
2003 Acts, 1st Ex, ch 2, §56, 209; 2025 Acts, ch 66, §9
Referred to in §904.509, 904.702, 906.9

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904.508A Inmate telephone fund.

The department is authorized to establish and maintain an inmate telephone fund for the deposit of moneys received for inmate telephone calls. All funds deposited in this fund shall be used for the benefit of inmates. The director shall adopt rules providing for the disbursement of moneys from the fund.

95 Acts, ch 207, §27; 2003 Acts, 1st Ex, ch 2, §57, 209
Referred to in §904.508, 904.702

904.509 Money deposited with treasurer of state.

1. Money from property converted pursuant to section 904.508 shall be transmitted to the treasurer of state as soon after one year after the death of the inmate as practicable. A complete permanent record of the property, showing by whom and with whom it was left, its amount when converted to money, the date of the death of the owner, the owner's reputed place of residence before becoming an inmate of the institution, the date on which the money was sent to the treasurer of state, and any other facts which may tend to identify the decedent and explain the case, shall be kept by the superintendent of the institution, and a transcript of the record shall be sent to and kept by the treasurer of state.

2. Money deposited with the treasurer of state pursuant to this section shall be paid at any time within ten years from the death of the inmate to any person who is shown to be entitled to it.

83 Acts, ch 96, §45, 159
CS83, §217A.67
85 Acts, ch 21, §54
CS85, §246.509
C93, §904.509

904.510 Religious preference.

The superintendent receiving a person committed to any of the institutions shall ask the person to state the person's religious preference, shall enter the stated preference in a book kept for that purpose, and shall request that the person sign the entry. If the person is a minor and has formed no choice, the preference may be expressed at any later time by the person.

83 Acts, ch 96, §26, 159
CS83, §217A.36
85 Acts, ch 21, §54
CS85, §246.510
C93, §904.510

904.511 Time for religion.

Any inmate, during the time of detention, shall be allowed for at least one hour on each Sunday or other holy day or in times of extreme sickness, and at other suitable and reasonable times consistent with proper discipline in the institution, to receive spiritual advice, instruction, and ministration from any recognized member of the clergy who represents the inmate's religious belief.

83 Acts, ch 96, §27, 159
CS83, §217A.37
85 Acts, ch 21, §54
CS85, §246.511
C93, §904.511

904.512 Visits.

Members of the executive council, the attorney general, the lieutenant governor, members of the general assembly, judges of the supreme and district court and court of appeals, judicial magistrates, county attorneys, and persons ordained or designated as regular leaders of a religious community are authorized to visit all institutions under the control of the Iowa

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department of corrections at reasonable times. No other person shall be granted admission except by permission of the superintendent or district director, as applicable.

84 Acts, ch 1004, §1
C85, §217A.80
85 Acts, ch 21, §28, 54
CS85, §246.512
C93, §904.512
2024 Acts, ch 1182, §69

904.513 Assignment of OWI violators to treatment facilities.

1. *a.* The department of corrections shall establish in each judicial district a continuum of programming for the supervision and treatment of offenders convicted of violating chapter 321J who are sentenced to the custody of the director. The continuum shall include a range of sanctioning options that include but are not limited to prisons and residential facilities.

b. (1) The department of corrections shall develop standardized assessment criteria for the assignment of offenders pursuant to this chapter.

(2) Offenders convicted of violating chapter 321J, sentenced to the custody of the director, and awaiting placement in a community residential substance use disorder treatment program for such offenders shall be placed in an institutional substance use disorder program for such offenders within sixty days of admission to the institution or as soon as practical. When placing offenders convicted of violating chapter 321J in community residential substance use disorder treatment programs for such offenders, the department shall give priority as appropriate to the placement of those offenders currently in institutional substance use disorder programs for such offenders. The department shall work with each judicial district to enable such offenders to enter community residential substance use disorder treatment programs at a level comparable to their prior institutional program participation.

(3) Assignment shall be for the purposes of risk management and substance use disorder treatment and may include education or work programs when the offender is not participating in other program components.

(4) Assignment may also be made on the basis of the offender's treatment program performance, as a disciplinary measure, for medical needs, and for space availability at community residential facilities. If there is insufficient space at a community residential facility, the court may order an offender to be released to the supervision of the district department, held in jail, or committed to the custody of the director for assignment to an appropriate correctional facility until there is sufficient space at a community residential facility.

2. Upon request by the director, a county shall provide temporary confinement for offenders allegedly violating the conditions of assignment to a program under this chapter, if space is available in the county. The department shall negotiate a reimbursement rate with each county. The amount to be reimbursed shall be determined by multiplying the number of days a person is confined by the average daily cost of confining a person in the county facility as negotiated with the department. A county holding offenders in jail due to insufficient space in a community residential facility shall be reimbursed. Payment shall be made upon submission of a voucher executed by the sheriff and approved by the director. A voucher seeking payment shall be submitted within thirty days of the end of a calendar quarter. If a voucher seeking payment is not made within thirty days of the end of the calendar quarter, the request shall be denied by the department.

3. The department shall adopt rules for the implementation of this section. The rules shall include the requirement that the treatment programs established pursuant to this chapter meet the licensure standards of the department of health and human services under chapter 125. The rules shall also include provisions for the funding of the program by means of self-contribution by the offenders, insurance reimbursement on behalf of offenders, or other forms of funding, program structure, criteria for the evaluation of offenders and programs, and all other issues the director shall deem appropriate.

86 Acts, ch 1220, §26

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C87, §246.513
87 Acts, ch 118, §1, 2; 90 Acts, ch 1251, §30; 91 Acts, ch 219, §9; 92 Acts, ch 1163, §57
C93, §904.513
96 Acts, ch 1165, §2; 2000 Acts, ch 1202, §1; 2003 Acts, 1st Ex, ch 2, §58, 209; 2006 Acts, ch 1010, §167; 2006 Acts, ch 1183, §24; 2012 Acts, ch 1030, §1; 2023 Acts, ch 19, §1334, 1335; 2024 Acts, ch 1182, §70, 71
Referred to in §321J.2, 462A.14

904.514 Required test.

1. A person committed to an institution under the control of the department who bites another person, who causes an exchange of bodily fluids with another person, or who causes any bodily secretion to be cast upon another person, shall submit to the withdrawal of a bodily specimen for testing to determine if the person is infected with a contagious infectious disease. The bodily specimen to be taken shall be determined by the staff physician of the institution. The specimen taken shall be sent to the state hygienic laboratory or some other laboratory approved by the department of health and human services. If a person to be tested pursuant to this section refuses to submit to the withdrawal of a bodily specimen, application may be made by the superintendent of the institution to the district court for an order compelling the person to submit to the withdrawal and, if infected, to available treatment. An order authorizing the withdrawal of a specimen for testing may be issued only by a district judge or district associate judge upon application by the superintendent or district director, as applicable, of the institution.

2. Failure to comply with an order issued pursuant to this section may result in the forfeiture of good conduct time, not to exceed one year, earned up to the time of the failure to comply.

3. Personnel at an institution under the control of the department shall be notified if a person committed to any of these institutions is found to have a contagious infectious disease.

4. The department shall adopt policies and procedures to prevent the transmittal of a contagious infectious disease to other persons.

5. For purposes of this section, "*infectious disease*" means any infectious condition which if spread by contamination would place others at a serious health risk.

87 Acts, ch 185, §1
CS87, §246.514
C93, §904.514
2018 Acts, ch 1041, §127; 2023 Acts, ch 19, §1336; 2024 Acts, ch 1182, §72

904.515 Human immunodeficiency virus-related matters — exemption.

The provisions of chapter 141A relating to knowledge and consent do not apply to persons committed to the custody of the department. The department may provide for medically acceptable procedures to inform employees, visitors, and persons committed to the department of possible infection and to protect them from possible infection.

88 Acts, ch 1234, §6
C89, §246.515
C93, §904.515
99 Acts, ch 181, §18

904.516 Academic achievement of inmates — literacy and high school equivalency programs.

1. Effective July 1, 1997, a person who is committed to the custody of the director of the department of corrections may be evaluated for purposes of determining the level of achievement in the basic skills of arithmetic, the communicative arts of reading, writing, grammar, and spelling, social studies, and the sciences.

2. Persons who demonstrate functional literacy competence below the sixth grade level may be required to participate in literacy programs established by the department. Participation shall be voluntary, but shall be reflected as part of the person's record at the

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institution. Persons who are required to participate in literacy programs and who refuse to participate shall be subject to the following penalties:

a. Eligibility only for a minimum allowance.

b. Placement on idle status.

c. Ineligibility for work bonuses.

d. Ineligibility for minimum out or minimum live out status.

e. Ineligibility for other privileges as determined by the department.

3. Persons who have not completed the requirements for high school or a high school equivalency diploma may be required to complete the requirements for and to obtain a high school equivalency diploma under chapter 259A.

4. The department, in cooperation with the board of parole, shall adopt rules which establish a procedure for evaluation of inmates to determine basic skills achievement, and criteria for placement of inmates in educational programs. Rules adopted may include, but shall not be limited to, the establishment of standards for the development of appropriate programming, imposition of any applicable penalties, and for waiver of any educational requirements.

95 Acts, ch 179, §1

904.517 through 904.600 Reserved.

SUBCHAPTER VI

RECORDS — CONFIDENTIALITY

904.601 Records of inmates.

1. The director shall keep the following record of every person committed to any of the department's institutions: Name, residence, sex, age, place of birth, occupation, civil condition, date of entrance or commitment, date of discharge, whether a discharge is final, condition of the person when discharged, the name of the institutions from which and to which the person has been transferred, and if the person is dead, the date and cause of death. The director may permit the department of administrative services to copy or reproduce by any photographic, photostatic, microfilm, microcard, or other process which accurately reproduces in a durable medium and to destroy in the manner described by law the records of inmates required by this paragraph.

2. The director shall keep other records for the use of the board of parole as the board of parole may request.

83 Acts, ch 96, §22, 159
CS83, §217A.32
84 Acts, ch 1148, §3; 85 Acts, ch 21, §20, 54
CS85, §246.601
C93, §904.601
93 Acts, ch 48, §54; 2011 Acts, ch 132, §65, 106; 2023 Acts, ch 19, §1422
Referred to in §8.98

904.602 Confidentiality of records — penalty.

1. The following information regarding individuals receiving or who have received services from the department or from the district departments is public information and may be given to anyone:

a. Name.

b. Age.

c. Sex.

d. Status (inmate, parolee, or probationer).

e. Location, except home street address.

f. Duration of supervision.

g. Offense or offenses for which the individual was placed under supervision.

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h. County of commitment.
i. Arrest and detention orders.
j. Physical description.
k. Type of services received.
l. Disciplinary reports and decisions which have been referred to the county attorney or prosecutor for prosecution, and the following information of all other disciplinary reports:
(1) The name of the subject of the investigation.
(2) The alleged infraction involved.
(3) The finding of fact and the penalty, if any, imposed as a result of the infraction.

2. The following information regarding individuals receiving or who have received services from the department or from the district departments is confidential and shall not be disseminated by the department to the public:
a. Home street address of the individual receiving or who has received services or that individual's family.
b. Department evaluations.
c. Medical, psychiatric or psychological information.
d. Names of associates or accomplices.
e. Name of employer.
f. Social security number.
g. Prior criminal history including information on offenses where no conviction occurred.
h. Family and personal history.
i. Financial information.
j. Information from disciplinary reports and investigations other than that identified in subsection 1, paragraph *"l"*.
k. Investigations by the department or other agencies which are contained in the individual's file.
l. Department committee records which include any information identified in paragraphs *"a"* through *"k"*. A record containing information which is both public and confidential which is reasonably segregable shall not be confidential after deletion of the confidential information.
m. Presentence investigations as provided under chapter 901.
n. Pretrial information that is not otherwise available in public court records or proceedings.
o. Correspondence directed to department officers or staff from an individual's family, victims, or employers of a personal or confidential nature. If the custodian of the record determines that the correspondence is confidential, in any proceeding under chapter 22 the burden of proof shall be on the person seeking release of the correspondence, and the writer of the correspondence shall be notified of the proceeding.

3. Information identified in subsection 2 shall not be disclosed or used by any person or agency except for purposes of the administration of the department's programs of services or assistance and shall not, except as otherwise provided in this section, be disclosed by the department or be used by persons or agencies outside the department unless they are subject to, or agree to, comply with standards of confidentiality comparable to those imposed on the department by this section.

4. This section does not restrict the disclosure or use of information regarding the cost, purpose, number of persons served or assisted by or results of any program administered by the department, and other general statistical information so long as the information does not identify particular individuals served or assisted except as provided in subsection 1 of this section.

5. Information restricted in subsection 2 may be disclosed to persons or agencies with the approval of the director for the limited purpose of research and program evaluation or educational purposes when those persons or agencies agree to keep confidential that information restricted in subsection 2, and any reports of the research shall not contain any of the information restricted in subsection 2 except as allowed in subsection 4. However, the persons or agencies eligible to receive information under this subsection include only those

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which are state employees or those whom the department retains under contract to perform the services.

6. Confidential information described in subsection 2 may be disclosed to public officials for use in connection with their official duties relating to law enforcement, audits, and other purposes directly connected with the administration of their programs. Full disclosure by the department of any information on an individual may be made to the board of parole and to district departments, and the board and those district departments are subject to the same standards as the department in dissemination or redissemination of information on persons served or supervised by those district departments, and all provisions of this section pertain to the board of parole and to the district departments as a part of the department. Information may be disseminated about individuals while under the supervision of the department to public or private agencies to which persons served or supervised by the department are referred for specific services not otherwise provided by the department but only to the extent that the information is needed by those agencies to provide the services required, and they shall keep information received from the department confidential.

7. Information described in subsection 2 which pertains to the name and address of the employer of an individual who is receiving or has received services shall be released upon request to an individual for the purpose of executing a judgment resulting from the individual's current or past criminal activity.

8. If it is established that a provision of this section would cause any of the department's programs of services or assistance to be ineligible for federal funds, the provision shall be limited or restricted to the extent which is essential to make the program eligible for federal funds. The department shall adopt, pursuant to chapter 17A, rules necessary to implement this subsection.

9. A supervised individual or former supervised individual shall be given access to the individual's own records in the custody of the department, except that records which could result in physical or psychological harm to another person or the supervised individual or adversely affect an investigation into a supervised individual's possible violation of departmental rules, shall not be disclosed without a court order. Psychiatric information may be withheld by the department if its release would jeopardize the supervised individual's treatment. Upon the supervised individual's written authorization, that information which the supervised individual has access to may be released to any third party. A reasonable fee for copying and services may be charged.

10. Regulations, procedures, and policies that govern the internal administration of the department and the district departments, which if released may jeopardize the secure operation of a correctional institution operation or program, are confidential unless otherwise ordered by a court. These records include procedures on inmate movement and control; staffing patterns and regulations; emergency plans; internal investigations; equipment use and security; building plans, operation, and security; security procedures for inmates, staff, and visitors; daily operation records; and contraband and medicine control. These records are exempt from the public inspection requirements in section 17A.3 and section 22.2.

11. Violation of this section is a serious misdemeanor.

12. This section does not preclude the disclosure of otherwise confidential material if it is necessary to civil or criminal court proceedings. The review of the court may, however, limit the confidential information to an in camera inspection where the court determines that the confidential nature of the information needs to be protected.

83 Acts, ch 96, §13, 159

CS83, §217A.18

84 Acts, ch 1148, §1; 85 Acts, ch 21, §54

CS85, §246.602

C93, §904.602

94 Acts, ch 1142, §9, 10; 98 Acts, ch 1090, §77, 78, 84; 2014 Acts, ch 1026, §137; 2022 Acts, ch 1021, §177; 2024 Acts, ch 1182, §73 – 75

Referred to in §8.98, 901.4, 904.603

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904.603 Action for damages.

A person receiving or who has received services, or that person's family, victim, or employer may institute a civil action for damages under chapter 669 or other action to restrain the release of confidential records set out in section 904.602, subsection 2, which is in violation of that section. A person, agency, or governmental body proven to have released confidential records in violation of section 904.602, subsection 2, is liable for actual damages for each violation and is liable for court costs and reasonable attorney's fees incurred by the party bringing the action.

83 Acts, ch 96, §14, 159
CS83, §217A.19
84 Acts, ch 1148, §2; 85 Acts, ch 21, §54
CS85, §246.603
C93, §904.603
94 Acts, ch 1142, §11; 2023 Acts, ch 64, §102

904.604 through 904.700 Reserved.

SUBCHAPTER VII

INMATE WORK

904.701 Services required — gratuitous allowances — hard labor — rules.

1. An inmate of an institution shall be required to perform hard labor which is suited to the inmate's age, gender, physical and mental condition, strength, and attainments in the institution proper, in the industries established in connection with the institution, or at such other places as may be determined by the director. Substantially equivalent hard labor programs shall be available to both male and female inmates. When an inmate of an institution is working outside the institution proper, the inmate shall be deemed at all times to be in the actual custody of the superintendent of the institution. Inmates performing hard labor on chain gangs at a location other than within or on the grounds of a correctional institution shall be attired in brightly colored uniforms that readily identify them as inmates of correctional institutions. Inmates performing other types of hard labor at locations other than within or on the grounds of a correctional institution may also be required by the department to wear the brightly colored uniforms. Inmates not required to wear brightly colored uniforms while performing hard labor shall be otherwise clearly designated as inmates of correctional institutions. The employment of inmates in hard labor shall not displace employed workers, shall not be applied to skills, crafts, or trades in which a local surplus of labor exists, and shall not impair existing contracts for employment or services.

2. The director may when practicable pay the inmate an allowance as the director deems proper in view of the circumstances, and in view of the cost attending the maintenance of the inmate. The allowance is a gratuitous payment and is not a wage arising out of an employment relationship. The payment shall not exceed the amount paid to free labor for a like or equivalent service.

3. For purposes of this section, *"hard labor"* means physical or mental labor which is performed for a period of time which shall average, as nearly as possible, forty hours each week, and may include useful and productive work, chain gangs, menial labor, treatment or education programs, any training necessary to perform any work required, and, if possible, work providing an inmate with marketable vocational skills. *"Hard labor"* does not include labor which is dangerous to an inmate's life or health, is unduly painful, or is required to be performed under conditions that would violate occupational safety and health standards applicable to such labor if performed by a person who is not an inmate.

4. Notwithstanding subsection 1, an inmate who has been determined by the director to be unsuitable for the performance of hard labor due to the inmate's age, gender, physical or mental condition, strength, or security status shall not be required to perform hard labor.

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5. The department shall adopt rules to implement this section.

83 Acts, ch 96, §33, 159
CS83, §217A.46
85 Acts, ch 21, §23, 54
CS85, §246.701
C93, §904.701
95 Acts, ch 166, §1; 96 Acts, ch 1216, §33
Referred to in §904.702
See Iowa Acts for special provisions relating to reports concerning inmate labor in a given year

904.702 Deductions from inmate accounts.

1. If allowances are paid pursuant to section 904.701, the director shall establish an inmate account, for deposit of those allowances and for deposit of moneys sent to the inmate from a source other than the department of corrections. The director may deduct an amount, not to exceed ten percent of the amount of the allowance, unless the inmate requests a larger amount, to be deposited into the inmate savings fund as required under section 904.508, subsection 2. In addition to deducting a portion of the allowance, the director may also deduct from an inmate account any amount, except amounts directed to be deposited in the inmate telephone fund established in section 904.508A, sent to the inmate from a source other than the department of corrections for deposit in the inmate savings fund as required under section 904.508, subsection 2, until the amount in the fund equals the amount due the inmate upon discharge, parole, or placement on work release. The director shall deduct from the inmate account an amount the inmate is legally obligated to pay for child support. The director shall deduct from the inmate account an amount established by the inmate's restitution plan of payment. The director shall also deduct from any remaining account balance an amount sufficient to pay all or part of any judgment against the inmate, including but not limited to judgments for taxes and child support, and court costs and fees assessed either as a result of the inmate's confinement or amounts required to be paid under section 610A.1. Written notice of the amount of the deduction shall be given to the inmate, who shall have five days after receipt of the notice to submit in writing any and all objections to the deduction to the director, who shall consider the objections prior to transmitting the deducted amount to the clerk of the district court. The director need give only one notice for each action or appeal under section 610A.1 for which periodic deductions are to be made. The director shall next deduct from any remaining account balance an amount sufficient to pay all or part of any costs assessed against the inmate for misconduct or damage to the property of others. The director may deduct from the inmate's account an amount sufficient to pay for the inmate's share of the costs of health services requested by the inmate and for the treatment of injuries inflicted by the inmate on the inmate or others. The director may deduct and disburse an amount sufficient for industries' programs to qualify under the eligibility requirements established in the Justice Assistance Act of 1984, Pub. L. No. 98-473, including an amount to pay all or part of the cost of the inmate's incarceration. The director may pay all or any part of remaining allowances paid pursuant to section 904.701 directly to a dependent of the inmate, or may deposit the allowance to the account of the inmate, or may deposit a portion and allow the inmate a portion for the inmate's personal use.

2. The director and the department shall not be liable to any person for any damages caused by the withdrawal or failure to withdraw money or the payment or failure to make any payment under this section.

83 Acts, ch 96, §34, 159
CS83, §217A.47
85 Acts, ch 21, §24, 54; 85 Acts, ch 195, §24
CS85, §246.702
87 Acts, ch 13, §3; 88 Acts, ch 1166, §1; 91 Acts, ch 219, §10
C93, §904.702
95 Acts, ch 167, §6; 96 Acts, ch 1165, §3; 2003 Acts, 1st Ex, ch 2, §59, 209; 2006 Acts, ch 1183, §25
Referred to in §610A.1, 610A.3, 822.2, 904.508, 915.83

UNOFFICIAL VERSION: 2025 CODE SUPPLEMENT

904.703 Services of inmates — institutions and public service — inmate labor fund.

1. Inmates shall work on state account in the maintenance of state institutions, in the erection, repair, authorized demolition, or operation of buildings and works used in connection with the institutions, and in industries established and maintained in connection with the institutions by the director. The director shall encourage the making of agreements, including chapter 28E agreements, with departments and agencies of the state or its political subdivisions to provide products or services under an inmate work program to the departments and agencies. The director may implement an inmate work program for trustworthy inmates of state correctional institutions, under proper supervision, whether at work centers located outside the state correctional institutions or in construction or maintenance work at public or charitable facilities and for other agencies of state, county, or local government. The supervision, security, and transportation of, and allowances paid to inmates used in public service projects shall be provided pursuant to agreements, including chapter 28E agreements, made by the director and the agency for which the work is done. Housing and maintenance shall also be provided pursuant to the agreement, including a chapter 28E agreement, unless the inmate is housed and maintained in the correctional facility. All such work, including but not limited to that provided in this section, shall have as its primary purpose the development of attitudes, skills, and habit patterns which are conducive to inmate rehabilitation. The director may adopt rules allowing inmates participating in an inmate work program to receive educational or vocational training outside the state correctional institutions and away from the work centers or public or charitable facilities used under a program.

2. An inmate shall not work in a public service project if the work of that inmate would replace a person employed by the state agency or political subdivision, which employee is performing the work of the public service project at the time the inmate is being considered for work in the project.

3. An inmate labor fund is established under the control of the department. All fees, grants, appropriations, or reimbursed costs received by the department and related to inmate labor shall be deposited into the fund, and the moneys shall be used by the department to offset staff and transportation costs related to providing inmate labor to public entities and to initiate or supplement other inmate labor activities within correctional institutions or throughout the state. Notwithstanding section 8.33, moneys remaining in the fund at the end of a fiscal year shall not revert to the general fund of the state. Notwithstanding section 12C.7, interest and earnings deposited in the fund shall be credited to the fund.

[S13, §5702-a; SS15, §5718-a11; C24, 27, 31, 35, 39, §**3757**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §246.18]

83 Acts, ch 51, §3, 7, 9; 83 Acts, ch 96, §159, 160

CS83, §217A.78

85 Acts, ch 21, §26, 54

CS85, §246.703

88 Acts, ch 1165, §2; 90 Acts, ch 1251, §31

C93, §904.703

98 Acts, ch 1086, §6; 99 Acts, ch 182, §5; 2004 Acts, ch 1106, §3; 2005 Acts, ch 67, §1

Referred to in §85.59, 669.2, 904.704, 904.802, 904.808

904.704 Limitation on contracts.

The director or the superintendent or district director, as applicable, of the institutions shall not, nor shall any other person employed by the state, make any contract by which the labor or time of an inmate in the institution is given, loaned, or sold to any person unless as provided by subchapter VIII or section 904.703.

[S13, §2727-a51, 5718-a28a; C24, 27, 31, 35, 39, §**3764**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §246.25]

83 Acts, ch 51, §4, 7, 9; 83 Acts, ch 96, §159, 160

CS83, §217A.79

85 Acts, ch 21, §27, 54

UNOFFICIAL VERSION 2027 EARLY RELEASE

CS85, §246.704
C93, §904.704
2017 Acts, ch 54, §76; 2024 Acts, ch 1182, §76

904.705 Industries — forestry nurseries.

1. The director may establish industries at or in connection with any of the institutions under the director's control and may make contractual agreements with the United States, other states, state departments and agencies, and subdivisions of the state, for purchase of industry products.

2. The director may with the assistance of the department of natural resources establish and operate forestry nurseries on state-owned land under the control of the department. Residents of the adult correctional institutions shall provide the labor for the operation. Nursery stock shall be sold in accordance with the rules of the natural resource commission. The department shall pay the costs of establishing and operating the forestry nurseries out of the revolving farm fund created in section 904.706. The department of natural resources shall pay the costs of transporting, sorting, and distributing nursery stock to and from or on state-owned land under the control of the department of natural resources. Receipts from the sale of nursery stock produced under this section shall be divided between the department and the department of natural resources in direct proportion to their respective costs as a percentage of the total costs. However, property taxes due and payable on the land shall be deducted before receipts of sale are divided between the two departments if land subject to this section is leased to an entity other than an entity which is exempt from property taxation under section 427.1. The department shall deposit its receipts in the revolving farm fund created in section 904.706.

83 Acts, ch 96, §47, 159
CS83, §217A.69
85 Acts, ch 21, §54
CS85, §246.705
C93, §904.705
2003 Acts, ch 130, §4, 5
Referred to in §427.1(1)(b)

904.706 Revolving farm fund.

1. A revolving farm fund is created in the state treasury in which the department shall deposit receipts from agricultural products, nursery stock, agricultural land rentals, and the sale of livestock. However, before any agricultural operation is phased out, the department which proposes to discontinue this operation shall notify the governor, chairpersons and ranking members of the house and senate appropriations committees, and co-chairpersons and ranking members of the subcommittee in the senate and house of representatives which has handled the appropriation for this department in the past session of the general assembly. Before the department sells farmland under the control of the department, the director shall notify the governor, chairpersons and ranking members of the house and senate appropriations committees, and co-chairpersons and ranking members of the joint appropriations subcommittee that handled the appropriation for the department during the past session of the general assembly. The department may pay from the fund for the operation, maintenance, and improvement of farms and agricultural or nursery property under the control of the department. A purchase order for five thousand dollars or less payable from the fund is exempt from the general purchasing requirements of chapter 8A, subchapter III. Notwithstanding section 8.33, unencumbered or unobligated receipts in the revolving farm fund at the end of a fiscal year shall not revert to the general fund of the state.

2. Notwithstanding section 8.36, the department shall annually prepare a financial statement covering the previous calendar year to provide for an accounting of the funds in the revolving farm fund. The financial statement shall be filed with the legislative services agency on or before February 1 each year.

3. As used in this section, *"department"* means the department of corrections and the department of health and human services.

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4. The farm operations administrator appointed under section 904.302 shall perform the functions described under section 904.302 for agricultural operations on property of the department of health and human services.

5. The department of health and human services shall enter into an agreement under chapter 28D with the Iowa department of corrections to implement this section.

83 Acts, ch 96, §48, 159
CS83, §217A.70
85 Acts, ch 21, §54
CS85, §246.706
86 Acts, ch 1075, §2; 89 Acts, ch 9, §1; 91 Acts, ch 260, §1221
C93, §904.706
2003 Acts, ch 35, §45, 49; 2003 Acts, ch 145, §283; 2017 Acts, ch 54, §76; 2023 Acts, ch 19, §1337
Referred to in §218.78, 427.1(1)(b), 904.302, 904.705

904.707 Apprenticeship programs — limitations.

An inmate shall not be enrolled in an apprenticeship program if the inmate would be unable to obtain a necessary license to practice the profession to which the apprenticeship relates due to the inmate's conviction of a felony. Prior to enrolling an inmate in an apprenticeship program, the department of corrections shall receive written confirmation from the appropriate licensing board that the inmate would be able to receive a necessary license to practice the profession to which the apprenticeship relates if it appears to the department that the inmate may be disqualified from receiving such a license.

2019 Acts, ch 99, §13

904.708 through 904.800 Reserved.

SUBCHAPTER VIII

IOWA STATE INDUSTRIES

Referred to in §904.704

904.801 Statement of intent.

It is the intent of this subchapter that there be made available to inmates of the state correctional institutions opportunities for work in meaningful jobs with the following objectives:

1. To develop within those inmates willing to accept and persevere in such work:

a. Positive attitudes which will enable them to eventually function as law-abiding, self-supporting members of the community;

b. Good work habits that will assist them in eventually securing and holding gainful employment outside the correctional system; and

c. To the extent feasible, marketable skills that can lead directly to gainful employment upon release from a correctional institution.

2. To enable those inmates willing to accept and persevere in such work to:

a. Provide or assist in providing for their dependents, thus tending to strengthen the inmates' family ties while reducing the likelihood that inmates' families will have to rely upon public assistance for subsistence;

b. Make restitution, as the opportunity to do so becomes available, to the victims of the offenses for which the inmates were incarcerated, so as to assist the inmates in accepting responsibility for the consequences of their acts;

c. Make it feasible to require that such inmates pay some portion of the cost of board and maintenance in a correctional institution, in a manner similar to what would be necessary if they were employed in the community; and

d. Accumulate savings so that such inmates will have funds for necessities upon their eventual return to the community.

[C79, 81, §216.1; 82 Acts, ch 1007, §1]

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85 Acts, ch 21, §1, 2, 54
CS85, §246.801
C93, §904.801
2017 Acts, ch 54, §76
Referred to in §904.804, 904.809, 904.814

904.802 Definitions.

As used in this subchapter:

1. *"Iowa state industries"* means prison industries that are established and maintained by the Iowa department of corrections at or adjacent to the state's adult correctional institutions, except that an inmate work program established by the state director under section 904.703 is not restricted to industries at or adjacent to the institutions.

2. *"State director"* means the director of the Iowa department of corrections, or the director's designee.

[C79, 81, §216.2; 82 Acts, ch 1007, §2, ch 1100, §3]
83 Acts, ch 96, §61, 159; 85 Acts, ch 21, §3, 54
CS85, §246.802
C93, §904.802
94 Acts, ch 1023, §72; 2017 Acts, ch 54, §76; 2024 Acts, ch 1170, §353, 354
Referred to in §8A.311, 262.34A

904.803 Prison industries advisory board. Repealed by 2024 Acts, ch 1170, §368.

904.804 Duties of department — state industries.

The department shall adopt rules to further the intent stated by section 904.801.
[C79, 81, §216.4]
85 Acts, ch 21, §54
CS85, §246.804
C93, §904.804
2024 Acts, ch 1170, §355

904.805 Duties of state director.

The state director shall:

1. Conduct market studies and consult with public bodies and officers who are listed in section 904.807, and with other potential purchasers, for the purpose of determining items or services needed and design features desired or required by potential purchasers of Iowa state industries products or services.

2. Receive, investigate, and take appropriate action upon any complaints from potential purchasers of Iowa state industries products or services regarding lack of cooperation by Iowa state industries with public bodies and officers who are listed in section 904.807, and with other potential purchasers.

3. Establish, transfer, and close industrial operations as deemed advisable to maximize opportunities for gainful work for inmates and to adjust to actual or potential market demand for particular products or services.

4. Establish and from time to time adjust, as necessary, levels of allowances paid to inmates working in Iowa state industries.

5. Coordinate Iowa state industries, and other opportunities for gainful work available to inmates of adult correctional institutions, with vocational and technical training opportunities and apprenticeship programs, to the greatest extent feasible.

6. Promote, plan, and when deemed advisable, assist in the location of privately owned and operated industrial enterprises on the grounds of adult correctional institutions, pursuant to section 904.809.

[C79, 81, §216.5; 82 Acts, ch 1007, §3]
85 Acts, ch 21, §5 – 7, 54
CS85, §246.805

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86 Acts, ch 1245, §1505; 88 Acts, ch 1165, §3
C93, §904.805
2022 Acts, ch 1032, §104; 2024 Acts, ch 1170, §356

904.806 Authority of state director not impaired.

Nothing in this subchapter shall be construed to impair the authority of the state director over the adult correctional institutions of this state, nor over the inmates thereof.

[C79, 81, §216.6]
85 Acts, ch 21, §54
CS85, §246.806
C93, §904.806
2017 Acts, ch 54, §76; 2024 Acts, ch 1170, §357

904.807 Price lists to public officials.

The state director shall cause to be prepared from time to time classified and itemized price lists of the products manufactured by Iowa state industries. Such lists shall be furnished to all boards of supervisors, boards of directors of school corporations, city councils, and all other state, county, city and school departments and officials empowered to purchase supplies and equipment for public purposes.

[C24, 27, 31, 35, 39, §**3760;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §246.21; C79, 81, §216.7]
85 Acts, ch 21, §54
CS85, §246.807
C93, §904.807
Referred to in §904.805, 904.808

904.808 State purchasing requirements — exceptions.

1. A product possessing the performance characteristics of a product listed in the price lists prepared pursuant to section 904.807 shall not be purchased by any department or agency of state government from a source other than Iowa state industries, except:

a. When the purchase is made under emergency circumstances, which shall be explained in writing by the public body or officer who made or authorized the purchase if the state director so requests; or

b. When the state director releases, in writing, the obligation of the department or agency to purchase the product from Iowa state industries, after determining that Iowa state industries is unable to meet the performance characteristics of the purchase request for the product, and a copy of the release is attached to the request to the director of the department of administrative services for payment for a similar product, or when Iowa state industries is unable to furnish needed products, comparable in both quality and price to those available from alternative sources, within a reasonable length of time. Any disputes arising between a purchasing department or agency and Iowa state industries regarding similarity of products, or comparability of quality or price, or the availability of the product, shall be referred to the director of the department of administrative services, whose decision shall be subject to appeal as provided in section 8A.313. However, if the purchasing department is the department of administrative services, any matter which would be referred to the director under this paragraph shall be referred to the executive council in the same manner as if the matter were to be heard by the director of the department of administrative services. The decision of the executive council is final.

2. The state director shall adopt and update as necessary rules setting specific delivery schedules for each of the products manufactured by Iowa state industries. These delivery schedules shall not apply where a different delivery schedule is specifically negotiated by Iowa state industries and a particular purchaser.

3. A department or agency of the state shall cooperate and enter into agreements, if possible, for the provision of products and services under an inmate work program established by the state director under section 904.703.

[C79, 81, §216.8; 82 Acts, ch 1007, §4]
83 Acts, ch 203, §14; 85 Acts, ch 21, §8, 54

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CS85, §246.808
88 Acts, ch 1071, §1
C93, §904.808
94 Acts, ch 1023, §73; 2003 Acts, ch 145, §284
Referred to in §8A.302, 8A.311, 8A.313

904.809 Private industry employment of inmates of correctional institutions.

1. The following conditions shall apply to all agreements to provide private industry employment for inmates of correctional institutions:

a. The state director shall comply with the intent of section 904.801.

b. An inmate shall not be compelled to take private industry employment.

c. Inmates shall receive allowances commensurate with those wages paid persons in similar jobs outside the correctional institutions. This may include piece rating in which the inmate is paid only for what is produced.

d. Employment of inmates in private industry shall not displace employed workers, apply to skills, crafts, or trades in which there is a local surplus of labor, or impair existing contracts for employment or services.

e. Inmates employed in private industry shall be eligible for workers' compensation in accordance with section 85.59.

f. Inmates employed in private industry shall not be eligible for unemployment compensation while incarcerated.

g. The state director shall implement a system for screening and security of inmates to protect the safety of the public.

2. *a.* Any other provision of the Code to the contrary notwithstanding, the state director may lease one or more buildings or portions thereof on the grounds of any state adult correctional institution, together with the real estate needed for reasonable access to and egress from the leased buildings, for a term not to exceed twenty years, to a private corporation for the purpose of establishing and operating a factory for the manufacture and processing of products, or any other commercial enterprise deemed by the state director to be consistent with the intent stated in section 904.801.

b. Each lease negotiated and concluded under this subsection shall include, and shall be valid only so long as the lessee adheres to, the following provisions:

(1) Persons working in the factory or other commercial enterprise operated in the leased property, except the lessee's supervisory employees and necessary support personnel approved by the state director, shall be inmates of the institution where the leased property is located who are approved for such work by the state director and the lessee.

(2) The factory or other commercial enterprise operated in the leased property shall observe at all times such practices and procedures regarding security as the lease may specify, or as the state director may temporarily stipulate during periods of emergency.

3. The state director may provide an inmate workforce to private industry. Under the program inmates will be employees of a private business.

4. Private or nonprofit organizations may subcontract with Iowa state industries to perform work in Iowa state industries shops located on the grounds of a state institution. The execution of the subcontract is subject to the following conditions:

a. The private employer shall pay to Iowa state industries a per unit price sufficient to fund allowances for inmate workers commensurate with similar jobs outside corrections institutions.

b. Iowa state industries shall negotiate a per unit price which takes into account staff supervision and equipment provided by Iowa state industries.

5. *a.* (1) An inmate of a correctional institution employed pursuant to this section shall surrender to the department of corrections the inmate's total earnings less deductions for federal, state, and local taxes, and any other payroll deductions required by law.

(2) The inmate's employer shall provide each employed inmate with the withholding statement required under section 422.16, and any other employment information necessary for the receipt of the remainder of an inmate's payroll earnings.

b. From the inmate's gross payroll earnings, the following amounts shall be deducted:

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(1) Twenty percent, to be deposited in the inmate's general account.

(2) All required tax deductions, to be collected by the inmate's employer.

(3) Five percent, to be deducted for the victim compensation fund created in section 915.94.

c. From the balance remaining after deduction of the amounts under paragraph *"b"*, the following amounts shall be deducted in the following order of priority:

(1) An amount which the inmate may be legally obligated to pay for the support of the inmate's dependents, which shall be paid through the department of health and human services collection services center, and which shall include an amount for delinquent child support not to exceed fifty percent of net earnings.

(2) Restitution as ordered by the court under chapter 910.

(3) The department may retain up to fifty percent of any remaining balance after deductions made under subparagraphs (1) and (2) if the remaining balance is from an inmate employed in a new job created on or after July 1, 2004. The funds shall be used to staff supervision costs of private sector employment of inmates at correctional institutions. Funds retained pursuant to this subparagraph shall not be used for administrative costs of Iowa state industries.

(4) Any balance remaining after the deductions made under subparagraphs (1), (2), and (3) shall represent the costs of the inmate's incarceration and shall be deposited in the general fund of the state.

d. Of the amount credited to the inmate's general account, the department shall deduct an amount representing any other legal or administrative financial obligations of the inmate.

[C79, 81, §216.10]
85 Acts, ch 21, §10, 54
CS85, §246.809
C93, §904.809
93 Acts, ch 46, §7; 97 Acts, ch 190, §6; 98 Acts, ch 1090, §79, 84; 99 Acts, ch 182, §6; 2000 Acts, ch 1154, §44; 2004 Acts, ch 1175, §203, 204; 2013 Acts, ch 30, §261; 2023 Acts, ch 19, §1338; 2024 Acts, ch 1170, §358 – 361
Referred to in §8A.311, 85.59, 904.805, 904.814

904.810 and 904.811 Reserved.

904.812 Restriction on goods made available.

Effective July 1, 1978, and notwithstanding any other provisions of this subchapter, goods made available by Iowa state industries shall be restricted to items, materials, supplies, and equipment which are formulated or manufactured by Iowa state industries and shall not include goods, materials, supplies, or equipment which are merely purchased by Iowa state industries for repacking or resale except with approval of the state director when such repacking for resale items are directly related to product lines.

[C79, 81, §216.12]
CS83, §216.14
85 Acts, ch 21, §54
CS85, §246.812
C93, §904.812
2017 Acts, ch 54, §76; 2022 Acts, ch 1032, §105

904.813 Industries revolving fund — uses.

1. There is established in the treasury of the state a permanent Iowa state industries revolving fund. This revolving fund shall be created by the transfer thereto of all moneys in the revolving fund formerly established under section 246.26 as that section appeared in the Code of 1977 and prior editions, and shall be maintained by depositing therein all receipts from the sale of products manufactured by Iowa state industries, and from sale of any property of Iowa state industries found by the state director to be obsolete or unneeded.

2. *a.* The Iowa state industries revolving fund shall be used only for the following purposes:

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(1) Establishment, maintenance, transfer, or closure of industrial operations, or vocational, technical, and related training facilities and services for inmates as authorized by the state director.

(2) Direct purchases from vendors of raw materials and capital items used for the manufacturing processes of Iowa state industries, in accordance with rules which meet state bidding requirements. The rules shall be adopted by the state director.

b. Payments from the revolving fund, other than salary payments, shall be made directly to the vendors.

3. The Iowa state industries revolving fund shall not be used for the operation of farms at any adult correctional institution unless such farms are operated directly by Iowa state industries.

4. The fund established by this section shall not revert to the general fund of the state at the end of any annual or biennial period and the investment proceeds earned from the balance of the fund shall be credited to the fund and used for the purposes provided for in this section.

[C27, 31, 35, §3764-b1, 3764-b2, 3764-b3; C39, §**3764.1, 3764.2, 3764.3;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §246.26, 246.27, 246.28; C79, 81, §216.9; 82 Acts, ch 1007, §5]
83 Acts, ch 96, §62, 159; 83 Acts, ch 203, §15; 85 Acts, ch 21, §9, 54
CS85, §246.813
88 Acts, ch 1048, §1
C93, §904.813
2013 Acts, ch 30, §226; 2024 Acts, ch 1170, §362

904.814 Inmate allowance supplement revolving fund.

There is established in the treasury of the state a permanent adult correctional institutions inmate allowance supplement revolving fund, consisting solely of money paid as board and maintenance by inmates working in Iowa state industries, or working pursuant to section 904.809. The fund established by this section may be used to supplement the allowances of inmates who perform other institutional work within and about the adult correctional institutions including those who are working in Iowa state industries. Payments made from the fund shall supplement and not replace all or any part of the allowances otherwise received by, and shall be equably distributed among such inmates. The work of inmates in other institutional or industry work shall, to the greatest extent feasible, be in accord with the intent stated in section 904.801. The fund may also be used to supplement other rehabilitation activities within the adult correctional institutions. Determination of the use of the funds is the responsibility of the state director.

[C79, 81, §216.11; 82 Acts, ch 1149, §3]
C83, §216.13
85 Acts, ch 21, §12, 54
CS85, §246.814
C93, §904.814
2024 Acts, ch 1170, §363

904.815 Sale of products.

1. Iowa state industries may produce and sell products to any tax-supported institution or governmental subdivision in any level of government which includes the state, county, city, or school corporation. Iowa state industries may sell products to employees of those entities.

2. Iowa state industries may sell products to nonprofit organizations including parochial schools, churches, or fraternal organizations.

3. Iowa state industries may sell products to nonprofit health care facilities serving Medicaid or social security patients.

88 Acts, ch 1230, §5
C93, §904.815

904.816 through 904.900 Reserved.

UNOFFICIAL VERSION: 2027 EARLY RELEASE

SUBCHAPTER IX

WORK RELEASE

Referred to in §422.7(6)(a), 422.7(7)(a), 422.35

904.901 Work release program.

The Iowa department of corrections, in consultation with the board of parole, shall establish a work release program under which the board of parole may grant inmates sentenced to an institution under the jurisdiction of the department the privilege of leaving actual confinement during necessary and reasonable hours for the purpose of working at gainful employment. Under appropriate conditions the program may also include an out-of-state work or treatment placement or release for the purpose of seeking employment, attendance at an educational institution, or family visitation. An inmate may be placed on work release status in the inmate's own home, under appropriate circumstances, which may include child care and housekeeping in the inmate's own home. This work release program is in addition to the institutional work release program established in section 904.910.

[C71, 73, 75, 77, 79, 81, §247A.2]
83 Acts, ch 96, §103, 159; 84 Acts, ch 1244, §1; 85 Acts, ch 21, §54
CS85, §246.901
86 Acts, ch 1245, §1506; 87 Acts, ch 118, §3; 91 Acts, ch 219, §11
C93, §904.901
93 Acts, ch 46, §8
Referred to in §904.910, 906.1

904.902 Work release — persons serving mandatory minimum sentence.

An inmate serving a mandatory minimum sentence of one year or more, who is approved to participate in the work release program, shall serve the final six months of the inmate's mandatory minimum sentence performing labor in the program. Duties, if possible, shall consist of physical labor in plain view of the public. However, an inmate shall not be required to perform work which is beyond an inmate's physical ability, which constitutes a physical hardship, or which is dangerous or threatening to the inmate's life or health, medically prohibited, or unduly painful.

90 Acts, ch 1251, §32
C91, §246.902
C93, §904.902
Referred to in §906.1

904.903 Agreement by inmate.

An inmate approved to participate in the work release program shall sign a work release agreement. The agreement shall include all terms and conditions of the particular plan adopted for the inmate by the board of parole and shall include a statement that the inmate agrees to abide by all terms and conditions in the agreement. The agreement shall be signed by the inmate prior to participation in the program. Following the release of the inmate, the agreement may be terminated by the department in accordance with rules of the department.

[C71, 73, 75, 77, 79, 81, §247A.4]
85 Acts, ch 21, §54
CS85, §246.903
86 Acts, ch 1245, §1507
C93, §904.903
93 Acts, ch 98, §1
Referred to in §906.1

904.904 Housing facilities — halfway houses.

Unless the inmate returns after working hours to the institution under jurisdiction of the department, the department shall coordinate with a district department for the quartering and supervision of the inmate in local housing facilities. The board of parole shall include as a specific term or condition in the work release plan of any inmate the place where

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the inmate is to be housed when not on the work assignment. The board of parole shall not place an inmate on work release for longer than six months in any twelve-month period unless approval is given by a majority of the full board of parole. Inmates may be temporarily released to the supervision of a responsible person to participate in family and selected community, religious, educational, social, civic, and recreational activities when it is determined that the participation will directly facilitate the release transition from institution to community. The department shall provide a copy of the work release plan and a copy of any restitution plan of payment to the district department quartering and supervising the inmate.

[C71, 73, 75, 77, 79, 81, §247A.5]
83 Acts, ch 96, §105, 159; 85 Acts, ch 21, §54
CS85, §246.904
86 Acts, ch 1245, §1508
C93, §904.904
97 Acts, ch 130, §6; 2024 Acts, ch 1182, §77
Referred to in §904.910, 906.1

904.905 Surrender of earnings.

1. An inmate employed in the community under a work release plan shall surrender to the district department the inmate's total earnings less payroll deductions required by law. The district department shall deduct from the earnings in the following order of priority:

a. An amount the inmate may be legally obligated to pay for the support of the inmate's dependents, the amount of which shall be paid to the dependents through the department of health and human services.

b. Restitution as ordered by the court pursuant to chapter 910.

c. An amount determined to be the cost to the district department for providing food, lodging, and clothing for the inmate while under the program.

d. Any other financial obligations which are acknowledged by the inmate or any unsatisfied judgment against the inmate.

2. Any balance remaining after deductions and payments shall be credited to the inmate's personal account at the district department and shall be paid to the inmate upon release. An inmate so employed shall be paid a fair and reasonable wage in accordance with the prevailing wage scale for such work and shall work at fair and reasonable hours per day and per week.

[C71, 73, 75, 77, 79, 81, §247A.7]
83 Acts, ch 96, §106, 157, 159; 84 Acts, ch 1184, §16; 85 Acts, ch 21, §54
CS85, §246.905
C93, §904.905
94 Acts, ch 1142, §12; 2013 Acts, ch 30, §227; 2014 Acts, ch 1092, §150; 2023 Acts, ch 19, §1339; 2024 Acts, ch 1182, §78
Referred to in §904.910, 906.1

904.906 Status of inmates on work release.

An inmate employed in the community under this chapter is not an agent, employee, or involuntary servant of the department of corrections or the board of parole while released from confinement under the terms of a work release plan. If an inmate suffers an injury arising out of or in the course of the inmate's employment under this chapter, the inmate's recovery shall be from the insurance carrier of the employer of the project and no proceedings for compensation shall be maintained against the insurance carrier of the state institution or the state and there is no employer-employee relationship between the inmate and the state institution or the board of parole.

[C71, 73, 75, 77, 79, 81, §247A.8]
83 Acts, ch 96, §107, 159; 85 Acts, ch 21, §54
CS85, §246.906
86 Acts, ch 1245, §1509
C93, §904.906
2024 Acts, ch 1182, §79
Referred to in §906.1

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904.907 Parole not affected.

This subchapter does not affect eligibility for parole under chapter 906 or diminution of confinement of any inmate released under a work release plan.

[C71, 73, 75, 77, 79, 81, §247A.9]
83 Acts, ch 101, §55; 85 Acts, ch 21, §54
CS85, §246.907
C93, §904.907
2017 Acts, ch 54, §76
Referred to in §906.1

904.908 Alleged work release violators — temporary confinement by counties — reimbursement.

1. Upon request by the Iowa department of corrections or the board of parole, a county shall provide temporary confinement for alleged violators of work release conditions if space is available.

2. The Iowa department of corrections shall negotiate a reimbursement rate with each county for the temporary confinement of alleged violators of work release conditions who are in the custody of or who are housed or supervised by the director of the Iowa department of corrections. The amount to be reimbursed shall be determined by multiplying the number of days a person is confined by the average daily cost of confining a person in the county facility as negotiated with the department. Payment shall be made upon submission of a voucher executed by the sheriff and approved by the director of the Iowa department of corrections.

3. Any request for reimbursement under subsection 2 shall be made within thirty days of the end of a calendar quarter. If a request for reimbursement is not made within thirty days of the end of the calendar quarter, the request shall be denied by the department.

[C79, 81, §247A.10]
83 Acts, ch 96, §108, 159; 83 Acts, ch 123, §95, 209; 84 Acts, ch 1244, §2; 85 Acts, ch 21, §40, 54
CS85, §246.908
86 Acts, ch 1245, §1510
C93, §904.908
2006 Acts, ch 1183, §26; 2012 Acts, ch 1030, §2; 2024 Acts, ch 1182, §80
Referred to in §331.427, 906.1

904.909 Work release and OWI violators — reimbursement to department for transportation costs.

The department of corrections shall arrange for the return of a work release client, or offender convicted of violating chapter 321J, who escapes from the facility to which the client is assigned or violates the conditions of supervision. The client or offender shall reimburse the department of corrections for the cost of transportation incurred because of the escape or violation. The amount of reimbursement shall be the actual cost incurred by the department and shall be credited to the support account from which the billing occurred. The director of the department of corrections shall adopt rules pursuant to chapter 17A to implement this section.

83 Acts, ch 51, §1, 7, 9; 83 Acts, ch 96, §159, 160
CS83, §247A.11
85 Acts, ch 21, §54
CS85, §246.909
88 Acts, ch 1091, §1; 91 Acts, ch 219, §12
C93, §904.909
93 Acts, ch 46, §9; 2024 Acts, ch 1170, §364
Referred to in §906.1

904.910 Institutional work release program.

1. In addition to the work release program established in section 904.901, the department of corrections shall establish an institutional work release program for each institution. The program shall provide that the department may grant inmates sentenced to an institution

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under its jurisdiction the privilege of leaving actual confinement during necessary and reasonable hours for the purpose of working at gainful employment. Under appropriate conditions, the program may also include an out-of-state work or treatment placement or release for the purpose of seeking employment or attendance at an educational institution. An inmate may be placed on work release status in the inmate's own home, under appropriate circumstances, which may include child care and housekeeping in the inmate's own home.

2. A committee shall be established by the department for the work release program at each institution to review applications for participation in the program.

3. An inmate who is eligible to participate in the work release program may apply to the superintendent of the institution for permission to participate in the program. The application shall include a statement that, if the application is approved, the inmate agrees to abide by all terms and conditions of the inmate's work release plan adopted by the committee. In addition, the application shall state the name and address of the proposed employer, if any, and shall contain other information as required by the committee. The committee may approve, disapprove, or defer action on the application. If the application is approved, the committee shall adopt an institutional work release plan for the applicant. The plan shall contain the elements required by this section and other conditions as the committee deems necessary and proper. The plan shall be signed by the inmate prior to participation in the program. Approval of a plan may be revoked at any time by the superintendent or the committee.

4. An inmate in local facilities as provided in section 904.904 may be housed and supervised by a district department. The institutional work release plan shall indicate the place where the inmate is to be housed when not on work assignment. The plan shall not allow for placement of an inmate on work release for more than six months in any twelve-month period without unanimous committee approval to do so. However, an inmate may be temporarily released to the supervision of a responsible person to participate in family and selected community, religious, educational, social, civic, and recreational activities when the committee determines that the participation will directly facilitate the release of the inmate from the institution to the community. The department shall provide a copy of the work release plan and a copy of any restitution plan of payment to the district department housing and supervising the inmate.

5. An inmate employed in the community under an institutional work release plan approved pursuant to this section shall surrender the inmate's total earnings less payroll deductions required by law to the superintendent, or to the district department if it is housing or supervising the inmate. The superintendent or the district department shall deduct from the earnings in the priority established in section 904.905.

6. The department of corrections shall adopt rules for the implementation of this section.

91 Acts, ch 219, §13
CS91, §246.910
C93, §904.910
2024 Acts, ch 1182, §81
Referred to in §901B.1, 904.901

904.911 Residential facility residency requirement — certain felons.

A person who is serving a sentence under section 902.12, the maximum term of which exceeds ten years, and who is released on parole or work release shall reside in a residential facility operated by the district department until such time as the district department recommends to the board of parole that the person may be supervised in the community rather than in a residential facility and the board of parole approves the recommendation.

2003 Acts, ch 156, §15
CS2003, §905.11
2016 Acts, ch 1051, §2; 2024 Acts, ch 1182, §93
C2025, §904.911

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904.912 Fees for probation and parole.

1. A person placed on probation or parole and subject to supervision by a district department shall be required to pay an enrollment fee of three hundred dollars to the district department to offset the costs of supervision. In addition to the enrollment fee, the district department may require a person to pay a fee to the district department to offset the costs of providing sex offender programming to that person.

2. The fees established pursuant to this section shall not be waived by the sentencing court. Each district department shall retain fees collected for administrative and program services.

3. The department may adopt rules for the administration of this section. If adopted, the rules shall include a provision for waiving the collection of fees for persons determined to be unable to pay.

97 Acts, ch 190, §7
CS1997, §905.14
2000 Acts, ch 1229, §24; 2006 Acts, ch 1183, §27; 2024 Acts, ch 1182, §86, 93
C2025, §904.912
Referred to in §321J.2, 907.3, 907.7, 907.9

904.913 Electronic tracking and monitoring system — domestic abuse assault — felony.

1. A person placed on probation, parole, work release, or any other type of conditional release for domestic abuse assault in violation of section 708.2A, subsection 4, may be supervised by an electronic tracking and monitoring system in addition to any other conditions of supervision.

2. When considering whether to order the use of an electronic tracking and monitoring system the court shall consider the safety of the victim and other legitimate factors that may impact all of the parties.

2017 Acts, ch 83, §9
C2018, §905.16
2024 Acts, ch 1182, §93
C2025, §904.913

CHAPTER 904A

BOARD OF PAROLE

Referred to in §901.1, 901A.2

904A.1 Board of parole — organization.
904A.2 Composition of board.
904A.2A Board of parole — alternate members. Repealed by 2023 Acts, ch 19, §2793.
904A.3 Appointment to board of parole. Repealed by 2023 Acts, ch 19, §2793.
904A.4 Duties of the board of parole.
904A.4A Chairperson of the board of parole — duties.
904A.4B Executive director of the board of parole — duties. Repealed by 2012 Acts, ch 1134, §19.
904A.4C Vice chairperson of the board of parole.
904A.5 Administration of board of parole.
904A.6 Salaries and expenses.

904A.1 Board of parole — organization.

1. The board of parole is created to consist of five members. Each member shall be appointed by the governor subject to confirmation by the senate. Each member shall serve a term of four years beginning and ending as provided by section 69.19, except for members appointed to fill vacancies who shall serve for the balance of the unexpired term. The terms shall be staggered. All members of the board shall be full-time, salaried members. A majority of the members of the board constitutes a quorum to transact business.

2. The governor shall appoint a member of the board as the chairperson of the board,

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subject to confirmation by the senate. The appointment as chairperson shall serve at the pleasure of the governor.

86 Acts, ch 1245, §1511; 89 Acts, ch 282, §1; 90 Acts, ch 1233, §46; 2000 Acts, ch 1177, §1, 5; 2023 Acts, ch 19, §2791

Confirmation, see §2.32

904A.2 Composition of board.

The membership of the board shall be of good character and judicious background, shall include a member of a minority group, may include a person ordained or designated as a regular leader of a religious community and who is knowledgeable in correctional procedures and issues, and shall meet at least two of the following three requirements:

1. Contain one member who is a disinterested layperson.
2. Contain one member who is an attorney licensed to practice law in this state and who is knowledgeable in correctional procedures and issues.
3. Contain one member who is a person holding at least a master's degree in social work or counseling and guidance and who is knowledgeable in correctional procedures and issues.

86 Acts, ch 1245, §1512

904A.2A Board of parole — alternate members. Repealed by 2023 Acts, ch 19, §2793.

904A.3 Appointment to board of parole. Repealed by 2023 Acts, ch 19, §2793. See §904A.1.

904A.4 Duties of the board of parole.

1. The board of parole shall interview and consider inmates for parole and work release and a majority vote of the members is required to grant a parole or work release.
2. The board of parole shall interview inmates according to administrative rules adopted by the board.
3. The board of parole shall gather and review information regarding new parole and work release programs being instituted or considered nationwide and determine which programs may be useful for this state. The board shall review the current parole and work release programs and procedures used in this state on an annual basis.
4. The board of parole shall increase utilization of data processing and computerization to assist in the orderly conduct of the parole and work release system.
5. The board of parole shall conduct such studies of the parole and work release system as are requested by the governor and the general assembly.
6. The board of parole shall provide technical assistance and counseling related to the board's purposes to public and private entities.
7. The board of parole shall review and make recommendations to the governor regarding all applications for reprieves, pardons, commutation of sentences, remission of fines or forfeitures, or restoration of citizenship rights as required by chapter 914.
8. *a.* The board of parole shall implement a risk assessment program which shall provide risk assessment analysis for the board.

b. The board of parole shall also develop a risk assessment validated for domestic abuse-related offenses in consultation with the department of corrections. The board may adopt rules pursuant to chapter 17A relating to the use of the domestic abuse risk assessment.

86 Acts, ch 1245, §1514; 88 Acts, ch 1091, §3; 89 Acts, ch 282, §3; 2017 Acts, ch 83, §8

904A.4A Chairperson of the board of parole — duties.

The chairperson of the board of parole shall do all of the following:

1. Act as the board's liaison with the governor regarding executive clemency, parole, and work release matters.
2. Direct, supervise, evaluate, and assign the day-to-day administration of the board of parole.
3. Supervise and monitor parole revocations and appeals.

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4. Supervise final work release revocation case reviews.

5. Supervise the development of rules, policies, and procedures, subject to the approval of the board, in cooperation with the department of corrections, pertaining to the supervision of executive clemency, parole, and work release.

6. Supervise the development of long-range parole and work release planning.

7. Act as the representative of the board relative to the passage, defeat, approval, or modification of legislation that is being considered by the general assembly.

8. Develop a budget for the board subject to the approval of the board and prepare all reports required by law.

9. Hire and supervise all staff pursuant to the provisions of chapter 8A, subchapter IV.

89 Acts, ch 282, §4; 2012 Acts, ch 1134, §18

904A.4B Executive director of the board of parole — duties. Repealed by 2012 Acts, ch 1134, §19.

904A.4C Vice chairperson of the board of parole.

The vice chairperson of the board of parole shall be appointed from the membership of the board of parole by the governor. The vice chairperson shall serve at the pleasure of the governor and shall have such responsibilities and duties as are determined by the chairperson. The vice chairperson shall act as the chairperson in the absence or disability of the chairperson or in the event of a vacancy in that office, until such time as a new chairperson is appointed by the governor.

2000 Acts, ch 1177, §2, 5

904A.5 Administration of board of parole.

The chairperson of the board of parole is responsible directly to the governor. The board of parole is attached to the department of corrections for routine administrative and support services only.

86 Acts, ch 1245, §1515; 89 Acts, ch 282, §6

904A.6 Salaries and expenses.

Each member of the board shall be paid a salary as set by the governor within a range established by section 8A.461. Each member of the board and all employees are entitled to receive, in addition to their salary, their necessary maintenance and travel expenses while engaged in official business.

86 Acts, ch 1245, §1516; 89 Acts, ch 282, §7; 2000 Acts, ch 1177, §3, 5; 2023 Acts, ch 19, §2792; 2024 Acts, ch 1182, §167, 168

Compensation of members of boards, committees, commissions, and councils, see §7E.6

CHAPTER 905

COMMUNITY-BASED CORRECTIONAL PROGRAM

Former §905.1, 905.7 – 905.10, 905.12, 905.13, and 905.15 repealed by 2024 Acts, ch 1182, §92
Former §905.5 repealed by 2023 Acts, ch 19, §2787
Former §905.2 – 905.4, 905.6, 905.11, 905.14, and 905.16 transferred to chapter 904, pursuant to directive; 2024 Acts, ch 1182, §93

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CHAPTER 906

PAROLES AND WORK RELEASE

Referred to in §8.98, 422.7(6)(a), 422.7(7)(a), 422.35, 901.1, 901A.2, 902.1, 903B.1, 903B.2, 904.907

See interstate compact for adult offender supervision, chapter 907B

906.1 Definitions of parole and work release — temporary assignment to director.
906.2 Parole officers.
906.3 Duties of parole board.
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906.5 Record reviewed — rules.
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906.14 Detainers.
906.15 Discharge from parole.
906.16 Parole or work release time applied.
906.17 Alleged parole violators — temporary confinement by counties — reimbursement.
906.18 Parole violators — reimbursement to department.
906.19 Certificates of employability.

906.1 Definitions of parole and work release — temporary assignment to director.

1. *a. "Parole"* is the release of a person who has been committed to the custody of the director of the Iowa department of corrections by reason of the person's commission of a public offense, which release occurs prior to the expiration of the person's term, is subject to supervision by the district department of correctional services, and is on conditions imposed by the district department.

b. "Work release" is the release of a person, who has been committed to the custody of the director of the Iowa department of corrections, pursuant to sections 904.901 through 904.909.

2. A person who has been released on parole or work release may be temporarily assigned to the supervision of the director of the department of corrections as a result of placement in a violator facility established pursuant to section 904.207.

[C79, 81, §906.1]

83 Acts, ch 96, §143, 159; 86 Acts, ch 1245, §1518; 93 Acts, ch 46, §10; 2018 Acts, ch 1041, §118

Referred to in §904.207

906.2 Parole officers.

Parole officers, while performing their duties as parole officers, are peace officers and have all the powers and authority of peace officers. Parole officers shall investigate all persons referred to them for investigation by the chief parole officer to which they may be assigned or by the director of a judicial district department of correctional services. They shall furnish to each person released under their supervision a written statement of conditions. They shall keep informed of each person's conduct and condition and shall use all suitable methods to aid and encourage the person to bring about improvement in the person's conduct or condition. Parole officers shall keep records of their work, make reports as required, and perform other duties as may be assigned to them by the chief parole officer or the director of a judicial district department of correctional services. They shall coordinate their work with that of other social welfare agencies which offer services of a corrective nature operating in the area to which they are assigned.

[S13, §5447-a, 5718-a19, -a26; C24, 27, §3793, 3804; C31, 35, §3793, 3803-c1, 3804; C39, §**3793, 3803.1, 3804;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §247.13, 247.24, 247.25; C79, 81, §906.2]

84 Acts, ch 1019, §3

Referred to in §97B.49B, 801.4

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906.3 Duties of parole board.

The board of parole shall adopt rules regarding a system of paroles from correctional institutions, and shall direct, control, and supervise the administration of the system of paroles. The board of parole shall consult with the director of the department of corrections on rules regarding a system of work release and shall assist in the direction, control, and supervision of the work release system. The board shall determine which of those persons who have been committed to the custody of the director of the Iowa department of corrections, by reason of their conviction of a public offense, shall be released on parole or work release. The grant or denial of parole or work release is not a contested case as defined in section 17A.2.

[S13, §5718-a18; C24, 27, 31, 35, 39, §**3786, 3787;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §247.5, 247.6; C79, 81, §906.3]

83 Acts, ch 96, §144, 159; 86 Acts, ch 1245, §1519

Parole board, chapter 904A

906.4 Standards for release on parole or work release — community service — academic achievement.

1. A parole or work release shall be ordered only for the best interest of society and the offender, not as an award of clemency. The board shall release on parole or work release any person whom it has the power to so release, when in its opinion there is reasonable probability that the person can be released without detriment to the community or to the person. A person's release is not a detriment to the community or the person if the person is able and willing to fulfill the obligations of a law-abiding citizen, in the board's determination.

2. *a.* A person on parole or work release who is serving a sentence under section 902.12 shall begin parole or work release in a residential facility operated by a judicial district department of correctional services.

b. A person paroled who has a detainer lodged against the person under the provisions of chapter 821 may be paroled directly to the receiving state rather than to a residential facility operated by a judicial district department of correctional services in this state.

3. *a.* The board may order the defendant to provide a physical specimen to be submitted for DNA profiling as a condition of parole or work release, if a DNA profile has not been previously conducted pursuant to chapter 81. In determining the appropriateness of ordering DNA profiling, the board shall consider the deterrent effect of DNA profiling, the likelihood of repeated offenses by the defendant, and the seriousness of the offense.

b. The board may establish as a condition of a person's parole or work release that the person perform a specified number of hours of unpaid community service. The board shall not make community service a uniform or mandatory requirement for all or substantially all parolees or work release inmates but shall exercise discretion in ordering community service as a condition of parole or work release. The board shall report to the general assembly on the implementation of community service as a condition of parole or work release. The report shall be submitted on or before January 1, 1991.

c. The board may, effective July 1, 1997, subject to such exceptions as may be deemed necessary by the board, require each inmate who is physically and mentally capable to demonstrate functional literacy competence at or above the sixth grade level or make progress towards completion of the requirements for a high school equivalency diploma under chapter 259A prior to release of the inmate on parole or work release.

[C79, 81, §906.4]

86 Acts, ch 1245, §1520; 89 Acts, ch 156, §3; 90 Acts, ch 1251, §68; 95 Acts, ch 179, §2; 2000 Acts, ch 1122, §4; 2003 Acts, ch 156, §16; 2005 Acts, ch 158, §15, 19; 2010 Acts, ch 1066, §1

906.5 Record reviewed — rules.

1. *a.* The board shall establish and implement a plan by which the board systematically reviews the status of each person who has been committed to the custody of the director of the Iowa department of corrections and considers the person's prospects for parole or work release. The board at least annually shall review the status of a person other than a class "A" felon, a class "B" felon serving a sentence of more than twenty-five years, or a felon serving

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a mandatory minimum sentence other than a class "A" felon, and provide the person with notice of the board's parole or work release decision.

b. Not less than twenty days prior to conducting a hearing at which the board will interview the person, the board shall notify the department of corrections of the scheduling of the interview, and the department shall make the person available to the board at the person's institutional residence as scheduled in the notice. However, if health, safety, or security conditions require moving the person to another institution or facility prior to the scheduled interview, the department of corrections shall so notify the board.

2. It is the intent of the general assembly that the board shall implement a plan of early release in an effort to assist in controlling the prison population and assuring prison space for the confinement of offenders whose release would be detrimental to the citizens of this state. The board shall report to the legislative services agency on a monthly basis concerning the implementation of this plan and the number of inmates paroled pursuant to this plan and the average length of stay of those paroled.

3. At the time of a review conducted under this section, the board shall consider all pertinent information regarding the person, including the circumstances of the person's offense, any presentence report which is available, the previous social history and criminal record of the person, the person's conduct, work, and attitude in prison, and the reports of physical and mental examinations that have been made.

4. A person while on parole or work release is under the supervision of the district department of correctional services of the district designated by the board of parole. The department of corrections shall prescribe rules for governing persons on parole or work release. The board may adopt other rules not inconsistent with the rules of the department of corrections as the board deems proper or necessary for the performance of its functions.

[S13, §5718-a18; C24, 27, 31, 35, 39, §**3787, 3790;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §247.6, 247.9; C79, 81, §906.5]

83 Acts, ch 96, §145, 159; 83 Acts, ch 147, §12, 14; 85 Acts, ch 21, §52; 86 Acts, ch 1245, §1521; 87 Acts, ch 118, §8; 88 Acts, ch 1091, §4; 89 Acts, ch 282, §8; 90 Acts, ch 1251, §69; 93 Acts, ch 98, §2, 3; 99 Acts, ch 12, §19; 2003 Acts, ch 35, §45, 49; 2013 Acts, ch 30, §229; 2023 Acts, ch 86, §13

Referred to in §232.55, 908.10, 908.10A

906.6 Cooperation of correction personnel.

All persons employed in a correctional institution shall grant to the members of the board of parole, or its properly accredited representatives, access at all reasonable times to any person over whom the board has jurisdiction, shall provide for the board or its representatives facilities for communicating with and observing the person, and shall furnish to the board reports the board requires concerning the conduct and character of any person in their custody and any other facts deemed by the board pertinent in determining whether the person shall be released on parole or work release.

[S13, §5718-a19, -a26; C24, 27, 31, 35, 39, §**3793;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §247.13; C79, 81, §906.6]

86 Acts, ch 1245, §1522

906.7 Information from other sources — written statements.

The board shall not be required to hear oral statements or arguments either by attorneys or other persons. All persons presenting information or arguments to the board shall put their statements in writing, and shall submit therewith an affidavit stating whether any fee has been paid or is to be paid for their services in the case, and by whom such fee is paid or to be paid.

[C79, 81, §906.7]

906.8 Subpoena powers.

The board shall have power to issue subpoenas requiring the attendance of such witnesses and the production of such records, books, papers and documents as it may deem necessary for investigation of the case of any person before it. Subpoenas so issued may be served by

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any peace officer, in the same manner as similar processes in the district court. Any person who testifies falsely or fails to appear when subpoenaed, or fails or refuses to produce such material pursuant to the subpoena, shall be subject to the same orders and penalties to which a person before a court is subject. Any district court in this state, upon application of the board, may compel the attendance of witnesses, the production of such material, and the giving of testimony before the board, by an attachment for contempt or otherwise in the same manner as production of evidence may be compelled before such district court.

[C79, 81, §906.8]

906.9 Clothing, transportation, and money.

1. When an inmate is discharged, paroled, or placed on work release, the warden or superintendent shall furnish the inmate, at state expense, appropriate clothing and transportation to the place in this state indicated in the inmate's discharge, parole, or work release plan. When an inmate is discharged, paroled, or placed on work release, the warden or superintendent shall provide the inmate, at state expense or through inmate savings as provided in section 904.508, money in accordance with the following schedule:

a. Upon discharge or parole, one hundred dollars.

b. Upon being placed on work release, fifty dollars.

2. Those inmates receiving payment under subsection 1, paragraph *"b"*, shall not be eligible for payment under subsection 1, paragraph *"a"*, unless they are returned to the institution. An inmate shall only be eligible to receive one payment under this section during any twelve-month period. The warden or superintendent shall maintain an account of all funds expended pursuant to this section.

[C51, §3150; R60, §5163; C73, §4779; C97, §5684; S13, §5718-a22; SS15, §2713-n14; C24, 27, 31, 35, 39, §**3737, 3779, 3796;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §245.14, 246.44, 247.16; C77, §245.14, 246.44; C79, 81, §906.9]

87 Acts, ch 118, §9; 90 Acts, ch 1251, §70; 91 Acts, ch 219, §24; 93 Acts, ch 46, §11; 2013 Acts, ch 30, §230

Referred to in §904.508

906.10 Reserved.

906.11 Assignment to parole officer.

A person released on parole shall be assigned to a parole officer by the director of the judicial district department of correctional services. Both the person and the person's parole officer shall be furnished in writing with the conditions of parole including a copy of the plan of restitution and the restitution plan of payment, if any, and the regulations which the person will be required to observe. The parole officer shall explain these conditions and regulations to the person, and supervise, assist, and counsel the person during the term of the person's parole.

[C79, 81, §906.11; 82 Acts, ch 1162, §11, 14]

83 Acts, ch 96, §147, 159

Restitution, chapter 910

906.12 Parole outside state authorized.

The parole may be to a place outside the state when the board of parole shall determine it to be to the best interest of the state and the prisoner, under such rules as the board of parole may impose.

[S13, §5718-a18; C24, 27, 31, 35, 39, §**3786;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §247.5; C79, 81, §906.12]

906.13 Reciprocal agreements with other states.

The governor of the state of Iowa is hereby authorized and empowered to enter into compacts and agreements with other states, through their duly constituted authorities, in reference to reciprocal supervision of persons on parole or probation and for the reciprocal

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return of such persons to the contracting states for violation of the terms of their parole or probation.

[C39, §**3790.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §247.10; C79, 81, §906.13]

906.14 Detainers.

1. Prisoners against whom detainers have been filed may, after serving a portion of their sentence, be released by parole to the institution or authorities filing the detainer.

2. Any detainer filed against a prisoner must within six months be supported by a grand jury indictment or county attorney's information. In the event such indictment is returned or information is filed, the prisoner shall have the right to demand immediate trial at the next term of court where the charge is filed. The prosecuting agency shall pay all costs of transportation, necessary expenses incurred by the prisoner, and such guards and other safety measures as the warden shall deem necessary for the prisoner to appear at the prisoner's trial.

3. In the event a detainer is not supported within six months by a county attorney's information or grand jury indictment, or in the event the prosecuting agency refuses or fails to give the prisoner immediate trial, or refuses or fails to furnish transportation and pay all other necessary and related costs incident to the prisoner appearing at the prisoner's trial, the detainer shall be held to be invalid and the parole board shall disregard such detainer in considering a prisoner for parole.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §247.5; C79, 81, §906.14]

2018 Acts, ch 1041, §127

See chapter 821

906.15 Discharge from parole.

1. Unless sooner discharged, a person released on parole shall be discharged when the person's term of parole equals the period of imprisonment specified in the person's sentence, less all time served in confinement. Discharge from parole may be granted prior to such time, when an early discharge is appropriate. The board shall periodically review all paroles, and when the board determines that any person on parole is able and willing to fulfill the obligations of a law-abiding citizen without further supervision, the board shall discharge the person from parole. A parole officer shall periodically review all paroles assigned to the parole officer, and when the parole officer determines that any person assigned to the officer is able and willing to fulfill the obligations of a law-abiding citizen without further supervision, the officer may discharge the person from parole after notification and approval of the district director and notification of the board of parole. In any event, discharge from parole shall terminate the person's sentence. If a person has been sentenced to a special sentence under section 903B.1 or 903B.2, the person may be discharged early from the sentence in the same manner as any other person on parole. However, a person convicted of a violation of section 709.3, 709.4, or 709.8 committed on or with a child, or a person serving a sentence under section 902.12, shall not be discharged from parole until the person's term of parole equals the period of imprisonment specified in the person's sentence, less all time served in confinement.

2. A parole officer or the district director who acts in compliance with this section is acting in the course of the person's official duty and is not personally liable, either civilly or criminally, for the acts of a person discharged from parole by the officer after such discharge, unless the discharge constitutes willful disregard of the person's duty.

[C62, 66, 71, 73, 75, 77, §247.5; C79, 81, §906.15]

86 Acts, ch 1005, §1; 90 Acts, ch 1251, §71; 2004 Acts, ch 1150, §2; 2005 Acts, ch 158, §42; 2018 Acts, ch 1041, §127

906.16 Parole or work release time applied.

1. Except as otherwise provided in this section, the time when a prisoner is on parole or work release from the institution shall apply to the sentence against the parolee or work releasee.

2. If a parole revocation hearing is held, the administrative parole judge or the board of parole shall determine the amount of time on parole that shall apply to the sentence against

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the parolee. In making the determination, the administrative parole judge or the board of parole shall apply any time that has elapsed prior to the violation during which the parolee was in compliance with the terms of the person's parole.

3. If a work release is revoked, the board of parole shall determine the amount of time on work release that shall apply to the sentence against the work releasee. In making the determination, the board shall apply any time that has elapsed prior to the violation during which the work releasee was in compliance with the terms of the person's work release.

4. The time when a prisoner is absent from the institution by reason of an escape shall not apply upon the sentence against the prisoner.

[S13, §5718-a18; C24, 27, 31, 35, 39, §**3792;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §247.12; C79, 81, §906.16]

86 Acts, ch 1245, §1523; 88 Acts, ch 1091, §5; 94 Acts, ch 1048, §1; 97 Acts, ch 125, §12; 98 Acts, ch 1197, §9, 13; 2000 Acts, ch 1177, §4, 5

906.17 Alleged parole violators — temporary confinement by counties — reimbursement.

1. Upon request by the Iowa department of corrections a county shall provide temporary confinement for alleged parole violators if space is available.

2. The Iowa department of corrections shall reimburse a county for the temporary confinement of alleged parole violators. The amount to be reimbursed shall be determined by multiplying the number of days confined by the average daily cost of confining a person in the county facility as negotiated by the department. Payment shall be made upon submission of a voucher executed by the sheriff and approved by the director of the Iowa department of corrections.

3. Any request for reimbursement under subsection 2 shall be made within thirty days of the end of a calendar quarter. If a request for reimbursement is not made within thirty days of the end of the calendar quarter, the request shall be denied by the department of corrections.

[C79, 81, §906.17]

83 Acts, ch 96, §148, 159; 83 Acts, ch 123, §204, 209; 84 Acts, ch 1244, §5; 2006 Acts, ch 1183, §28; 2012 Acts, ch 1030, §3

Referred to in §331.427

906.18 Parole violators — reimbursement to department.

The department of corrections shall arrange for the return of parolees who escape from the facility to which they are assigned or violate the conditions of supervision. The parolee shall reimburse the department of corrections for the costs incurred because of the escape or violation. The amount of reimbursement shall be the actual cost incurred by the department, and shall be credited to the support account from which the billing occurred. The department shall adopt rules to implement this section.

96 Acts, ch 1165, §4

906.19 Certificates of employability.

1. As used in this section, *"person"* means a person on parole or a person who is no longer on parole but is currently unemployed or underemployed.

2. The board shall develop and implement a certificate of employability program. The certificate program shall be developed to maximize the opportunities for rehabilitation and employability of a person and provide protection of the community, while considering the needs of potential employers.

3. Issuance of a certificate of employability pursuant to the program shall be based upon the successful completion of designated programs and other relevant factors determined by the board.

4. A person required to register under chapter 692A shall be ineligible for the certificate of employability program.

5. The board shall develop and adopt rules pursuant to chapter 17A for the implementation and administration of this section.

2008 Acts, ch 1180, §24

Referred to in §272C.15

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CHAPTER 907

DEFERRED JUDGMENT, DEFERRED OR SUSPENDED SENTENCE, AND PROBATION

Referred to in §8.98, 232.54, 422.7(6)(a), 422.7(7)(a), 422.35, 901.1, 901.5, 901A.2

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907.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Deferred judgment"* means a sentencing option whereby both the adjudication of guilt and the imposition of a sentence are deferred by the court and whereby the court assesses a civil penalty as provided in section 907.14 upon the entry of the deferred judgment. The court retains the power to pronounce judgment and impose sentence subject to the defendant's compliance with conditions set by the court as a requirement of the deferred judgment.

2. *"Deferred sentence"* means a sentencing option whereby the court enters an adjudication of guilt but does not impose a sentence. The court retains the power to sentence the defendant to any sentence it originally could have imposed subject to the defendant's compliance with conditions set by the court as a requirement of the deferred sentence.

3. *"Expunged"* means the court's criminal record with reference to a deferred judgment or any other criminal record that has been segregated in a secure area or database which is exempted from public access.

4. *"Suspended sentence"* means a sentencing option whereby the court pronounces judgment and imposes a sentence and then suspends execution of the sentence subject to the defendant's compliance with conditions set by the court as a requirement of the suspended sentence. Revocation of the suspended sentence results in the execution of sentence already pronounced.

5. *"Probation"* means the procedure under which a defendant, against whom a judgment of conviction of a public offense has been or may be entered, is released by the court subject to supervision by a resident of this state or by the judicial district department of correctional services.

[C79, 81, §907.1]

88 Acts, ch 1168, §2; 2005 Acts, ch 143, §3; 2012 Acts, ch 1054, §1, 4

Referred to in §901C.1

907.2 Probation service — probation officers.

1. Pursuant to designation by the court, probation services shall be provided by the judicial district department of correctional services. Probation officers shall perform the duties assigned to them by law and by the director of the judicial district department of correctional services.

2. Probation officers employed by the judicial district department of correctional services, while performing the duties prescribed by that department, are peace officers. Probation

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officers shall investigate all persons referred to them for investigation by the director of the judicial district department of correctional services which employs them. They shall furnish to each person released under their supervision or committed to a community corrections residential facility operated by the judicial district department of correctional services, a written statement of the conditions of probation or commitment. They shall keep informed of each person's conduct and condition and shall use all suitable methods prescribed by the judicial district department of correctional services to aid and encourage the person to bring about improvements in the person's conduct and condition. Probation officers shall keep records of their work and shall make reports to the court when alleged violations occur and within no less than thirty days before the period of probation will expire. Probation officers shall coordinate their work with other social welfare agencies which offer services of a corrective nature operating in the area to which they are assigned.

3. Probation officers shall report probation violations to the proper authorities.

[C79, 81, §907.2]

84 Acts, ch 1019, §4; 97 Acts, ch 125, §5; 98 Acts, ch 1197, §4, 13; 2000 Acts, ch 1177, §4, 5; 2018 Acts, ch 1041, §127; 2026 Acts, ch 1177, §3

Referred to in §801.4

NEW subsection 3

907.3 Deferred judgment, deferred sentence, or suspended sentence.

Pursuant to section 901.5, the trial court may, upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction may be rendered, exercise any of the options contained in this section. However, this section does not apply to a forcible felony, to a violation of chapter 709 committed by a person who is a mandatory reporter of child abuse under section 232.69 in which the victim is a person who is under the age of eighteen, or to a violation of section 718C.2 or 718C.5.

1. *a.* With the consent of the defendant, the court may defer judgment and may place the defendant on probation upon conditions as it may require. A civil penalty shall be assessed as provided in section 907.14 upon the entry of a deferred judgment. However, the court shall not defer judgment if any of the following is true:

(1) The defendant previously has been convicted of a felony. *"Felony"* means a conviction in a court of this or any other state or of the United States, of an offense classified as a felony by the law under which the defendant was convicted at the time of the defendant's conviction.

(2) Prior to the commission of the offense the defendant had been granted a deferred judgment or similar relief, two or more times anywhere in the United States.

(3) Prior to the commission of the offense the defendant had been granted a deferred judgment or similar relief in a felony prosecution anywhere in the United States within the preceding five years, measured from the date of granting of deferment of judgment to the date of commission of the offense.

(4) The defendant is a corporation.

(5) The offense is a violation of section 124.401, subsection 1, paragraph *"a"* or *"b"*, and the controlled substance is methamphetamine.

(6) The offense is a violation of section 321J.2 and the person has been convicted of a violation of that section or the person's driver's license has been revoked under chapter 321J, and any of the following apply:

(a) If the defendant's alcohol concentration established by the results of an analysis of a specimen of the defendant's blood, breath, or urine withdrawn in accordance with chapter 321J exceeds .15, regardless of whether or not the alcohol concentration indicated by the chemical test minus the established margin of error inherent in the device or method used to conduct the test equals an alcohol concentration of .15 or more.

(b) If the defendant has previously been convicted of a violation of section 321J.2, subsection 1, or a violation of a statute in another state substantially corresponding to section 321J.2, subsection 1.

(c) If the defendant has previously received a deferred judgment or sentence for a violation of section 321J.2, subsection 1, or for a violation of a statute in another state substantially corresponding to section 321J.2, subsection 1.

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(d) If the defendant refused to consent to testing requested in accordance with section 321J.6.

(e) If the offense under chapter 321J results in bodily injury to a person other than the defendant.

(f) If the offense was committed while also in violation of section 321.279, subsection 2.

(7) The offense is a violation of section 462A.14, and a mandatory minimum sentence must be served or mandatory minimum fine must be paid by the defendant.

(8) The offense is a conviction for or plea of guilty to a violation of section 664A.7 or a finding of contempt pursuant to section 664A.7.

(9) The offense is a violation of chapter 692A.

(10) The offense is a violation of section 707.6A, subsection 1; or a violation of section 707.6A, subsection 4, involving operation of a motor vehicle while intoxicated.

(11) The defendant committed an assault as defined in section 708.1, against a peace officer in the performance of the peace officer's duty.

(12) Prior to the commission of the offense the defendant had been granted a deferred judgment or deferred sentence for a violation of section 708.2 or 708.2A which was issued on a domestic abuse assault, or was granted similar relief anywhere in the United States concerning that jurisdiction's statutes which substantially correspond to domestic abuse assault as provided in section 708.2A, and the current offense is a violation of section 708.2A.

(13) The offense is a violation referred to in section 708.2A, subsection 4.

(14) The offense is a violation of section 709.8 and the child is twelve years of age or under.

(15) The offense is a violation of section 710A.2.

(16) The offense is a violation of section 728.12.

b. Upon a showing that the defendant is not cooperating with the program of probation or is not responding to it, the court may withdraw the defendant from the program, pronounce judgment, and impose any sentence authorized by law. Before taking such action, the court shall give the defendant an opportunity to be heard on any matter relevant to the proposed action. Upon violation of the conditions of probation, the court may proceed as provided in chapter 908.

c. Upon fulfillment of the conditions of probation and the payment of fees imposed and not waived by the judicial district department of correctional services under section 904.912, the defendant shall be discharged without entry of judgment.

2. *a.* At the time of or after pronouncing judgment and with the consent of the defendant, the court may defer the sentence and assign the defendant to the judicial district department of correctional services. The court may assign the defendant to supervision or services under section 901B.1 at the level of sanctions which the district department determines to be appropriate. However, the court shall not defer the sentence for a violation of any of the following:

(1) The offense is a violation of section 124.401, subsection 1, paragraph "*a*" or "*b*", and the controlled substance is methamphetamine.

(2) Section 321J.2, subsection 1, if any of the following apply:

(a) If the defendant's alcohol concentration established by the results of an analysis of a specimen of the defendant's blood, breath, or urine withdrawn in accordance with chapter 321J exceeds .15, regardless of whether or not the alcohol concentration indicated by the chemical test minus the established margin of error inherent in the device or method used to conduct the test equals an alcohol concentration of .15 or more.

(b) If the defendant has previously been convicted of a violation of section 321J.2, subsection 1, or a violation of a statute in another state substantially corresponding to section 321J.2, subsection 1.

(c) If the defendant has previously received a deferred judgment or sentence for a violation of section 321J.2, subsection 1, or for a violation of a statute in another state substantially corresponding to section 321J.2, subsection 1.

(d) If the defendant refused to consent to testing requested in accordance with section 321J.6.

(e) If the offense under chapter 321J results in bodily injury to a person other than the defendant.

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(f) The offense was committed while also in violation of section 321.279, subsection 2.

(3) The offense is a violation of section 462A.14, and a mandatory minimum sentence must be served or mandatory minimum fine must be paid by the defendant.

(4) Section 664A.7 or for contempt pursuant to section 664A.7.

(5) The offense is a violation of chapter 692A.

(6) Section 707.6A, subsection 1; or section 707.6A, subsection 4, involving operation of a motor vehicle while intoxicated.

(7) Section 708.2A, if the defendant has previously received a deferred judgment or sentence for a violation of section 708.2 or 708.2A which was issued on a domestic abuse assault, or if similar relief was granted anywhere in the United States concerning that jurisdiction's statutes which substantially correspond to domestic abuse assault as provided in section 708.2A.

(8) The offense is a violation referred to in section 708.2A, subsection 4.

(9) The offense is a violation of section 710A.2.

(10) The offense is a violation of section 728.12.

(11) An offense qualifying the defendant as a habitual offender under section 902.8.

b. Upon a showing that the defendant is not fulfilling the conditions of probation, the court may revoke probation and impose any sentence authorized by law. Before taking such action, the court shall give the defendant an opportunity to be heard on any matter relevant to the proposed action. Upon violation of the conditions of probation, the court may proceed as provided in chapter 908.

3. By record entry at the time of or after sentencing, the court may suspend the sentence and place the defendant on probation upon such terms and conditions as it may require including commitment to an alternate jail facility or a community correctional residential treatment facility to be followed by a period of probation as specified in section 907.7, or commitment of the defendant to the judicial district department of correctional services for supervision or services under section 901B.1 at the level of sanctions which the district department determines to be appropriate and the payment of fees imposed under section 904.912. A person so committed who has probation revoked shall not be given credit for such time served. However, a person committed to an alternate jail facility or a community correctional residential treatment facility who has probation revoked shall be given credit for time served in the facility. The court shall not suspend any of the following sentences:

a. The minimum term of two days imposed pursuant to section 708.2A, subsection 7, paragraph "*a*", or a sentence imposed under section 708.2A, subsection 7, paragraph "*b*".

b. A sentence imposed pursuant to section 664A.7 for contempt.

c. A mandatory minimum sentence of incarceration imposed pursuant to a violation of section 321J.2, subsection 1; furthermore, the court shall not suspend any part of a sentence not involving incarceration imposed pursuant to section 321J.2, subsection 3, 4, or 5, beyond the mandatory minimum if any of the following apply:

(1) If the defendant's alcohol concentration established by the results of an analysis of a specimen of the defendant's blood, breath, or urine withdrawn in accordance with chapter 321J exceeds .15, regardless of whether or not the alcohol concentration indicated by the chemical test minus the established margin of error inherent in the device or method used to conduct the test equals an alcohol concentration of .15 or more.

(2) If the defendant has previously been convicted of a violation of section 321J.2, subsection 1, or a violation of a statute in another state substantially corresponding to section 321J.2, subsection 1.

(3) If the defendant has previously received a deferred judgment or sentence for a violation of section 321J.2, subsection 1, or for a violation of a statute in another state substantially corresponding to section 321J.2, subsection 1.

(4) If the defendant refused to consent to testing requested in accordance with section 321J.6.

(5) If the offense under chapter 321J results in bodily injury to a person other than the defendant.

d. A sentence imposed pursuant to section 707.6A, subsection 1; or section 707.6A, subsection 4, involving operation of a motor vehicle while intoxicated.

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e. The offense is a violation of section 124.401, subsection 1, paragraph *"a"* or *"b"*, and the controlled substance is methamphetamine.

f. A mandatory minimum sentence or fine imposed for a violation of section 462A.14.

g. The sentence imposed under section 902.13 for a violation referred to in section 708.2A, subsection 4.

h. A sentence imposed pursuant to section 710A.2.

i. A sentence imposed pursuant to section 728.12.

j. A sentence imposed pursuant to section 902.8.

[S13, §5447-a; C24, 27, 31, 35, 39, §**3800;** C46, 50, 54, 58, 62, 66, 71, 73, §247.20; C75, 77, §789A.1; C79, 81, §907.3; 81 Acts, ch 206, §17; 82 Acts, ch 1167, §28]

86 Acts, ch 1220, §45; 88 Acts, ch 1168, §3, 4; 89 Acts, ch 296, §93; 91 Acts, ch 218, §30; 91 Acts, ch 219, §25, 26; 93 Acts, ch 157, §11, 12; 95 Acts, ch 180, §16, 17; 96 Acts, ch 1131, §4; 96 Acts, ch 1193, §17 – 19; 97 Acts, ch 177, §31 – 33; 97 Acts, ch 189, §2; 97 Acts, ch 190, §8, 9; 98 Acts, ch 1138, §6 – 9, 29 – 31, 37; 99 Acts, ch 182, §8; 2000 Acts, ch 1099, §11 – 13; 2000 Acts, ch 1201, §15; 2001 Acts, ch 165, §7 – 9; 2002 Acts, ch 1050, §56, 57; 2003 Acts, ch 156, §17 – 19; 2005 Acts, ch 143, §4; 2006 Acts, ch 1101, §17 – 19; 2009 Acts, ch 119, §61, 62; 2010 Acts, ch 1193, §70, 81; 2011 Acts, ch 34, §155; 2012 Acts, ch 1138, §91 – 93; 2013 Acts, ch 90, §214; 2017 Acts, ch 83, §10 – 12; 2020 Acts, ch 1028, §3, 4; 2023 Acts, ch 42, §9, 10; 2023 Acts, ch 74, §7; 2023 Acts, ch 87, §2 – 4; 2024 Acts, ch 1020, §11; 2024 Acts, ch 1182, §87, 88; 2026 Acts, ch 1023, §1, 2; 2026 Acts, ch 1177, §4, 5

Referred to in §321.218, 321J.2, 321J.4, 462A.14, 692A.111, 707.6A, 708.2A, 708.2D, 708.11, 711.3B, 726.24, 726.25, 901.5, 901B.1, 903A.5, 907.3A, 907.4, 907.9, 907.10, 907.14

Definition of forcible felony, §702.11

For bail after deferred judgment, see §811.2, 811.11

Subsection 2, paragraph a, NEW subparagraph (10)

Subsection 2, paragraph a, NEW subparagraph (11)

Subsection 3, NEW paragraph i

Subsection 3, NEW paragraph j

907.3A Youthful offender status.

1. Notwithstanding section 907.3 but subject to any conditions of the waiver order, the trial court shall, upon a plea of guilty or a verdict of guilty, place the juvenile over whom the juvenile court has waived jurisdiction pursuant to section 232.45, subsection 7, on youthful offender status. The court shall transfer supervision of the youthful offender to the juvenile court for disposition in accordance with section 232.52. An adjudication of delinquency entered by the juvenile court at disposition for a public offense shall not be deemed a conviction and shall not preclude the subsequent entry of a deferred judgment or sentence, conviction, or sentence by the district court. The court shall require supervision of the youthful offender in accordance with section 232.54, subsection 1, paragraph *"h"*, or subsection 2 of this section.

2. The court shall hold a hearing prior to a youthful offender's eighteenth birthday to determine whether the youthful offender shall continue on youthful offender status after the youthful offender's eighteenth birthday. Notwithstanding section 901.2, the court may order a presentence investigation report including a report for an offense classified as a class "A" felony. The court shall review the report of the juvenile court regarding the youthful offender prepared pursuant to section 232.56, and any presentence investigation report, if ordered by the court. The court shall hear evidence by or on behalf of the youthful offender, by the county attorney, and by the person or agency to which custody of the youthful offender was transferred. The court shall make its decision, pursuant to the judgment and sentencing options available in subsection 3, after considering the services available to the youthful offender, the evidence presented, the juvenile court's report, the presentence investigation report if ordered by the court, the interests of the youthful offender, and interests of the community.

3. *a.* Notwithstanding any provision of the Code which prescribes a mandatory minimum sentence for the offense committed by the youthful offender, following transfer of the youthful offender from the juvenile court back to the court having jurisdiction over the criminal proceedings involving the youthful offender, the court shall order one of the following sentencing options:

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(1) Defer judgment and place the youthful offender on probation, upon the consent of the youthful offender.

(2) Defer the sentence and place the youthful offender on probation upon such terms and conditions as the court may require.

(3) Suspend the sentence and place the youthful offender on probation upon such terms and conditions as the court may require.

(4) A term of confinement as prescribed by law for the offense.

(5) Discharge the youthful offender from youthful offender status and terminate the sentence.

b. Notwithstanding anything in section 907.7 to the contrary, if the district court grants the youthful offender a deferred judgment, continues the youthful offender deferred sentence, or enters a sentence and suspends the sentence, and places the youthful offender on probation, the term of formal supervision shall commence upon entry of the order by the district court and may continue for a period not to exceed five years. If the district court enters a sentence of confinement, and the youthful offender was previously placed in secure confinement by the juvenile court under the terms of the initial disposition order or any modification to the initial disposition order, the person shall receive credit for any time spent in secure confinement. During any period of probation imposed by the district court, a youthful offender who violates the terms of probation is subject to section 908.11.

97 Acts, ch 126, §51; 2009 Acts, ch 41, §262; 2013 Acts, ch 42, §15

Referred to in §232.8, 232.45, 232.50, 232.52, 232.54, 232.55, 232.56, 232.149B

907.4 Deferred judgment docket.

1. A deferment of judgment under section 907.3 shall be entered promptly by the clerk of the district court, or the clerk's designee, into the deferred judgment database of the state, which shall serve as the deferred judgment docket. The deferred judgment docket shall be maintained by the state court administrator and shall not be destroyed. The docket shall contain a permanent record of the deferred judgment including the name and date of birth of the defendant, the district court docket number, the nature of the offense, and the date of the deferred judgment. Before granting deferred judgment in any case, the court shall search the deferred judgment docket and shall consider any prior record of a deferred judgment against the defendant.

2. The permanent record provided for in this section is a confidential record exempted from public access under section 22.7 and shall be available only to justices of the supreme court, judges of the court of appeals, district judges, district associate judges, judicial magistrates, clerks of the district court, judicial district departments of correctional services, county attorneys, the department of public safety, and the department of corrections requesting information pursuant to this section, or the designee of a justice, judge, magistrate, clerk, judicial district department of correctional services, or county attorney, or departments.

[C75, 77, §789A.1; C79, 81, §907.4]

84 Acts, ch 1292, §20; 85 Acts, ch 197, §44; 88 Acts, ch 1168, §5; 97 Acts, ch 128, §5; 2003 Acts, ch 151, §61; 2003 Acts, 1st Ex, ch 2, §60, 209; 2011 Acts, ch 95, §10; 2012 Acts, ch 1054, §2, 4

Referred to in §602.8102(135), 901C.2, 907.9

907.5 Standards for release on probation — written reasons.

1. Before deferring judgment, deferring sentence, or suspending sentence, the court first shall determine which option, if available, will provide maximum opportunity for the rehabilitation of the defendant and protection of the community from further offenses by the defendant and others. In making this determination, the court shall consider all of the following:

a. The age of the defendant.

b. The defendant's prior record of convictions and prior record of deferments of judgment if any.

c. The defendant's employment circumstances.

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d. The defendant's family circumstances.

e. The defendant's mental health and substance use disorder history and treatment options available in the community and the correctional system.

f. The nature of the offense committed.

g. Such other factors as are appropriate.

2. The court shall file a specific written statement of its reasons for and the facts supporting its decision to defer judgment, to defer sentence, or to suspend sentence, and its decision on the length of probation.

[C75, 77, §789A.1(2); C79, 81, §907.5]

2011 Acts, ch 7, §4; 2012 Acts, ch 1021, §118; 2023 Acts, ch 19, §1342

907.6 Conditions of probation — regulations.

Probationers are subject to the conditions established by the judicial district department of correctional services subject to the approval of the court, and any additional reasonable conditions which the court or district department may impose to promote rehabilitation of the defendant or protection of the community. Conditions may include but are not limited to adherence to regulations generally applicable to persons released on parole and including requiring unpaid community service as allowed pursuant to section 907.13.

[C79, 81, §907.6; 82 Acts, ch 1069, §3]

83 Acts, ch 39, §2; 96 Acts, ch 1193, §20

Referred to in §321J.2

907.7 Length of probation.

1. The length of the probation shall be for a period as the court shall fix but not to exceed five years if the offense is a felony or not to exceed two years if the offense is a misdemeanor. The period of probation may be extended for up to one year including one year beyond the maximum period as provided in section 908.11.

2. The length of the probation shall not be less than one year if the offense is a misdemeanor and shall not be less than two years if the offense is a felony.

3. The court may subsequently reduce the length of the probation if the court determines that the purposes of probation have been fulfilled and the fees imposed under section 904.912 have been paid to or waived by the judicial district department of correctional services and that court debt collected pursuant to section 602.8107 has been paid. The purposes of probation are to provide maximum opportunity for the rehabilitation of the defendant and to protect the community from further offenses by the defendant and others.

4. In determining the length of the probation, the court shall determine what period is most likely to provide maximum opportunity for the rehabilitation of the defendant, to allow enough time to determine whether or not rehabilitation has been successful, and to protect the community from further offenses by the defendant and others.

[C66, 71, 73, §247.20; C75, 77, §789A.2; C79, 81, §907.7]

97 Acts, ch 125, §6; 97 Acts, ch 190, §10; 98 Acts, ch 1197, §5, 13; 2000 Acts, ch 1177, §4, 5; 2008 Acts, ch 1172, §27; 2010 Acts, ch 1175, §1, 4; 2024 Acts, ch 1182, §89

Referred to in §907.3, 907.3A, 908.11, 910.4

907.8 Supervision during probationary period.

1. A person released on probation shall be assigned to a probation officer. Both the person and the person's probation officer shall be furnished with the conditions of the person's probation including a copy of the plan of restitution and the restitution plan of payment, if any, and the regulations which the person will be required to observe, in writing. The probation officer shall explain these conditions and regulations to the person and shall supervise, assist, and counsel the person during the term of the person's probation.

2. *a.* When probation is granted, the court shall order said person committed to the custody, care, and supervision:

(1) Of any suitable resident of this state; or

(2) Of the judicial district department of correctional services.

b. Jurisdiction over these persons shall remain with the sentencing court.

3. In each case in which the court orders the person committed to the custody, care, and

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supervision of the judicial district department of correctional services, the clerk of the district court shall at once furnish the director of the judicial district department of correctional services with certified copies of the indictment or information, the minutes of testimony attached thereto, the judgment entry if judgment is not deferred, and the original mittimus. The county attorney shall at once advise the director, by letter, that the defendant has been placed under the supervision of the judicial district department of correctional services and give the director a detailed statement of the facts and circumstances surrounding the crime committed and the record and history of the defendant as may be known to the county attorney. If the defendant is confined in the county jail at the time of sentence, the court may order the defendant held until arrangements are made by the judicial district department of correctional services for the defendant's employment and the defendant has signed the necessary probation papers. If the defendant is not confined in the county jail at the time of sentence, the court may order the defendant to remain in the county wherein the defendant has been convicted and sentenced and report to the sheriff as to the defendant's whereabouts.

[S13, §5447-a; C24, 27, 31, 35, 39, §**3801;** C46, 50, 54, 58, 62, 66, 71, 73, §247.21; C75, 77, §789A.7; C79, 81, §907.8; 82 Acts, ch 1162, §12, 14]

97 Acts, ch 125, §7; 98 Acts, ch 1197, §6, 13; 2000 Acts, ch 1177, §4, 5; 2013 Acts, ch 90, §215

Referred to in §331.756(70), 602.8102(135)

907.8A Sixth judicial district — determination of issues during probationary period. Repealed by 98 Acts, ch 1197, §10, 13; 2000 Acts, ch 1177, §4, 5.

907.9 Discharge from probation — procedure — expungement of deferred judgments.

1. At any time that the court determines that the purposes of probation have been fulfilled and fees imposed under section 904.912 and court debt collected pursuant to section 602.8107 have been paid, the court may order the discharge of a person from probation.

2. At any time that a probation officer determines that the purposes of probation have been fulfilled and fees imposed under section 904.912 and court debt collected pursuant to section 602.8107 have been paid, the officer may order the discharge of a person from probation after approval of the district director and notification of the sentencing court and the county attorney who prosecuted the case.

3. The sentencing judge may order a hearing on its own motion, or shall order a hearing upon the request of the county attorney, for review of such discharge. If the sentencing judge is no longer serving or unable to order such hearing, the chief judge of the district or the chief judge's designee shall order any hearing pursuant to this section. Following the hearing, the court shall approve or rescind such discharge. If a hearing is not ordered within thirty days after notification by the probation officer, the person shall be discharged and the probation officer shall notify the state court administrator of such discharge.

4. *a.* At the expiration of the period of probation if the fees imposed under section 904.912 and court debt collected pursuant to section 602.8107 have been paid, the court shall order the discharge of the person from probation. If portions of the court debt remain unpaid, the person shall establish a payment plan with the clerk of the district court or the county attorney prior to the discharge. The court shall forward to the governor a recommendation for or against restoration of citizenship rights to that person upon discharge. A person who has been discharged from probation shall no longer be held to answer for the person's offense.

b. Upon discharge from probation, if judgment has been deferred under section 907.3, the court's criminal record with reference to the deferred judgment, any counts dismissed by the court, which were contained in the indictment, information, or complaint that resulted in the deferred judgment, and any other related charges that were not contained in the indictment, information, or complaint but were dismissed, shall be expunged. However, the court's record shall not be expunged until the person has paid the restitution, civil penalties, court costs, fees, or other financial obligations ordered by the court or assessed by the clerk of the district court in the case that includes the deferred judgment. The expunged record is a confidential record exempt from public access under section 22.7 but shall be made available by the clerk of the district court, upon request and without court order, to an agency or person granted

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access to the deferred judgment docket under section 907.4, subsection 2. The court's record shall not be expunged in any other circumstances unless authorized by law.

c. A dismissed count or related charge shall be expunged pursuant to the provisions of paragraph *"b"* in the following manner:

(1) A count which was contained in the indictment, information, or complaint that resulted in the deferred judgment shall be expunged when the deferred judgment is expunged.

(2) A related charge that was not contained in the indictment, information, or complaint that resulted in the deferred judgment shall only be expunged upon a court order that identifies the related charge to be expunged.

d. A count or related charge that was dismissed shall not be expunged pursuant to paragraph *"c"* in any case in which a count or charge resulted in a conviction, not including a finding of contempt, that was not expunged.

e. The provisions of paragraph *"c"* apply whether the deferred judgment was expunged prior to July 1, 2012, or on or after July 1, 2012. The provisions of paragraph *"d"* apply whether the deferred judgment was expunged prior to July 1, 2016, or on or after July 1, 2016.

f. The provisions of paragraph *"b"* that require payment of financial obligations as a condition for expungement of a deferred judgment apply to any deferred judgment that has not been expunged prior to July 1, 2012.

g. For purposes of this subsection, a charge or count is related to another charge or count if the charge or count arose from the same transaction or occurrence or from two or more transactions or occurrences constituting parts of a common scheme or plan.

5. A probation officer or the director of the judicial district department of correctional services who acts in compliance with this section is acting in the course of the person's official duty and is not personally liable, either civilly or criminally, for the acts of a person discharged from probation by the officer after such discharge, unless the discharge constitutes willful disregard of the person's duty.

[S13, §5447-a; C24, 27, 31, 35, 39, §**3800;** C46, 50, 54, 58, 62, 66, 71, 73, §247.20; C75, 77, §789A.6; C79, 81, §907.9]

88 Acts, ch 1168, §6; 90 Acts, ch 1251, §72; 91 Acts, ch 219, §27; 97 Acts, ch 125, §9; 97 Acts, ch 190, §11; 98 Acts, ch 1197, §7, 13; 2000 Acts, ch 1177, §4, 5; 2003 Acts, 1st Ex, ch 2, §61, 209; 2004 Acts, ch 1175, §205; 2008 Acts, ch 1172, §28; 2012 Acts, ch 1054, §3, 4; 2016 Acts, ch 1058, §2, 3; 2024 Acts, ch 1182, §90, 91

Referred to in §901C.2

907.10 Release on probation after completing program.

When the court has determined that any person ordered to participate in a locally administered correctional program, pursuant to section 907.3, subsection 1, has successfully completed such program, the court shall order such person to be released on probation.

[C79, 81, §907.10]

907.11 Maximum period of confinement.

In no case shall the total time served in confinement and in any locally administered correctional program exceed the maximum period of confinement authorized for the public offense of which the defendant stands convicted.

[C79, 81, §907.11]

907.12 Reserved.

907.13 Community service sentencing — liability — workers' compensation.

1. The court may establish as a condition of probation that the defendant perform unpaid community service for a time not to exceed the maximum period of confinement for the offense of which the defendant is convicted. If this condition is established, the defendant in cooperation with the probation officer assigned to the defendant and in cooperation with the judicial district department of correctional services, shall promptly prepare a plan to implement the community service condition. The plan shall include but shall not be limited

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to the suggested placement of the defendant and the suggested number of hours of services to be required.

2. The defendant's plan of community service, the comments of the defendant's probation officer, and the comments of the representative of the judicial district department of correctional services responsible for the unpaid community service program, shall be submitted promptly to the court. The court shall promptly enter an order approving the plan or modifying it. Compliance with the plan of community service as approved or modified by the court shall be a condition of the defendant's probation. The court thereafter may modify the plan at any time upon the defendant's request, upon the request of the judicial district department of correctional services, or upon the court's own motion. As an option for modification of a plan, the court may allow a defendant to complete some part or all of the defendant's community service obligation through the donation of property to a charitable organization other than a governmental subdivision. A donation of property to a charitable organization offered in satisfaction of some part or all of a community service obligation under this subsection is not a deductible contribution for the purposes of federal or state income taxes.

3. At any time during the probation period the defendant may request and the court shall grant a hearing on any matter related to the plan of community service.

4. Failure of the defendant to comply with subsection 1 or to comply with the plan of community service as approved or modified by the court shall constitute a violation of the conditions of probation. Without limitation, the court may modify the plan of community service or modify the required hours of service, but not beyond the maximum hours of service specified in subsection 1.

5. The state of Iowa is exclusively liable, according to and under chapter 669, for a tortious act committed by a defendant while performing unpaid community service.

6. The state of Iowa is exclusively liable for and shall pay any compensation becoming due any person under section 85.59.

[82 Acts, ch 1069, §4]

84 Acts, ch 1280, §3; 88 Acts, ch 1168, §7

Referred to in §462A.14, 901.3, 907.6

Community service as restitution; see §909.3A, 910.2

907.14 Deferred judgment — civil penalty — distribution.

1. Upon the entry of a deferred judgment pursuant to section 907.3, a defendant shall be assessed a civil penalty of an amount not less than the amount of any criminal fine authorized by law for the offense under section 902.9 or section 903.1.

2. The clerk of the district court shall collect and remit the civil penalty to the state court administrator for deposit in the general fund of the state as provided in section 602.8108.

2005 Acts, ch 143, §5

Referred to in §321J.2, 907.1, 907.3, 908.11

CHAPTER 907A

INTERSTATE PROBATION AND PAROLE COMPACT

Repealed by 2001 Acts, ch 15, §8; 2001 Acts, 2nd Ex, ch 6, §25, 26; see chapter 907B

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CHAPTER 907B

INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION

Referred to in §422.7(6)(a), 422.7(7)(a), 422.35, 901.1, 901A.2, 904.117

907B.1 Citation.
907B.2 Interstate compact for adult offender supervision.
907B.3 State council. Repealed by 2024 Acts, ch 1170, §368.
907B.4 Interstate compact fee.

907B.1 Citation.

This chapter may be cited as the *"Interstate Compact for Adult Offender Supervision"*.

2001 Acts, ch 15, §5; 2001 Acts, 2nd Ex, ch 6, §25, 26, 37

907B.2 Interstate compact for adult offender supervision.

The national interstate compact for adult offender supervision is enacted into law and entered into by this state with any other state or jurisdiction legally joining the compact in the form substantially as follows:

1. *Article I — Definitions.* As used in this compact, unless the context clearly requires otherwise:

a. Adult. *"Adult"* means both individuals legally classified as adults and juveniles treated as adults by court order, statute, or operation of law.

b. Bylaws. *"Bylaws"* means those bylaws established by the interstate commission for its governance, or for directing or controlling the interstate commission's actions or conduct.

c. Compact administrator. *"Compact administrator"* means the individual in each compacting state appointed pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of offenders subject to the terms of this compact, the rules adopted by the interstate commission, and policies adopted by the state council under this compact.

d. Compacting state. *"Compacting state"* means any state which has enacted the enabling legislation for this compact.

e. Commissioner. *"Commissioner"* means the voting representative of each compacting state appointed pursuant to article II of this compact.

f. Interstate commission. *"Interstate commission"* means the interstate commission for adult offender supervision established by this compact.

g. Member. *"Member"* means the commissioner of a compacting state or a designee, who shall be a person officially connected with the commissioner.

h. Noncompacting state. *"Noncompacting state"* means any state which has not enacted the enabling legislation for this compact.

i. Offender. *"Offender"* means an adult placed under, or subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies.

j. Person. *"Person"* means any individual, corporation, business enterprise, or other legal entity, either public or private.

k. Rules. *"Rules"* means acts of the interstate commission, duly promulgated pursuant to article VII of this compact, substantially affecting interested parties in addition to the interstate commission, which shall have the force and effect of law in the compacting states.

l. State. *"State"* means a state of the United States, the District of Columbia, and any other territorial possessions of the United States.

m. State council. *"State council"* means the resident members of the state council for interstate adult offender supervision created by each state under article III of this compact.

2. *Article II — The compact commission.*

a. The compacting states hereby create the interstate commission for adult offender supervision. The interstate commission shall be a body corporate and joint agency of the compacting states. The interstate commission shall have all the responsibilities, powers, and duties set forth herein, including the power to sue and be sued, and such additional

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powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

b. The interstate commission shall consist of commissioners selected and appointed by resident members of a state council for interstate adult offender supervision for each state. The commission shall include at least one commissioner from a minority group.

c. In addition to the commissioners who are the voting representatives of each state, the interstate commission shall include individuals who are not commissioners but who are members of interested organizations; such noncommissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general, and crime victims. All noncommissioner members of the interstate commission shall be ex officio members. The interstate commission may provide in its bylaws for such additional, ex officio, nonvoting members as it deems necessary.

d. Each compacting state represented at any meeting of the interstate commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission.

e. The interstate commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of twenty-seven or more compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

f. The interstate commission shall establish an executive committee which shall include commission officers, members, and others as shall be determined by the bylaws. The executive committee shall have the power to act on behalf of the interstate commission during periods when the interstate commission is not in session, with the exception of rulemaking and amendment to the compact. The executive committee oversees the day-to-day activities managed by the executive director and interstate commission staff, administers enforcement and compliance with the provisions of the compact, its bylaws, and as directed by the interstate commission, and performs other duties as directed by commission or set forth in the bylaws.

3. *Article III — The state council.* Each member state shall create a state council for interstate adult offender supervision which shall be responsible for the appointment of the commissioner who shall serve on the interstate commission from that state. Each state council shall appoint as its commissioner the compact administrator from that state to serve on the interstate commission in such capacity under or pursuant to applicable law of the member state. While each member state may determine the membership of its own state council, its membership must include at least one representative from the legislative, judicial, and executive branches of government, victims groups, and compact administrators. Each compacting state retains the right to determine the qualifications of the compact administrator who shall be appointed by the state council or by the governor in consultation with the legislature and the judiciary. In addition to appointment of its commissioner to the interstate commission, each state council shall exercise oversight and advocacy concerning its participation in interstate commission activities and other duties as may be determined by each member state, including but not limited to development of policy concerning operations and procedures of the compact within that state.

4. *Article IV — Powers and duties of the interstate commission.* The interstate commission shall have the following powers:

a. To adopt a seal and suitable bylaws governing the management and operation of the interstate commission.

b. To promulgate rules which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact.

c. To oversee, supervise, and coordinate the interstate movement of offenders subject to the terms of this compact and any bylaws adopted and rules promulgated by the interstate commission.

d. To enforce compliance with compact provisions, interstate commission rules, and bylaws, using all necessary and proper means, including but not limited to the use of judicial process.

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e. To establish and maintain offices.

f. To purchase and maintain insurance and bonds.

g. To borrow, accept, or contract for services of personnel, including but not limited to members and their staffs.

h. To establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions, including but not limited to an executive committee as required by article II which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties hereunder.

i. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties, and determine their qualifications; and to establish the interstate commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel.

j. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same.

k. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed.

l. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.

m. To establish a budget and make expenditures and levy dues as provided in article IX of this compact.

n. To sue and be sued.

o. To provide for dispute resolution among compacting states.

p. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

q. To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the interstate commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the interstate commission.

r. To coordinate education, training, and public awareness regarding the interstate movement of offenders for officials involved in such activity.

s. To establish uniform standards for the reporting, collecting, and exchanging of data.

5. *Article V — Organization and operation of the interstate commission.*

a. Bylaws. The interstate commission shall, by a majority of the members, within twelve months of the first interstate commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

(1) Establishing the fiscal year of the interstate commission.

(2) Establishing an executive committee and such other committees as may be necessary.

(3) Providing reasonable standards and procedures:

(a) For the establishment of committees.

(b) Governing any general or specific delegation of any authority or function of the interstate commission.

(4) Providing reasonable procedures for calling and conducting meetings of the interstate commission, and ensuring reasonable notice of each such meeting.

(5) Establishing the titles and responsibilities of the officers of the interstate commission.

(6) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the interstate commission. Notwithstanding any civil service or other similar laws of any compacting state, the bylaws shall exclusively govern the personnel policies and programs of the interstate commission.

(7) Providing a mechanism for winding up the operations of the interstate commission and the equitable return of any surplus funds that may exist upon the termination of the compact after the payment or reserving of all of its debts and obligations.

(8) Providing transition rules for startup administration of the compact.

(9) Establishing standards and procedures for compliance and technical assistance in carrying out the compact.

b. Officers and staff.

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(1) The interstate commission shall, by a majority of the members, elect from among its members a chairperson and a vice chairperson, each of whom shall have such authorities and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice chairperson, shall preside at all meetings of the interstate commission. The officers so elected shall serve without compensation or remuneration from the interstate commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the interstate commission.

(2) The interstate commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the interstate commission may deem appropriate. The executive director shall serve as secretary to the interstate commission, and hire and supervise such other staff as may be authorized by the interstate commission, but shall not be a member.

c. Corporate records of the interstate commission. The interstate commission shall maintain its corporate books and records in accordance with the bylaws.

d. Qualified immunity, defense and indemnification.

(1) The members, officers, executive director, and employees of the interstate commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of any actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities; provided that nothing in this subparagraph shall be construed to protect any such person from suit and liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

(2) The interstate commission shall defend the commissioner of a compacting state, or the commissioner's representatives or employees, or the interstate commission's representatives or employees, in any civil action seeking to impose liability, arising out of any actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities; provided that the actual or alleged act, error, or omission did not result from intentional wrongdoing on the part of such person.

(3) The interstate commission shall indemnify and hold the commissioner of a compacting state, the appointed designee, or employees, or the interstate commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from gross negligence or intentional wrongdoing on the part of such person.

6. *Article VI — Activities of the interstate commission.*

a. The interstate commission shall meet and take such actions as are consistent with the provisions of this compact.

b. Except as otherwise provided in this compact and unless a greater percentage is required by the bylaws, in order to constitute an act of the interstate commission, such act shall have been taken at a meeting of the interstate commission and shall have received an affirmative vote of a majority of the members present.

c. Each member of the interstate commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the interstate commission. A member shall vote in person on behalf of the state and shall not delegate a vote to another member state. However, a state council shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the member state at a specified meeting. The bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication. Any voting conducted by telephone or other means of telecommunication

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or electronic communication shall be subject to the same quorum requirements of meetings where members are present in person.

d. The interstate commission shall meet at least once during each calendar year. The chairperson of the interstate commission may call additional meetings at any time and, upon the request of a majority of the members, shall call additional meetings.

e. The interstate commission's bylaws shall establish conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests. In promulgating such rules, the interstate commission may make available to law enforcement agencies records and information otherwise exempt from disclosure, and may enter into agreements with law enforcement agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

f. Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission shall promulgate rules consistent with the principles contained in the federal Government in the Sunshine Act, 5 U.S.C. §552(a)(6), as may be amended. The interstate commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:

(1) Relate solely to the interstate commission's internal personnel practices and procedures.

(2) Disclose matters specifically exempted from disclosure by statute.

(3) Disclose trade secrets or commercial or financial information which is privileged or confidential.

(4) Involve accusing any person of a crime, or formally censuring any person.

(5) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

(6) Disclose investigatory records compiled for law enforcement purposes.

(7) Disclose information contained in or related to examination, operating, or condition reports prepared by, or on behalf of or for the use of, the interstate commission with respect to a regulated entity for the purpose of regulation or supervision of such entity.

(8) Disclose information, the premature disclosure of which would significantly endanger the life of a person or the stability of a regulated entity.

(9) Specifically relate to the interstate commission's issuance of a subpoena, or its participation in a civil action or proceeding.

g. For every meeting closed pursuant to this provision, the interstate commission's chief legal officer shall publicly certify that, in the officer's opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The interstate commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote, reflected in the vote of each member on the question. All documents considered in connection with any action shall be identified in such minutes.

h. The interstate commission shall collect standardized data concerning the interstate movement of offenders as directed through its bylaws and rules which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements.

7. *Article VII — Rulemaking functions of the interstate commission.*

a. The interstate commission shall promulgate rules in order to effectively and efficiently achieve the purposes of the compact including transition rules governing administration of the compact during the period in which it is being considered and enacted by the states.

b. Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the federal Administrative Procedure Act, 5 U.S.C. §551 et seq., and the federal Advisory Committee Act, 5 U.S.C. app. 2, §1 et seq., as may be amended.

c. All rules and amendments shall become binding as of the date specified in each rule or amendment.

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d. If a majority of the legislatures of the compacting states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

e. When promulgating a rule, the interstate commission shall do all of the following:

(1) Publish the proposed rule stating with particularity the text of the rule which is proposed and the reason for the proposed rule.

(2) Allow persons to submit written data, facts, opinions, and arguments, which information shall be publicly available.

(3) Provide an opportunity for an informal hearing.

(4) Promulgate a final rule and its effective date, if appropriate, based on the rulemaking record.

f. Not later than sixty days after a rule is promulgated, any interested person may file a petition in the United States district court for the District of Columbia or in the United States district court where the interstate commission's principal office is located for judicial review of such rule. If the court finds that the interstate commission's action is not supported by substantial evidence, as defined in the federal Administrative Procedure Act, in the rulemaking record, the court shall hold the rule unlawful and set it aside.

g. Subjects to be addressed within twelve months after the first meeting must at a minimum include:

(1) Notice to victims and opportunity to be heard.

(2) Offender registration and compliance.

(3) Violations and returns.

(4) Transfer procedures and forms.

(5) Eligibility for transfer.

(6) Collection of restitution and fees from offenders.

(7) Data collection and reporting.

(8) The level of supervision to be provided by the receiving state.

(9) Transition rules governing the operation of the compact and the interstate commission during all or part of the period between the effective date of the compact and the date on which the last eligible state adopts the compact.

(10) Mediation, arbitration and dispute resolution. The existing rules governing the operation of the previous compact superseded by this compact shall be null and void twelve months after the first meeting of the interstate commission created hereunder.

h. Upon determination by the interstate commission that an emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule.

8. *Article VIII — Oversight, enforcement, and dispute resolution by the interstate commission.*

a. Oversight.

(1) The interstate commission shall oversee the interstate movement of adult offenders in the compacting states and shall monitor such activities being administered in noncompacting states which may significantly affect compacting states.

(2) The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the interstate commission, the interstate commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

b. Dispute resolution.

(1) The compacting states shall report to the interstate commission on issues or activities of concern to them, and cooperate with and support the interstate commission in the discharge of its duties and responsibilities.

(2) The interstate commission shall attempt to resolve any disputes or other issues which

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are subject to the compact and which may arise among compacting states and noncompacting states.

(3) The interstate commission shall enact a bylaw or promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

c. Enforcement. The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions of this compact using any or all means set forth in article XI, paragraph *"b"*, of this compact.

9. *Article IX — Finance.*

a. The interstate commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

b. The interstate commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the interstate commission and its staff, which must be in a total amount sufficient to cover the interstate commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, taking into consideration the population of the state and the volume of interstate movement of offenders in each compacting state, and shall promulgate a rule binding upon all compacting states which governs the assessment.

c. The interstate commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the interstate commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

d. The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the interstate commission.

10. *Article X — Compacting states, effective date and amendment.*

a. Any state, as defined in article I of this compact, is eligible to become a compacting state.

b. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than thirty-five of the states. The initial effective date shall be the later of July 1, 2002, or upon enactment into law by the thirty-fifth jurisdiction. Thereafter it shall become effective and binding, as to any other compacting state, upon enactment of the compact into law by that state. The governors of nonmember states or their designees will be invited to participate in interstate commission activities on a nonvoting basis prior to adoption of the compact by all states and territories of the United States.

c. Amendments to the compact may be proposed by the interstate commission for enactment by the compacting states. No amendment shall become effective and binding upon the interstate commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

11. *Article XI — Withdrawal, default, and termination, and judicial enforcement.*

a. Withdrawal.

(1) Once effective, the compact shall continue in force and remain binding upon each and every compacting state; provided that a compacting state may withdraw from the compact by enacting a statute specifically repealing the statute which enacted the compact into law.

(2) The effective date of withdrawal is the effective date of the repeal.

(3) The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state.

(4) The interstate commission shall notify the other compacting states of the withdrawing state's intent to withdraw within sixty days of its receipt thereof.

(5) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

(6) Reinstatement following withdrawal of any compacting state shall occur upon the

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withdrawing state reenacting the compact or upon such later date as determined by the interstate commission.

b. Default.

(1) If the interstate commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, the bylaws, or any duly promulgated rules, the interstate commission may impose any or all of the following penalties:

(a) Fines, fees, and costs in such amounts as are deemed to be reasonable as fixed by the interstate commission.

(b) Remedial training and technical assistance as directed by the interstate commission.

(c) Suspension and termination of membership in the compact. Suspension shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted. Immediate notice of suspension shall be given by the interstate commission to the governor, the chief justice of the state, the majority and minority leaders of the defaulting state's legislature, and the executive council. The grounds for default include, but are not limited to, failure of a compacting state to perform such obligations or responsibilities imposed upon it by this compact, interstate commission bylaws, or duly promulgated rules. The interstate commission shall immediately notify the defaulting state in writing of the penalty imposed by the interstate commission on the defaulting state pending a cure of the default. The interstate commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the interstate commission, in addition to any other penalties imposed herein, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of suspension.

(2) Within sixty days of the effective date of termination of a defaulting state, the interstate commission shall notify the governor, the chief justice, and the majority and minority leaders of the defaulting state's legislature, and the executive council of such termination.

(3) The defaulting state is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

(4) The interstate commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon between the interstate commission and the defaulting state.

(5) Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the interstate commission pursuant to the rules.

c. Judicial enforcement. The interstate commission may, by majority vote of the members, initiate legal action in the United States district court for the District of Columbia or, at the discretion of the interstate commission, in the United States district court where the interstate commission has its offices, to enforce compliance with the provisions of the compact, its duly promulgated rules, and bylaws, against any compacting state in default. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney fees.

d. Dissolution of compact.

(1) The compact dissolves effective upon the date of the withdrawal or default of the compacting state which reduces membership in the compact to one compacting state.

(2) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the interstate commission shall be wound up and any surplus funds shall be distributed in accordance with the bylaws.

12. *Article XII — Severability and construction.*

a. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

b. The provisions of this compact shall be liberally constructed to effectuate its purposes.

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13. *Article XIII — Binding effect of compact and other laws.*

a. Other laws.

(1) Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

(2) All compacting states' laws conflicting with this compact are superseded to the extent of the conflict.

b. Binding effect of the compact.

(1) All lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the compacting states.

(2) All agreements between the interstate commission and the compacting states are binding in accordance with their terms.

(3) Upon the request of a party to a conflict over meaning or interpretation of interstate commission actions, and upon a majority vote of the compacting states, the interstate commission may issue advisory opinions regarding such meaning or interpretation.

(4) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by such provision upon the interstate commission shall be ineffective and such obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this compact becomes effective.

2001 Acts, ch 15, §6; 2001 Acts, 2nd Ex, ch 6, §25, 26, 37; 2003 Acts, ch 108, §120 – 122; 2008 Acts, ch 1032, §201; 2014 Acts, ch 1092, §196

907B.3 State council. Repealed by 2024 Acts, ch 1170, §368.

907B.4 Interstate compact fee.

The department of corrections may assess a fee, not to exceed one hundred dollars, for an application to transfer out of the state under the interstate compact for adult offender supervision. The fee may be waived by the department. The moneys collected pursuant to this section shall be deposited into the interstate compact fund established in section 904.117 and shall be used to offset the costs of complying with the interstate compact for adult offender supervision.

2003 Acts, 1st Ex, ch 2, §62, 209

Referred to in §904.117

CHAPTER 908

VIOLATIONS OF PAROLE OR PROBATION

Referred to in §8.98, 13B.4, 13B.11, 321J.2, 815.10, 815.11, 901.1, 901A.2, 902.1, 903B.1, 903B.2, 907.3

908.1	Arrest of alleged parole violator — newly discovered evidence.	908.7	Waiver of parole revocation hearing. Repealed by 2018 Acts, ch 1068, §4.
908.2	Initial appearance — bail.	908.8	Reserved.
908.2A	Appointment of an attorney.	908.9	Disposition of violator.
908.3	Place of parole revocation hearing.	908.10	Conviction of a felony while on parole.
908.4	Parole revocation hearing.	908.10A	Conviction of an aggravated misdemeanor while on parole.
908.5	Disposition.	908.11	Violation of probation.
908.6	Appeal or review.		

908.1 Arrest of alleged parole violator — newly discovered evidence.

A parole officer having probable cause to believe that any person released on parole has violated the parole plan or the conditions of parole may arrest such person, or the parole officer may make a complaint before a magistrate in the judicial district in which the person is being supervised, charging such violation, and if it appears from such complaint, or from

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affidavits filed with it, that there is probable cause to believe that such person has violated the parole plan or the terms of parole, the magistrate shall issue a warrant for the arrest of such person. If a parole officer has newly discovered evidence which indicates that a person released on parole should not have been granted parole originally, the parole officer shall present the evidence to the board of parole and the board may issue an order to rescind the parole.

[C79, 81, §908.1]

88 Acts, ch 1091, §6; 2018 Acts, ch 1068, §1

908.2 Initial appearance — bail.

1. An officer making an arrest of an alleged parole violator shall take the arrested person before a magistrate without unnecessary delay for an initial appearance. At the initial appearance the magistrate shall do all of the following:

a. Provide written notice of the claimed violation.

b. Provide notice that a parole revocation hearing will take place and that its purpose is to determine whether the alleged parole violation occurred and whether the alleged violator's parole should be revoked.

c. Advise the alleged parole violator of the right to request an appointed attorney.

2. The magistrate may order the alleged parole violator confined in the county jail or may order the alleged parole violator released on bail under terms and conditions as the magistrate may require. Admittance to bail is discretionary with the magistrate and is not a matter of right. A person for whom bail is set may make application for amendment of bail to a district judge or district associate judge having jurisdiction to amend the order. The motion shall be promptly set for hearing and a record shall be made of the hearing.

[C79, 81, §908.2]

84 Acts, ch 1089, §1; 88 Acts, ch 1091, §7; 2002 Acts, ch 1067, §20; 2005 Acts, ch 107, §10, 14

908.2A Appointment of an attorney.

1. An attorney may be appointed to represent an alleged parole violator in a parole revocation proceeding only if all of the following criteria apply:

a. The alleged parole violator requests appointment of an attorney.

b. The alleged parole violator is determined to be indigent as defined in section 815.9.

c. The appointing authority determines each of the following:

(1) The alleged parole violator lacks skill or education and would have difficulty presenting the alleged parole violator's case, particularly if the proceeding would require the cross-examination of witnesses or would require the submission or examination of complex documentary evidence.

(2) The alleged parole violator has a colorable claim the alleged violation did not occur, or there are substantial reasons that justify or mitigate the violation and make any revocation inappropriate under the circumstances.

2. If the appointing authority determines counsel should be appointed and all of the criteria apply in subsection 1, the appointing authority shall appoint the state public defender's designee pursuant to section 13B.4. If the state public defender has not made a designation for the type of case or the state public defender's designee is unable to handle the case, a contract attorney with the state public defender may be appointed to represent the alleged parole violator. If a contract attorney is unavailable, an attorney who has agreed to provide these services may be appointed. The appointed attorney shall apply to the state public defender for payment in the manner prescribed by the state public defender.

2005 Acts, ch 107, §11, 14; 2013 Acts, ch 56, §6

Referred to in §815.10

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908.3 Place of parole revocation hearing.

The parole revocation hearing shall be held in any county in the same judicial district in which the alleged parole violator had the initial appearance or in the county from which the warrant for the arrest of the alleged parole violator was issued.

[C79, 81, §908.3]

88 Acts, ch 1091, §8

908.4 Parole revocation hearing.

1. The parole revocation hearing shall be conducted by an administrative parole judge who is an attorney. The revocation hearing shall determine the following:

a. Whether the alleged parole violation occurred.

b. Whether the violator's parole should be revoked.

2. The administrative parole judge shall make a verbatim record of the proceedings. The alleged violator shall be informed of the evidence against the violator, shall be given an opportunity to be heard, shall have the right to present witnesses and other evidence, and shall have the right to cross-examine adverse witnesses, except if the judge finds that a witness would be subjected to risk or harm if the witness's identity were disclosed. The revocation hearing may be conducted electronically.

[C79, 81, §908.4]

86 Acts, ch 1245, §1524; 88 Acts, ch 1091, §9; 89 Acts, ch 282, §9; 97 Acts, ch 125, §12; 98 Acts, ch 1197, §9, 13; 2000 Acts, ch 1177, §4, 5; 2002 Acts, ch 1067, §21; 2005 Acts, ch 107, §12, 14

908.5 Disposition.

1. If a violation of parole is established, the administrative parole judge may continue the parole with or without any modification of the conditions of parole. The administrative parole judge may revoke the parole and require the parolee to serve the sentence originally imposed, or may revoke the parole and reinstate the parolee's work release status.

2. If the person is serving a special sentence under chapter 903B, the administrative parole judge may revoke the release. Upon the revocation of release, the person shall not serve the entire length of the special sentence imposed, and the revocation shall be for a period not to exceed two years in a correctional institution upon a first revocation and for a period not to exceed five years in a correctional institution upon a second or subsequent revocation.

3. The order of the administrative parole judge shall contain findings of fact, conclusions of law, and a disposition of the matter.

[C79, 81, §908.5]

83 Acts, ch 96, §149, 159; 88 Acts, ch 1091, §10; 89 Acts, ch 282, §10; 97 Acts, ch 125, §12; 98 Acts, ch 1197, §9, 13; 2000 Acts, ch 1177, §4, 5; 2005 Acts, ch 158, §43

908.6 Appeal or review.

The order of the administrative parole judge shall become the final decision of the board of parole unless, within the time provided by rule, the parole violator appeals the decision or a panel of the board reviews the decision on its own motion. On appeal or review of the administrative parole judge's decision, the board panel has all the power which it would have in initially making the revocation hearing decision. The appeal or review shall be conducted pursuant to rules adopted by the board of parole. The record on appeal or review shall be the record made at the parole revocation hearing conducted by the administrative parole judge.

[C79, 81, §908.6]

83 Acts, ch 96, §150, 159; 88 Acts, ch 1091, §11; 89 Acts, ch 282, §11; 97 Acts, ch 125, §12; 98 Acts, ch 1197, §9, 13; 2000 Acts, ch 1177, §4, 5

908.7 Waiver of parole revocation hearing. Repealed by 2018 Acts, ch 1068, §4.

908.8 Reserved.

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908.9 Disposition of violator.

If the parole of a parole violator is revoked, the violator shall remain in the custody of the Iowa department of corrections under the terms of the parolee's original commitment. If the parole of a parole violator is not revoked, the parole revocation officer or board panel shall order the person's release subject to the terms of the person's parole with any modifications that the parole revocation officer or board panel determines proper, or may order that the violator be placed in a violator facility, established pursuant to section 904.207, if the parole revocation officer or board panel determines that placement in a violator facility is necessary.

[C79, 81, §908.9]

83 Acts, ch 96, §153, 159; 88 Acts, ch 1091, §13; 91 Acts, ch 219, §28; 93 Acts, ch 46, §12

908.10 Conviction of a felony while on parole.

1. When a person is convicted and sentenced to incarceration in this state for a felony committed while on parole, or is convicted and sentenced to incarceration in any other state of the United States or a foreign country for an offense committed while on parole, and which if committed in this state would be a felony, the person's parole shall be deemed revoked as of the date of the commission of the new felony offense.

2. The parole officer shall inform the sentencing judge that the convicted defendant is a parole violator. The term for which the defendant shall be imprisoned as a parole violator shall be the same as that provided in cases of revocation of parole for violation of the conditions of parole. The new sentence of imprisonment for conviction of a felony shall be served consecutively with the term imposed for the parole violation, unless a concurrent term of imprisonment is ordered by the court.

3. The parolee shall be notified in writing that parole has been revoked on the basis of the new felony conviction, and a copy of the commitment order shall accompany the notification. The inmate's record shall be reviewed pursuant to the provisions of section 906.5, or as soon as practical after a final reversal of the new felony conviction.

4. An inmate may appeal the revocation of parole under this section according to the board of parole's rules relating to parole revocation appeals. Neither the administrative parole judge nor the board panel shall retry the facts underlying any conviction.

[C79, 81, §908.10]

88 Acts, ch 1091, §14; 89 Acts, ch 282, §13; 97 Acts, ch 125, §12; 98 Acts, ch 1197, §9, 13; 2000 Acts, ch 1177, §4, 5; 2018 Acts, ch 1041, §127; 2018 Acts, ch 1068, §2

908.10A Conviction of an aggravated misdemeanor while on parole.

1. When a person is convicted and sentenced to incarceration in a state correctional institution in this state for an aggravated misdemeanor committed while on parole, or is convicted and sentenced to incarceration in any other state of the United States or a foreign country for an offense committed while on parole, and which if committed in this state would be an aggravated misdemeanor, the person's parole shall be deemed revoked as of the date of the commission of the new aggravated misdemeanor offense.

2. The parole officer shall inform the sentencing judge that the convicted defendant is a parole violator. The term for which the defendant shall be imprisoned as a parole violator shall be the same as that provided in cases of revocation of parole for violation of the conditions of parole. The new sentence of imprisonment for conviction of an aggravated misdemeanor shall be served consecutively with the term imposed for the parole violation, unless a concurrent term of imprisonment is ordered by the court.

3. The parolee shall be notified in writing that parole has been revoked on the basis of the new aggravated misdemeanor conviction, and a copy of the commitment order shall accompany the notification. The inmate's record shall be reviewed pursuant to the provisions of section 906.5, or as soon as practical after a final reversal of the new aggravated misdemeanor conviction.

4. An inmate may appeal the revocation of parole under this section according to the board

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of parole's rules relating to parole revocation appeals. Neither the administrative parole judge nor the board panel shall retry the facts underlying any conviction.

94 Acts, ch 1048, §2; 97 Acts, ch 125, §12; 98 Acts, ch 1197, §9, 13; 2000 Acts, ch 1177, §4, 5; 2018 Acts, ch 1041, §127; 2018 Acts, ch 1068, §3

908.11 Violation of probation.

1. A probation officer or the judicial district department of correctional services having probable cause to believe that any person released on probation has violated the conditions of probation shall proceed by arrest or summons as in the case of a parole violation.

2. The functions of the liaison officer and the board of parole shall be performed by the judge or magistrate who placed the alleged violator on probation if that judge or magistrate is available, otherwise by another judge or magistrate who would have had jurisdiction to try the original offense.

3. If the probation officer proceeds by arrest, any magistrate may receive the complaint, issue an arrest warrant, or conduct the initial appearance and probable cause hearing if it is not convenient for the judge who placed the alleged violator on probation to do so. The initial appearance, probable cause hearing, and probation revocation hearing, or any of them, may at the discretion of the court be merged into a single hearing when it appears that the alleged violator will not be prejudiced by the merger.

4. If the violation is established, the court may continue the probation or youthful offender status with or without an alteration of the conditions of probation or a youthful offender status. If the defendant is an adult or a youthful offender the court may hold the defendant in contempt of court and sentence the defendant to a jail term while continuing the probation or youthful offender status, order the defendant to be placed in a violator facility established pursuant to section 904.207 while continuing the probation or youthful offender status, extend the period of probation for up to one year as authorized in section 907.7 while continuing the probation or youthful offender status, or revoke the probation or youthful offender status and require the defendant to serve the sentence imposed or any lesser sentence, and, if imposition of sentence was deferred, may impose any sentence which might originally have been imposed.

5. Notwithstanding any other provision of law to the contrary, if the court revokes the probation of a defendant who received a deferred judgment and imposes a fine, the court shall reduce the amount of the fine by an amount equal to the amount of the civil penalty previously assessed against the defendant pursuant to section 907.14. However, the court shall assess any required surcharge, court cost, or fee upon the total amount of the fine prior to reduction pursuant to this subsection.

[S13, §5447-b; C24, 27, 31, 35, 39, §**3805, 3806;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §247.26, 247.27; C79, 81, §908.11]

84 Acts, ch 1244, §6; 91 Acts, ch 219, §29; 97 Acts, ch 125, §10; 97 Acts, ch 126, §52; 98 Acts, ch 1197, §2, 3, 8, 13; 2000 Acts, ch 1177, §4, 5; 2007 Acts, ch 180, §12; 2010 Acts, ch 1175, §2, 4; 2011 Acts, ch 34, §156

Referred to in §232.54, 901B.1, 907.3A, 907.7

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CHAPTER 909

FINES

Referred to in §8.98, 901.1, 901A.2, 911.1

909.1 Fine without imprisonment.
909.2 Fine in addition to imprisonment.
909.3 Payment of fines — plan — installments.
909.3A Community service option.
909.4 Treble damage liability for corporations, partnerships and associations.
909.5 Nonpayment of fines and court costs — contempt.
909.6 Fine as judgment.
909.7 Ability to pay fine presumed.
909.8 Payment and collection provisions apply to surcharge.
909.9 Collection of delinquent fines and court costs — disposition. Repealed by 93 Acts, ch 110, §17.
909.10 Collection of delinquent amounts by the court. Repealed by 2008 Acts, ch 1172, §30.

909.1 Fine without imprisonment.

Upon a verdict or plea of guilty of any public offense for which a fine is authorized, the court may impose a fine instead of any other sentence where it appears that the fine will be adequate to deter the defendant and to discourage others from similar criminal activity.

[C79, 81, §909.1]

909.2 Fine in addition to imprisonment.

The court may impose a fine in addition to confinement, where such is authorized.

[C79, 81, §909.2]

909.3 Payment of fines — plan — installments.

1. Unless a plan of payment has been issued pursuant to chapter 910, fines imposed by the court shall be paid on the day the fine is imposed, and the person shall be instructed to pay such fines with the office of the clerk of the district court on the date of imposition.

2. *a.* The court may, in its discretion, order a fine to be paid in installments.

b. If the court orders the fine to be paid in installments, the first installment payment shall be made within thirty days of the fine being imposed. All other terms and conditions of an installment payment plan order pursuant to this section shall be established by rule by the judicial branch.

[C51, §3071, 3349; R60, §4881, 5084; C73, §4509, 4689; C97, §5440, 5604; C24, 27, 31, 35, 39, §**13588, 13964;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §762.32, 789.17; C79, 81, §909.3]

93 Acts, ch 110, §11; 2010 Acts, ch 1146, §22; 2020 Acts, ch 1074, §68, 83

Referred to in §602.8107, 815.9

909.3A Community service option.

The court may, in its discretion, order the defendant to perform community service work of an equivalent value to the fine imposed where it appears that the community service work will be adequate to deter the defendant and to discourage others from similar criminal activity. The rate at which community service shall be calculated shall be the federal or state minimum wage, whichever is higher.

93 Acts, ch 110, §12; 2007 Acts, ch 215, §124

Referred to in §123.47, 909.7, 909.8

909.4 Treble damage liability for corporations, partnerships and associations.

Whenever a corporation, partnership or other association, not subject to imprisonment is found guilty of any public offense, the court may impose a fine within the limits authorized by law. In addition to such fine, if the offense be a felony or aggravated misdemeanor, the corporation, partnership or association shall be liable as follows:

1. Any person who has suffered loss because of the public offense may recover from the corporation, partnership or association in an action at law damages equal to three times the amount of such loss.

2. If the corporation, partnership or association has received pecuniary benefit from

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the commission of the offense, the attorney general may recover from such corporation, partnership or association in an action at law for the use of the state damages equal to three times the amount of such benefit, provided, that any amount which is recovered under subsection 1 of this section shall be subtracted from the damages recovered by the state.

[C79, 81, §909.4]

Liability of corporations, partnerships and voluntary associations, §703.5

909.5 Nonpayment of fines and court costs — contempt.

A person who is able to pay a fine, court-imposed court costs for a criminal proceeding, or both, or an installment of the fine or the court-imposed court costs, or both, and who refuses to do so, or who fails to make a good faith effort to pay the fine, court costs, or both, or any installment thereof, shall be held in contempt of court.

[C51, §3071, 3349; R60, §4881, 5084; C73, §4509, 4689; C97, §5440, 5604; C24, 27, 31, 35, 39, §**13588, 13964;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §762.32, 789.17; C79, 81, §909.5]

85 Acts, ch 52, §1

909.6 Fine as judgment.

1. Whenever a court has imposed a fine on any defendant, the judgment in such case shall state the amount of the fine, and shall have the force and effect of a judgment against the defendant for the amount of the fine. The law relating to judgment liens, executions, and other process available to creditors for the collection of debts shall be applicable to such judgments; provided, that no law exempting the personal property of the defendant from any lien or legal process shall be applicable to such judgments.

2. At the time of imposing the sentence, the court shall inform the offender of the amount of the fine and that the judgment includes the imposition of a criminal surcharge, court costs, and applicable fees. The court shall also inform the offender of the duty to pay the judgment in a timely manner.

[R60, §4902, 5003; C73, §4518, 4609; C97, §5446, 5531; C24, 27, 31, 35, 39, §**13969, 13976;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §790.1, 791.6; C79, 81, §909.6]

93 Acts, ch 110, §13; 94 Acts, ch 1142, §14; 2018 Acts, ch 1041, §127

Referred to in §642.14A

909.7 Ability to pay fine presumed.

1. A defendant is presumed to be able to pay a fine. However, if the defendant proves to the satisfaction of the court that the defendant cannot pay the fine, the defendant shall not be sentenced to confinement for the failure to pay the fine.

2. A defendant who proves that the defendant cannot pay the fine may, at the discretion of the court, be ordered to perform community service pursuant to section 909.3A.

85 Acts, ch 197, §45; 93 Acts, ch 110, §14; 2018 Acts, ch 1041, §127

909.8 Payment and collection provisions apply to surcharge.

The provisions of this chapter governing the payment and collection of a fine, except section 909.3A, also apply to the payment and collection of surcharges imposed pursuant to chapter 911.

87 Acts, ch 72, §1; 93 Acts, ch 110, §15; 2001 Acts, ch 168, §6; 2004 Acts, ch 1119, §8; 2008 Acts, ch 1172, §29

Referred to in §911.1

909.9 Collection of delinquent fines and court costs — disposition. Repealed by 93 Acts, ch 110, §17. See §602.8107.

909.10 Collection of delinquent amounts by the court. Repealed by 2008 Acts, ch 1172, §30. See §602.8107.

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CHAPTER 910

RESTITUTION

Referred to in §8.98, 321J.2, 422.7(35), 462A.14, 602.8102(135), 645.3, 710A.4, 815.9, 815.14, 822.2, 904.809, 904.905, 909.3

Victim compensation, see chapter 915, subchapter VII

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910.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Category "A" restitution"* means fines, penalties, and surcharges.

2. *"Category "B" restitution"* means the contribution of funds to a local anticrime organization which provided assistance to law enforcement in an offender's case, the payment of crime victim compensation program reimbursements, payment of restitution to public agencies pursuant to section 321J.2, subsection 13, paragraph *"b"*, court costs, court-appointed attorney fees ordered pursuant to section 815.9, including the expense of a public defender, and payment to the medical assistance program pursuant to chapter 249A for expenditures paid on behalf of the victim resulting from the offender's criminal activities including investigative costs incurred by the Medicaid fraud control unit pursuant to section 249A.50.

3. *"Criminal activities"* means any crime for which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction is rendered and any other crime committed after July 1, 1982, which is admitted or not contested by the offender, whether or not prosecuted. However, *"criminal activities"* does not include simple misdemeanors under chapter 321.

4. *"Financial affidavit"* means a signed affidavit under penalty of perjury that provides financial information about the offender to enable the sentencing court or the department of corrections to make a determination regarding the ability of the offender to pay category "B" restitution. *"Financial affidavit"* includes the offender's income, physical and mental health, age, education, employment, inheritance, other debts, other amounts of restitution owed, family circumstances, and any assets subject to execution, including but not limited to cash, accounts at financial institutions, stocks, bonds, and any other property which may be applied to the satisfaction of judgments.

5. *"Local anticrime organization"* means an entity organized for the primary purpose of crime prevention which has been officially recognized by the chief of police of the city in which the organization is located or the sheriff of the county in which the organization is located.

6. *"Pecuniary damages"* means all damages to the extent not paid by an insurer on an insurance claim by the victim, which a victim could recover against the offender in a civil action arising out of the same facts or event, except punitive damages and damages for pain, suffering, mental anguish, and loss of consortium. Without limitation, *"pecuniary damages"* includes damages for wrongful death and expenses incurred for psychiatric or psychological services or counseling or other counseling for the victim which became necessary as a direct result of the criminal activity.

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7. *"Permanent restitution order"* means an enforceable restitution order entered either at the time of sentencing or at a later date determined by the court.

8. *"Plan of payment"* or *"restitution plan of payment"* means a plan for paying restitution wherein the defendant is ordered to pay a certain amount of money each month to repay outstanding restitution.

9. *"Plan of restitution"* means a permanent restitution order, restitution plan of payment, any other court order relating to restitution, or any combination of the foregoing.

10. *"Restitution"* means pecuniary damages, category "A" restitution, and category "B" restitution.

11. *"Victim"* means a person who has suffered pecuniary damages as a result of the offender's criminal activities. However, for purposes of this chapter, an insurer paying a victim's insurance claim is not a victim and does not have a right of subrogation. An insurer may be a victim for purposes of this chapter if insurance fraud in violation of section 507E.3 or 507E.3A has been perpetrated against the insurer. The crime victim compensation program is not an insurer for purposes of this chapter, and the right of subrogation provided by section 915.92 does not prohibit restitution to the crime victim compensation program.

[C75, 77, §789A.8; C79, 81, §907.12; 82 Acts, ch 1162, §2]

83 Acts, ch 15, §1, 3; 90 Acts, ch 1251, §73, 74; 91 Acts, ch 181, §2, 16; 94 Acts, ch 1142, §15; 96 Acts, ch 1091, §1, 2; 97 Acts, ch 140, §2; 97 Acts, ch 177, §34; 98 Acts, ch 1090, §83, 84; 2002 Acts, ch 1119, §195; 2003 Acts, ch 44, §107; 2010 Acts, ch 1124, §6, 9; 2011 Acts, ch 52, §2; 2018 Acts, ch 1019, §1, 2; 2020 Acts, ch 1074, §69, 70, 83

Referred to in §321.40, 602.8107, 910.3B, 915.100

For future amendments to subsections 1 and 2, effective July 1, 2027, see 2026 Acts, ch 1079, §11, 15

For future amendments to subsections 1 and 2, effective July 1, 2027, see 2026 Acts, ch 1104, §9, 11; 2026 Acts, ch 1200, §79, 82

For future text of subsections 2A and 2B, effective July 1, 2027, see 2026 Acts, ch 1079, §12, 15

910.2 Restitution or community service ordered by sentencing court.

1. *a.* In all criminal cases in which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction is rendered, the sentencing court shall order that pecuniary damages be paid by each offender to the victims of the offender's criminal activities, and that all other restitution be paid to the clerk of court subject to the following:

(1) Pecuniary damages and category "A" restitution shall be ordered without regard to an offender's reasonable ability to make payments.

(2) Category "B" restitution shall be ordered subject to an offender's reasonable ability to make payments pursuant to section 910.2A.

b. Pecuniary damages shall be paid to victims in full before category "A" and category "B" restitution are paid.

c. In structuring a plan of restitution, the plan of payment shall provide for payments in the following order of priority:

(1) Pecuniary damages to the victim.

(2) Category "A" restitution.

(3) Category "B" restitution in the following order:

(a) Crime victim compensation program reimbursement.

(b) Public agencies.

(c) Court costs.

(d) Court-appointed attorney fees ordered pursuant to section 815.9, including the expense of a public defender.

(e) Contribution to a local anticrime organization.

(f) The medical assistance program.

2. *a.* When the offender is not reasonably able to pay all or a part of category "B" restitution, the court may require the offender in lieu of that portion of category "B" restitution for which the offender is not reasonably able to pay, to perform a needed public service for a governmental agency or for a private nonprofit agency which provides a service to the youth, elderly, or poor of the community.

b. When community service is ordered, the court shall set a specific number of hours of service to be performed by the offender. When calculating the amount of community service to be performed in lieu of payment of court-appointed attorney fees, the court shall determine

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the approximate equivalent value of the expenses of the public defender. The judicial district department of correctional services shall provide for the assignment of the offender to a public agency or private nonprofit agency to perform the required service.

3. Notwithstanding any other statute or rule of law, with the consent of the defendant and the prosecuting attorney, the court may order as part of the dismissal of a public offense or violation of an ordinance that the defendant pay pecuniary damages to the victim and category "B" restitution, which shall include court costs.

[C75, 77, §789A.8; C79, 81, §907.12; 82 Acts, ch 1162, §3]

83 Acts, ch 15, §2, 3; 85 Acts, ch 195, §66; 90 Acts, ch 1251, §75; 92 Acts, ch 1242, §36; 94 Acts, ch 1142, §16; 95 Acts, ch 75, §1; 96 Acts, ch 1091, §3; 96 Acts, ch 1193, §21; 97 Acts, ch 140, §3; 97 Acts, ch 177, §35; 2000 Acts, ch 1115, §9; 2002 Acts, ch 1119, §196; 2010 Acts, ch 1093, §2; 2010 Acts, ch 1124, §7, 9; 2011 Acts, ch 52, §3; 2019 Acts, ch 59, §232; 2020 Acts, ch 1074, §71, 83; 2026 Acts, ch 1050, §1; 2026 Acts, ch 1200, §29

Referred to in §249A.55, 910.3B

For future amendment to subsection 1, paragraph c, effective July 1, 2027, see 2026 Acts, ch 1079, §13, 15

NEW subsection 3

910.2A Reasonable ability to pay — category "B" restitution payments.

1. An offender is presumed to have the reasonable ability to make restitution payments for the full amount of category "B" restitution.

2. If an offender requests that the court determine the amount of category "B" restitution payments the offender is reasonably able to make toward paying the full amount of such restitution, the court shall hold a hearing and make such a determination, subject to the following provisions:

a. To obtain relief at such a hearing, the offender must affirmatively prove by a preponderance of the evidence that the offender is unable to reasonably make payments toward the full amount of category "B" restitution.

b. The offender must furnish the prosecuting attorney and sentencing court with a completed financial affidavit. Failure to furnish a completed financial affidavit waives any claim regarding the offender's reasonable ability to pay.

c. The prosecuting attorney, the attorney for the defendant, and the court shall be permitted to question the offender regarding the offender's reasonable ability to pay.

d. Based on the evidence offered at the hearing, including but not limited to the financial affidavit, the court shall determine the amount of category "B" restitution the offender is reasonably able to make payments toward, and order the offender to make payments toward that amount.

3. *a.* If an offender does not make a request as provided in subsection 2 at the time of sentencing or within thirty days after the court issues a permanent restitution order, the court shall order the offender to pay the full amount of category "B" restitution.

b. An offender's failure to request a determination pursuant to this section waives all future claims regarding the offender's reasonable ability to pay, except as provided by section 910.7.

4. If an offender requests that the court make a determination pursuant to subsection 2, the offender's financial affidavit shall be filed of record in all criminal cases for which the offender owes restitution and the affidavit shall be accessible by a prosecuting attorney or attorney for the offender without court order or appearance.

5. A court that makes a determination under this section is presumed to have properly exercised its discretion. A court is not required to state its reasons for making a determination.

2020 Acts, ch 1074, §72, 83

Referred to in §910.2, 910.2B

910.2B Conversion of existing restitution orders.

1. All of the following, if entered by a district court prior to June 25, 2020, shall be converted to permanent restitution orders:

a. A temporary restitution order.

b. A supplemental restitution order.

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c. A restitution order that does not contain a determination of the defendant's reasonable ability to pay the restitution ordered.

2. The only means by which a defendant may challenge the conversion of a restitution order is through the filing of a petition pursuant to section 910.7.

3. The provisions of this chapter, including but not limited to the procedures in section 910.2A, shall apply to a challenge to the conversion of an existing restitution order in the district court and on appeal.

4. A challenge to the conversion of an existing restitution order to a permanent restitution order shall be filed in the district court no later than one year from June 25, 2020.

2020 Acts, ch 1074, §73, 83; 2021 Acts, ch 80, §381, 385

910.3 Determination of amount of restitution.

1. The prosecuting attorney shall prepare a statement of pecuniary damages to victims of the defendant and, if applicable, any award by the crime victim compensation program and expenses incurred by public agencies pursuant to section 321J.2, subsection 13, paragraph *"b"*, and shall provide the statement to the presentence investigator or submit the statement to the court at the time of sentencing.

2. The clerk of court shall prepare a statement of court-appointed attorney fees ordered pursuant to section 815.9, including the expense of a public defender and court costs, which shall be provided to the presentence investigator or submitted to the court at the time of sentencing.

3. If the statements in subsection 1 or 2 are provided to the presentence investigator, they shall become a part of the presentence report.

4. If pecuniary damage amounts are not available or are incomplete at the time of sentencing, the prosecuting attorney shall provide a statement of pecuniary damages incurred up to that time to the clerk of court.

5. The statement of pecuniary damages shall ordinarily be provided no later than thirty days after sentencing. However, a prosecuting attorney may file a statement of pecuniary damages within a reasonable time after the prosecuting attorney is notified by a victim of any pecuniary damages incurred.

6. If a defendant believes no person suffered pecuniary damages, the defendant shall so state.

7. If the defendant has any mental or physical impairment which would limit or prohibit the performance of community service, the defendant shall so state. The court may order a mental or physical examination, or both, of the defendant to determine a proper course of action.

8. The court shall enter a permanent restitution order setting out the amount of restitution including the amount of community service to be performed as restitution and the persons to whom restitution must be paid. A permanent restitution order entered at the time of sentencing is part of the final judgment of sentence as defined in section 814.6 and shall be considered in a properly perfected appeal. An appellate court shall not review or modify any issue related to a defendant's ability to pay unless the defendant has exhausted the defendant's remedies under section 910.7 and obtained a ruling from the district court prior to the issue being raised in the appellate court.

9. If the full amount of restitution cannot be determined at the time of sentencing, the court shall issue a permanent restitution order setting forth the amount of restitution identified up to that time.

10. A permanent restitution order may be superseded by subsequent orders if additional or different restitution is ordered. A permanent restitution order entered after the time of sentencing shall only be challenged pursuant to section 910.7.

[C75, 77, §789A.8; C79, 81, §907.12; 82 Acts, ch 1162, §4]

84 Acts, ch 1041, §1; 91 Acts, ch 219, §30; 94 Acts, ch 1142, §17; 97 Acts, ch 140, §4; 97 Acts, ch 177, §36; 2002 Acts, ch 1119, §197; 2003 Acts, ch 113, §4; 2010 Acts, ch 1124, §8, 9; 2020 Acts, ch 1074, §74, 83; 2021 Acts, ch 80, §377; 2021 Acts, ch 145, §8

Referred to in §321J.2, 462A.14, 815.14, 910.3B, 915.21, 915.94

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910.3A Notification of homicide victim's county of residence.

The county attorney of a county in which a judgment of conviction and sentence under section 707.2, 707.3, 707.4, 707.5, or 707.6A is rendered against a defendant relating to a person's death shall notify in writing the clerk of the district court of the county of the person's residence. Such notification shall be for the purpose of the county of the person's residence recovering from the defendant the fee and expenses incurred investigating the person's death pursuant to section 331.802, subsection 2.

96 Acts, ch 1139, §2

910.3B Restitution for death of victim.

1. In all criminal cases in which the offender is convicted of a felony in which the act or acts committed by the offender caused the death of another person, in addition to the amount determined to be payable and ordered to be paid to a victim for pecuniary damages, as defined under section 910.1, and determined under section 910.3, the court shall also order the offender to pay at least one hundred fifty thousand dollars in restitution to the victim's estate if the victim died testate. If the victim died intestate the court shall order the offender to pay the restitution to the victim's heirs at law as determined pursuant to section 633.210. The obligation to pay the additional amount shall not be dischargeable in any proceeding under the federal Bankruptcy Act. Payment of the additional amount shall have the same priority as payment of a victim's pecuniary damages under section 910.2, in the offender's plan for restitution.

2. An award under this section does not preclude or supersede the right of a victim's estate or heirs at law to bring a civil action against the offender for damages arising out of the same facts or event. However, no evidence relating to the entry of the judgment against the offender pursuant to this section or the amount of the award ordered pursuant to this section shall be permitted to be introduced in any civil action for damages arising out of the same facts or event.

3. An offender who is ordered to pay a victim's estate or heirs at law under this section is precluded from denying the elements of the felony offense which resulted in the order for payment in any subsequent civil action for damages arising out of the same facts or event.

4. An award under this section made to the victim's estate or heirs at law shall not be reduced by any third-party payment, including any insurance payment, unless the offender is a named or covered insured.

97 Acts, ch 125, §11; 2003 Acts, 1st Ex, ch 2, §63, 209; 2018 Acts, ch 1103, §1

Referred to in §915.100

910.4 Condition of probation — payment plan.

1. When restitution is ordered by the sentencing court and the offender is placed on probation, restitution shall be a condition of probation.

a. Failure of the offender to comply with the plan of restitution, plan of payment, or community service requirements when community service is ordered by the court as restitution, shall constitute a violation of probation and shall constitute contempt of court.

b. If an offender fails to comply with restitution requirements during probation, the court may hold the offender in contempt, revoke probation, or extend the period of probation.

(1) If the court extends the period of probation, the period of probation shall not be for more than the maximum period of probation for the offense committed except for an extension of a period of probation as authorized in section 907.7. After discharge from probation or after the expiration of the period of probation, as extended if applicable, the failure of an offender to comply with the plan of restitution shall constitute contempt of court.

(2) If an offender's probation is revoked, the offender's assigned probation officer shall forward to the director of the Iowa department of corrections all known information concerning the offender's restitution obligations, including but not limited to the plan of restitution, and any other pertinent information concerning or affecting restitution by the offender.

2. When the offender is committed to a county jail, or to an alternate facility, the office or

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individual charged with supervision of the offender shall prepare a restitution plan of payment and shall submit the plan to the court.

a. When community service is ordered by the court as restitution, the restitution plan of payment shall set out a plan to meet the requirement for the community service.

b. When there is a significant change in the offender's income or circumstances, the office or individual which has supervision of the restitution plan of payment shall submit a modified plan of payment to the court.

3. *a.* When there is a transfer of supervision from one office or individual charged with supervision of the offender to another, the sending office or individual shall forward to the receiving office or individual all necessary information regarding the balance owed against the original amount of restitution ordered and the balance of public service required.

b. If there has been a significant change in the offender's circumstances or income, the receiving office or individual shall submit a new restitution plan of payment to the sentencing court.

4. Notwithstanding any other provision in this chapter, the plan of payment shall be based on all information pertinent to the offender's reasonable ability to pay. The first monthly payment under such a plan shall be made within thirty days of the approval of the plan.

[C75, 77, §789A.8; C79, 81, §907.12; 82 Acts, ch 1162, §5]

83 Acts, ch 56, §1; 89 Acts, ch 13, §1; 95 Acts, ch 127, §1; 96 Acts, ch 1193, §22; 2010 Acts, ch 1175, §3, 4; 2013 Acts, ch 30, §231; 2020 Acts, ch 1074, §75 – 77, 83

910.5 Condition of work release or parole.

1. *a.* When an offender is committed to the custody of the director of the Iowa department of corrections pursuant to a sentence of confinement, the sentencing court shall forward to the director a copy of the offender's restitution plan, present restitution payment plan if any, and other pertinent information concerning or affecting restitution by the offender.

b. If the offender is committed to the custody of the director after revocation of probation, all information regarding the offender's restitution plan shall be forwarded by the offender's probation officer.

c. An offender committed to a penal or correctional facility of the state shall make restitution while placed in that facility.

d. Upon commitment to the custody of the director of the Iowa department of corrections, the director or the director's designee shall prepare a restitution plan of payment or modify any existing plan of payment.

(1) The new or modified plan of payment shall reflect the offender's present circumstances concerning the offender's income, physical and mental health, education, employment, and family circumstances.

(2) The director or the director's designee may modify the plan of payment at any time to reflect the offender's present circumstances.

e. After the expiration of the offender's sentence, the failure of an offender to comply with the plan of restitution ordered by the court shall constitute contempt of court.

2. If an offender is to be placed on work release from an institution under the control of the director of the Iowa department of corrections, restitution shall be a condition of work release.

a. The chief of the bureau of community correctional services of the Iowa department of corrections shall prepare a restitution plan of payment or may modify any previously existing restitution plan of payment.

(1) The new or modified plan of payment shall reflect the offender's present circumstances concerning the offender's income, physical and mental health, education, employment, and family circumstances.

(2) The bureau chief may modify the plan of payment at any time to reflect the offender's present circumstances.

b. Failure of the offender to comply with the restitution plan of payment, including the community service requirement, if any, shall constitute a violation of a condition of work release and the work release privilege may be revoked.

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c. After the expiration of the offender's sentence, the failure of an offender to comply with the plan of restitution ordered by the court shall constitute contempt of court.

3. If an offender is to be placed on work release from a facility under control of a county sheriff or the judicial district department of correctional services, restitution shall be a condition of work release.

a. The office or individual charged with supervision of the offender shall prepare a restitution plan of payment or may modify any previously existing restitution plan of payment.

(1) The new or modified plan of payment shall reflect the offender's present circumstances concerning the offender's income, physical and mental health, education, employment and family circumstances.

(2) Failure of the offender to comply with the restitution plan of payment including the community service requirement, if any, constitutes a violation of a condition of work release.

(3) The office or individual charged with supervision of the offender may modify the plan of restitution at any time to reflect the offender's present circumstances.

b. After the expiration of the offender's sentence, the failure of an offender to comply with the plan of restitution ordered by the court shall constitute contempt of court.

4. If an offender is to be placed on parole, restitution shall be a condition of parole.

a. The district department of correctional services to which the offender will be assigned shall prepare a restitution plan of payment or may modify any previously existing restitution plan of payment.

(1) The new or modified plan of payment shall reflect the offender's present circumstances concerning the offender's income, physical and mental health, education, employment, and family circumstances.

(2) Failure of the offender to comply with the restitution plan of payment including a community service requirement, if any, shall constitute a violation of a condition of parole.

(3) The parole officer may modify the plan of payment any time to reflect the offender's present circumstances.

(4) A restitution plan of payment or modified plan of payment, prepared by a parole officer, must meet the approval of the director of the district department of correctional services.

b. After the expiration of the offender's sentence, the failure of an offender to comply with the plan of restitution ordered by the court shall constitute contempt of court.

5. The director of the Iowa department of corrections shall adopt rules pursuant to chapter 17A concerning the policies and procedures to be used in preparing and implementing restitution plans of payment for offenders who are committed to an institution under the control of the director of the Iowa department of corrections, for offenders who are to be released on work release from institutions under the control of the director of the Iowa department of corrections, for offenders who are placed on probation, and for offenders who are released on parole.

[C75, 77, §789A.8; C79, 81, §907.12; 82 Acts, ch 1162, §6]

83 Acts, ch 56, §2; 83 Acts, ch 96, §154, 159; 95 Acts, ch 127, §2, 3; 96 Acts, ch 1193, §23

910.6 Payment plan — copy to victims.

An office or individual preparing a restitution plan of payment or modified plan of payment shall forward a copy to the clerk of court in the county in which the offender was sentenced. The clerk of court shall forward a copy of the restitution plan of payment or modified plan of payment to the victim or victims.

[C75, 77, §789A.8; C79, 81, §907.12; 82 Acts, ch 1162, §7]

83 Acts, ch 56, §3; 2020 Acts, ch 1074, §78, 83

Referred to in §915.94

910.7 Petition for hearing — appellate review.

1. At any time during the period of probation, parole, or incarceration, the offender, the prosecuting attorney, or the office or individual who prepared the offender's restitution plan may petition the court on any matter related to the plan of restitution or restitution plan of

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payment and the court shall grant a hearing if on the face of the petition it appears that a hearing is warranted.

2. After a petition has been filed, the court, at any time prior to the expiration of the offender's sentence, provided the required notice has been given pursuant to subsection 3, may modify the plan of restitution or the restitution plan of payment, or both, and may extend the period of time for the completion of restitution.

3. If a petition related to a plan of restitution has been filed, the offender, the prosecuting attorney, the department of corrections if the offender is currently confined in a correctional institution, the office or individual who prepared the offender's restitution plan, and the victim shall receive notice prior to any hearing under this section.

4. An appellate court shall not review or modify an offender's plan of restitution, restitution plan of payment, or any other issue related to an offender's restitution under this subsection, unless the offender has exhausted the offender's remedies under this section and obtained a ruling from the district court prior to the issue being raised in the appellate courts.

5. Appellate review of a district court ruling under this section shall be by writ of certiorari.

[C75, 77, §789A.8; C79, 81, §907.12; 82 Acts, ch 1162, §8]

83 Acts, ch 56, §4; 86 Acts, ch 1075, §6; 2001 Acts, ch 133, §1; 2020 Acts, ch 1074, §79, 80, 83

Referred to in §910.2A, 910.2B, 910.3

910.7A Judgment — enforcement.

1. An order requiring an offender to pay restitution constitutes a judgment and lien against all property of a liable defendant for the amount the defendant is obligated to pay under the order and may be recorded in any office for the filing of liens against real or personal property.

2. A judgment of restitution may be enforced by the state, a victim entitled under the order to receive restitution, a deceased victim's estate, or any other beneficiary of the judgment in the same manner as a civil judgment.

92 Acts, ch 1242, §37

Referred to in §232.147, 232.150, 915.28

910.8 Civil liability.

This chapter and proceedings under this chapter do not limit or impair the rights of victims to sue and recover damages from the offender in a civil action. The institution of a restitution plan shall toll the applicable statute of limitations for a civil action arising out of the same facts or event for the period of time that the restitution plan is effective. However, any restitution payment by the offender to a victim shall be set off against any judgment in favor of the victim in a civil action arising out of the same facts or event.

[C75, 77, §789A.8; C79, 81, §907.12; 82 Acts, ch 1162, §9]

84 Acts, ch 1047, §1

Referred to in §232.147, 232.150, 915.28

910.9 Collection of payments — payment by clerk of court.

1. An offender making restitution pursuant to a restitution plan of payment shall make the payment monthly to the clerk of court of the county from which the offender was sentenced, unless the restitution plan of payment provides otherwise. If the restitution plan authorizes payment to an entity other than the clerk of court, that entity shall regularly file a partial or full satisfaction of judgment with the clerk of court concerning amounts collected by that entity.

2. The clerk of court shall maintain a record of all receipts and disbursements of restitution payments and shall disburse all moneys received to the victims designated in the plan of restitution. If there is more than one victim, disbursements to the victims shall be on the basis of the victim's percentage of the total owed by the offender to all victims, except that the clerk of court may decide the allocation of payments owed to a victim of twenty-five dollars or less.

3. Category "A" restitution and category "B" restitution shall not be withheld by the clerk of court until all pecuniary damages to victims have been paid in full. Payments to victims shall be made by the clerk of court at least quarterly. Payments by a clerk of court shall be

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made no later than the last business day of the quarter, but may be made more often at the discretion of the clerk of court. The clerk of court receiving final payment from an offender shall notify all victims that full restitution has been made. Each office or individual charged with supervising an offender who is required to perform community service as full or partial restitution shall keep records to assure compliance with the portions of the plan of restitution and restitution plan of payment relating to community service and, when the offender has complied fully with the community service requirement, notify the sentencing court.

[82 Acts, ch 1162, §10]

83 Acts, ch 56, §5; 91 Acts, ch 116, §22; 94 Acts, ch 1142, §18; 97 Acts, ch 177, §37; 98 Acts, ch 1100, §90; 2000 Acts, ch 1032, §7; 2002 Acts, ch 1119, §198; 2003 Acts, ch 113, §5; 2018 Acts, ch 1041, §127; 2020 Acts, ch 1074, §81, 83

910.10 Restitution lien.

1. The state or a person entitled to restitution under a court order may file a restitution lien.

2. The restitution lien shall set forth all of the following information, if known:

a. The name and date of birth of the person whose property or other interests are subject to the lien.

b. The present address of the residence and principal place of business of the person named in the lien.

c. The criminal proceeding pursuant to which the lien is filed, including the name of the court, the title of the action, and the court's file number.

d. If applicable, any juvenile delinquency proceeding pursuant to which the lien is filed, including only the name of the court, the title of the action, and the court's file number.

e. The name and business address of the attorney representing the state in the proceeding pursuant to which the lien is filed or the name and residence and business address of each person entitled to restitution pursuant to a court order.

f. A statement that the notice is being filed pursuant to this section.

g. The amount of restitution the person has been ordered to pay or is likely to be ordered to pay.

3. A restitution lien may be filed by any of the following:

a. A prosecuting attorney in a criminal proceeding in which restitution is likely to be sought after the filing of an information or indictment. At the time of arraignment, the prosecuting attorney shall give the defendant notice of any restitution lien filed.

b. A victim in a criminal proceeding after restitution is determined and ordered by the trial court following pronouncement of the judgment and sentence.

c. A victim in a juvenile delinquency proceeding after restitution has been determined and ordered by the juvenile court and the juvenile offender has been discharged from the jurisdiction of the juvenile court due to reaching the age of eighteen years.

4. The filing of a restitution lien in accordance with this section creates a lien in favor of the state and the victim in any personal or real property identified in the lien to the extent of the interest held in that property by the person named in the lien.

5. This section does not limit the right of the state or any other person entitled to restitution to obtain any other remedy authorized by law.

91 Acts, ch 219, §31; 2006 Acts, ch 1164, §4, 5; 2007 Acts, ch 22, §108

Referred to in §232.147, 232.150, 915.28

910.11 through 910.14 Reserved.

910.15 Distribution of moneys received as result of commission of crime.

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

a. *"Convicted felon"* means a person initially convicted, or found not guilty by reason of insanity, of a felony committed in Iowa, either by a court or jury trial or by entry of a guilty plea in court.

b. *"Escrow account"* includes, but is not limited to, property in which the attorney general has assumed the powers of a receiver as provided in this section.

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c. *"Felony"* means a felony defined by any Iowa or United States statute.

d. *"Fruits of the crime"* means any profit which, were it not for the commission of the felony, would not have been realized.

e. *"Proceeds"* means all of the fruits of the crime from whatever source received by or owing to a felon or the felon's representatives, whether earned, accrued, or paid before or after the conviction. It includes any interest, earnings, or accretions upon proceeds, and any property received in exchange for proceeds.

f. *"Representative of the convicted felon"* means any person or entity receiving proceeds by designation of that convicted felon, or on behalf of that convicted felon, or in the stead of that convicted felon, whether by the felon's designation or by operation of law.

g. *"Victim"* means a person who has suffered physical, mental, or emotional harm or financial loss as the result of a felony committed in this state, for which the felon was convicted. The term also includes the father, mother, son, or daughter of a victim who died or was rendered incompetent as a result of the offense or who was under eighteen years of age at the time of the offense.

2. *Due process hearing — action by attorney general.*

a. The attorney general may bring an action to require all proceeds received by a convicted felon or representative of the convicted felon to be deposited in an escrow account as provided in this section.

b. The action may be brought in the county where the convicted felon resides, or the county in which the proceeds are located.

c. The action shall be preceded by notice to any interested party.

d. The court shall order that all proceeds be deposited in the escrow account until an order of disposition is made by the court pursuant to subsection 3, 4, or 5 or until the expiration of the escrow account as specified in subsection 8, if the attorney general proves both of the following:

(1) The proceeds are fruits of the crime for which the convicted felon was convicted.

(2) It is more probable than not that there are victims who may recover a money judgment against the felon for physical, mental, or emotional injury or pecuniary loss proximately caused by the convicted felon as a result of the felony for which the felon was convicted or there is an unpaid order of restitution under this chapter against the convicted felon for the felony for which the felon was convicted.

e. If the court orders that proceeds be deposited in an escrow account and the nature of the proceeds to the person initially convicted of the crime is such that it cannot be placed in an escrow account, the attorney general shall assume the powers of a receiver under chapter 680 in taking charge of the property for benefit of and payable to any victim or representative of the victim. In those instances, the date the attorney general assumed the power of a receiver shall be considered the date the escrow account was established for purposes of this section.

3. *Notice of establishment of escrow account.* Once an escrow account is established, the attorney general shall make reasonable efforts to notify victims and representatives of victims of the escrow account and their possible rights under this section. The reasonable efforts shall include, but are not limited to, mailing the notification to known victims or representatives of known victims. The cost of notification shall be paid from the escrow account or from the sale of property held in receivership.

4. *Proceeds for legal defense of felon.* The attorney general shall make payments from the escrow account or property held in receivership to the person accused of the crime upon the order of a court of competent jurisdiction after a showing by the person that the money or other property shall be used for the exclusive purpose of retaining legal representation at any stage of the criminal proceedings against the person, including the appeals process.

5. *Payment of escrow funds to victims.* The remaining proceeds in escrow may be levied upon to satisfy an order for restitution under this chapter or a money judgment entered against the convicted felon, by a court of competent jurisdiction, for physical, mental, or emotional injury, or pecuniary loss proximately caused by the convicted felon as a result of the felony for which the felon was convicted.

6. *Priority and proration of claims.* Proceeds distributed under subsection 3 shall have first priority, and proceeds distributed for the cost of legal defense under subsection 4 shall

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have second priority in the distribution of proceeds in the escrow account. If there are multiple orders for restitution and judgments by victims under subsection 5 against the convicted felon, and the remaining proceeds in the escrow account are insufficient to satisfy all of the orders for restitution and judgments, the proceeds shall be distributed on a pro rata basis based on the ratio that the amount of an order for restitution or an individual victim's judgment bears to the total amount of all restitution orders and victims' judgments against the convicted felon which have been claimed under this section.

7. *Limitation of action.* Notwithstanding section 614.1, a victim or the victim's representative who has a cause of action for a crime for which an escrow account or receivership is established pursuant to this section may bring the action against the escrow account or against the property in receivership within five years of the date the escrow account is established.

8. *Duration of escrow account.* Notwithstanding the other provisions of this section, upon a disposition of charges favorable to the person accused of committing the felony, or upon a showing by the person that five years have elapsed from the date of establishment of the escrow account and further that no actions are pending against the person or unpaid orders for restitution or monetary judgments outstanding relating to the felony for which the felon was convicted, the attorney general shall immediately pay over any money in the escrow account to the person.

9. *Purpose.* The purpose of this section is to meet the following compelling state interests:

a. The state has an interest in ensuring that victims of crime are compensated by those who harm them.

b. The state has an interest in ensuring that criminals do not profit from their felonious crimes at the expense of their victims.

[82 Acts, ch 1155, §1]

92 Acts, ch 1154, §1; 2007 Acts, ch 22, §109, 110

Referred to in §256.212, 915.100

CHAPTER 910A

VICTIM AND WITNESS PROTECTION

Repealed effective January 1, 1999, by 98 Acts, ch 1090, §82, 84; see chapter 915

CHAPTER 911

SURCHARGE ADDED TO CRIMINAL PENALTIES

Referred to in §321J.2, 805.6, 909.8

911.1 Crime services surcharge.
911.2 Drug abuse resistance education surcharge. Repealed by 2020 Acts, ch 1074, §22, 93.
911.2A Human trafficking victim surcharge.
911.2B Domestic and sexual abuse crimes surcharge.
911.2C Domestic abuse protective order contempt surcharge. Repealed by 2020 Acts, ch 1074, §22, 93.
911.3 Law enforcement initiative surcharge. Repealed by 2020 Acts, ch 1074, §22, 93.
911.4 County enforcement surcharge. Repealed by 2020 Acts, ch 1074, §22, 93.
911.5 Agricultural theft surcharge.

911.1 Crime services surcharge.

1. A crime services surcharge shall be levied against law violators as provided in this

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section. When a court imposes a fine or forfeiture for a violation of state law, or a city or county ordinance, except an ordinance regulating the parking of motor vehicles, the court shall assess an additional penalty in the form of a crime services surcharge equal to fifteen percent of the fine or forfeiture imposed.

2. In the event of multiple offenses, the surcharge shall be based upon the total amount of fines or forfeitures imposed for all offenses.

3. When a fine or forfeiture is suspended in whole or in part, the court shall reduce the surcharge in proportion to the amount suspended.

4. The surcharge is subject to the provisions of chapter 909 governing the payment and collection of fines, as provided in section 909.8.

5. The surcharge shall be remitted by the clerk of court as provided in section 602.8108, subsection 3.

[82 Acts, ch 1258, §1]

91 Acts, ch 181, §16; 94 Acts, ch 1074, §17; 2004 Acts, ch 1111, §10; 2005 Acts, ch 143, §6; 2009 Acts, ch 179, §65, 72; 2020 Acts, ch 1074, §18, 93

Referred to in §80E.4, 331.302, 364.3, 602.8102(135A), 602.8108, 691.9, 805.8, 805.8C(3)(a), 805.8C(3)(c), 805.8C(3)(d), 805.8C(9), 805.8C(10), 805.8C(11), 902.9, 903.1

911.2 Drug abuse resistance education surcharge. Repealed by 2020 Acts, ch 1074, §22, 93. See §80E.4 and 911.1.

911.2A Human trafficking victim surcharge.

1. In addition to any other surcharge, the court shall assess a human trafficking victim surcharge of one thousand dollars if an adjudication of guilt or a deferred judgment has been entered for a criminal violation of section 725.1, subsection 2, or section 710A.2, 725.2, or 725.3.

2. In the event of multiple offenses, the surcharge shall be imposed for each applicable offense.

3. The surcharge shall be remitted by the clerk of court as provided in section 602.8108, subsection 5.

2014 Acts, ch 1097, §14, 16, 17; 2020 Acts, ch 1074, §19, 93

Referred to in §602.8102(135A), 602.8108, 902.9, 903.1

911.2B Domestic and sexual abuse crimes surcharge.

1. In addition to any other surcharge, the court shall assess a domestic and sexual abuse crimes surcharge of ninety dollars if an adjudication of guilt or a deferred judgment has been entered for a violation of section 708.2A, 708.11, or 710A.2, or chapter 709, or if a defendant is held in contempt of court for violating a domestic abuse protective order issued pursuant to chapter 236.

2. In the event of multiple offenses, the surcharge shall be imposed for each applicable offense.

3. The surcharge shall be remitted by the clerk of court as provided in section 602.8108, subsection 6.

2015 Acts, ch 96, §15; 2020 Acts, ch 1074, §20, 93; 2021 Acts, ch 145, §9

Referred to in §602.8102(135A), 602.8108

911.2C Domestic abuse protective order contempt surcharge. Repealed by 2020 Acts, ch 1074, §22, 93. See §911.2B.

911.3 Law enforcement initiative surcharge. Repealed by 2020 Acts, ch 1074, §22, 93.

911.4 County enforcement surcharge. Repealed by 2020 Acts, ch 1074, §22, 93.

911.5 Agricultural theft surcharge.

1. In addition to any other surcharge, the court or clerk of the district court shall assess an agricultural theft surcharge equal to five hundred dollars, if an adjudication of guilt or a deferred judgment has been entered for a criminal violation involving any of the following:

a. Theft of agricultural property under section 714.2, subsection 1, 2, or 3.

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b. Criminal mischief under section 716.3, 716.4, or 716.5, by damaging, defacing, altering, or destroying agricultural property.

2. As used in this section, agricultural property means any of the following:

a. A crop as defined in section 717A.1.

b. Livestock as defined in section 717.1.

c. (1) A colony or package as defined in section 160.1A, or a hive where bees are kept as described in section 160.5, if the department of agriculture and land stewardship is authorized by that chapter to inspect the colony, package, or hive or to regulate the movement of the colony, package, or hive.

(2) A queen bee that is part of a colony or is being moved to be part of a colony as described in subparagraph (1).

3. The surcharge shall be remitted by the clerk of the district court as provided in section 602.8108, subsection 11.

2020 Acts, ch 1074, §21, 93
Referred to in §602.8102(135A), 602.8108, 902.9, 903.1

CHAPTER 912

CRIME VICTIM COMPENSATION

Repealed effective January 1, 1999, by
98 Acts, ch 1090, §82, 84; see chapter 915

CHAPTER 913

INTERSTATE CORRECTIONS COMPACT

Referred to in §218.95

This chapter not enacted as a part of this title;
transferred from chapter 247 in Code 1993

913.1 Citation.
913.2 Interstate corrections compact.
913.3 Duty of director.

913.1 Citation.

This chapter may be cited as the "Interstate Corrections Compact."

[C75, 77, 79, 81, §218B.1]
85 Acts, ch 21, §54
CS85, §247.1
C93, §913.1

913.2 Interstate corrections compact.

The interstate corrections compact is hereby enacted into law and entered into by this state with any other states legally joining therein in the form substantially as follows:

1. *Article I — Purpose and policy.* The party states, desiring by common action to fully utilize and improve their institutional facilities and provide adequate programs for the confinement, treatment and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of cooperation with one another, thereby serving the best interests of such offenders and of society and effecting economies in capital expenditures and operational costs. The purpose of this compact is to provide for the mutual development and execution of such programs of cooperation for the confinement, treatment and rehabilitation of offenders with the most economical use of human and material resources.

2. *Article II — Definitions.* As used in this compact, unless the context clearly requires otherwise:

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a. *"State"* means a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the commonwealth of Puerto Rico.

b. *"Sending state"* means a state party to this compact in which conviction or court commitment was had.

c. *"Receiving state"* means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction or court commitment was had.

d. *"Inmate"* means an offender who is committed, under sentence to or confined in a penal or correctional institution.

e. *"Institution"* means any penal or correctional facility, including but not limited to a facility for the mentally ill or mentally defective, in which inmates may lawfully be confined.

3. *Article III — Contracts.*

a. Each party state may make one or more contracts with any one or more of the other party states for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for:

(1) Its duration.

(2) Payments to be made to the receiving state by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance.

(3) Participation in programs of inmate work, if any; the disposition or crediting of payments received by inmates on account of the work; and the crediting of proceeds from or disposal of products resulting from the work.

(4) Delivery and retaking of inmates.

(5) Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

b. The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto, and nothing in any such contract shall be inconsistent therewith.

4. *Article IV — Procedures and rights.*

a. Whenever the duly constituted authorities in a state party to this compact, and which has entered into a contract pursuant to article III, shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary or desirable in order to provide adequate quarters and care or an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.

b. The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution.

c. Inmates confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within the sending state, for transfer to another institution in which the sending state may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state; provided that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of article III.

d. Each receiving state shall provide regular reports to each sending state on the inmates of that sending state in institutions pursuant to this compact including a conduct record of each inmate and certify said record to the official designated by the sending state, in order that each inmate may have official review of the inmate's record in determining and altering the disposition of said inmate in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state.

e. All inmates who may be confined in an institution pursuant to the provisions of this compact shall be treated in a reasonable and humane manner and shall be treated equally

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with such similar inmates of the receiving state as may be confined in the same institution. The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which said inmate would have had if confined in an appropriate institution of the sending state.

f. Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled by the laws of the sending state may be had before the appropriate authorities of the sending state, or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by the sending state shall be made. Said record together with any recommendations of the hearing officials shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings had pursuant to the provisions of this subdivision, the officials of the receiving state shall act solely as agents of the sending state and no final determination shall be made in any matter except by the appropriate officials of the sending state.

g. Any inmate confined pursuant to this compact shall be released within the territory of the sending state unless the inmate, and the sending and receiving states, shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory.

h. Any inmate confined pursuant to the terms of this compact shall have any and all rights to participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or the inmate's status changed on account of any action or proceeding in which the inmate could have participated if confined in any appropriate institution of the sending state located within such state.

i. The parent, guardian, trustee, or other person or persons entitled under the laws of the sending state to act for, advise, or otherwise function with respect to any inmate shall not be deprived of or restricted in their exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

5. *Article V — Acts not reviewable in receiving state — extradition.*

a. Any decision of the sending state in respect of any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at the time the sending state seeks to remove an inmate from an institution in the receiving state there is pending against the inmate within such state any criminal charge or if the inmate is formally accused of having committed within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport inmates pursuant to this compact through any and all states party to this compact without interference.

b. An inmate who escapes from an institution in which the inmate is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for institution of extradition or rendition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

6. *Article VI — Federal aid.* Any state party to this compact may accept federal aid for use in connection with any institution or program, the use of which is or may be affected by this compact or any contract pursuant hereto and any inmate in a receiving state pursuant to this compact may participate in any such federally aided program or activity for which the sending and receiving states have made contractual provision, provided that if such program or activity is not part of the customary correctional regimen, the express consent of the appropriate official of the sending state shall be required therefor.

7. *Article VII — Entry into force.* This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two states.

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Thereafter, this compact shall enter into force and become effective and binding as to any other of said states upon similar action by such state.

8. *Article VIII — Withdrawal and termination.* This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal shall not take effect until one year after the notices provided in said statute have been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to the provisions of this compact.

9. *Article IX — Other arrangements unaffected.* Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a party state may have with a nonparty state for the confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.

10. *Article X — Construction and severability.* The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the Constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the Constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

[C75, 77, 79, 81, §218B.2]
85 Acts, ch 21, §34, 54
CS85, §247.2
C93, §913.2
2008 Acts, ch 1032, §201

913.3 Duty of director.

The director of the Iowa department of corrections shall do all things necessary or incidental to the carrying out of the compact.

[C75, 77, 79, 81, §218B.3]
83 Acts, ch 96, §70, 159; 85 Acts, ch 21, §54
CS85, §247.3
C93, §913.3

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CHAPTER 914

REPRIEVES, PARDONS, COMMUTATIONS, REMISSIONS, AND RESTORATIONS OF RIGHTS

Referred to in §48A.10, 57.1, 218.95, 904A.4

This chapter not enacted as a part of this title; transferred from chapter 248A in Code 1993

914.1 Power of governor.
914.2 Right of application.
914.3 Recommendations by board of parole.
914.4 Response to recommendation.
914.5 Evidence — testimony — recommendation.
914.6 Procedures — filing.
914.7 Rights not restorable.

914.1 Power of governor.

The power of the governor under the Constitution of the State of Iowa to grant a reprieve, pardon, commutation of sentence, remission of fines and forfeitures, or restoration of the rights of citizenship shall not be impaired.

86 Acts, ch 1112, §4
C87, §248A.1
C93, §914.1
2006 Acts, ch 1010, §168

914.2 Right of application.

Except as otherwise provided in section 902.2, a person convicted of a criminal offense has the right to make application to the board of parole for recommendation or to the governor for a reprieve, pardon, commutation of sentence, remission of fines or forfeitures, or restoration of rights of citizenship at any time following the conviction.

86 Acts, ch 1112, §5
C87, §248A.2
C93, §914.2
95 Acts, ch 128, §2

914.3 Recommendations by board of parole.

1. Except as otherwise provided in section 902.2, the board of parole shall periodically review all applications by persons convicted of criminal offenses and shall recommend to the governor the reprieve, pardon, commutation of sentence, remission of fines or forfeitures, or restoration of the rights of citizenship for persons who have by their conduct given satisfactory evidence that they will become or continue to be law-abiding citizens.

2. The board of parole shall, upon request of the governor, take charge of all correspondence in reference to an application filed with the governor and shall, after careful investigation, provide the governor with the board's advice and recommendation concerning any person for whom the board has not previously issued a recommendation.

3. All recommendations and advice of the board of parole shall be entered in the proper records of the board.

86 Acts, ch 1112, §6
C87, §248A.3
87 Acts, ch 115, §35
C93, §914.3
95 Acts, ch 128, §3
Referred to in §915.18

914.4 Response to recommendation.

The governor shall respond to all recommendations made by the board of parole within ninety days of the receipt of the recommendation. The response shall state whether or not the recommendation will be granted and shall specifically set out the reasons for such action. If the governor does not grant the recommendation, the recommendation shall be returned to

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the board of parole and may be refiled with the governor at any time. Any recommendation may be withdrawn by the board of parole at any time prior to its being granted. However, if the board withdraws a recommendation, a statement of the withdrawal, and the reasons upon which it was based, shall be entered in the proper records of the board.

86 Acts, ch 1112, §7
C87, §248A.4
C93, §914.4

914.5 Evidence — testimony — recommendation.

1. When an application or recommendation is made to the governor for a reprieve, pardon, commutation of sentence, remission of fines and forfeitures, or restoration of rights of citizenship, the governor may require the judge or clerk of the appropriate court, or the county attorney or attorney general by whom the action was prosecuted, to furnish the governor without delay a copy of the minutes of evidence taken on the trial, and any other facts having reference to the propriety of the governor's exercise of the governor's powers in the premises.

2. The governor may take testimony as the governor deems advisable relating to any application or recommendation. A person who provides written or oral testimony pursuant to this subsection is subject to chapter 720.

3. With regard to an application for the restoration of the rights of citizenship, the warden or superintendent, upon request of the governor, shall furnish the governor with a statement of the person's deportment during the period of imprisonment and a recommendation as to the propriety of restoration.

86 Acts, ch 1112, §8
C87, §248A.5
C93, §914.5
Referred to in §331.756(45), 602.8102(46)

914.6 Procedures — filing.

1. Pardons, commutations of sentences, and remissions of fines and forfeitures shall be issued in duplicate. Restorations of rights of citizenship and reprieves shall be issued in triplicate.

2. In the case of a pardon, commutation of sentence, or reprieve, if the person is in custody, the executive instruments shall be forwarded to the officer having custody of the person. The officer, upon receipt of the instruments, shall do the following:

a. Retain one copy of the instrument.
b. Enter the appropriate notations on the records of the office.
c. Carry out the orders of the instrument.
d. On one copy, make a written return as required by the order and forward the copy to the clerk of court where the judgment is of record.
e. In the case of reprieves, deliver the third copy to the person whose sentence is reprieved.

3. In the case of a remission of fines and forfeitures, restoration of rights of citizenship, or a pardon, commutation of sentence, or reprieve, if the person is not in custody, one copy of the executive instrument shall be delivered to the person and one copy to the clerk of court where the judgment is of record. A list of the restorations of rights of citizenship issued by the governor shall be delivered to the state registrar of voters at least once each month.

4. The clerk of court shall, upon receipt of the copy of the executive instrument, immediately file and preserve the copy in the clerk's office and note the filing on the judgment docket of the case, except that remissions of fines and forfeitures shall be spread at length on the record books of the court, and indexed in the same manner as the original case.

86 Acts, ch 1112, §9
C87, §248A.6
C93, §914.6
94 Acts, ch 1169, §63
Referred to in §602.8102(46)

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914.7 Rights not restorable.

1. Notwithstanding any other provision of this chapter, a person who has been convicted of a forcible felony, a felony violation of chapter 124 involving a firearm, or a felony violation of chapter 724 shall not have the person's rights of citizenship restored to the extent of allowing the person to receive, transport, or possess firearms.

2. Notwithstanding any provision of this chapter, a person seventeen years of age or younger who commits a public offense involving a firearm which is an aggravated misdemeanor against a person or a felony shall not have the person's rights of citizenship restored to the extent of allowing the person to receive, transport, or possess firearms.

89 Acts, ch 316, §21
CS89, §248A.7
C93, §914.7
94 Acts, ch 1172, §64; 2021 Acts, ch 76, §150
Referred to in §724.27

CHAPTER 915

VICTIM RIGHTS

Referred to in §13.31, 135.108, 411.6, 422.7(35), 562A.27A, 562B.25A, 664A.2, 664A.4, 664A.5, 664A.7, 709.10, 815.11

SUBCHAPTER I

TITLE — IMMUNITY

915.1 Title.
915.2 Immunity.
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915.1 Title.
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98 Acts, ch 1090, §1, 84

915.2 Immunity.
This chapter does not create a civil cause of action except where expressly stated, and a person is not liable for damages resulting from an act or omission in regard to any responsibility or authority created by this chapter, and such acts or omissions shall not be used in any proceeding for damages. This section does not apply to acts or omissions which constitute a willful and wanton disregard for the rights or safety of another.
98 Acts, ch 1090, §2, 84

915.3 Immunity — citizen intervention.
Any person who, in good faith and without remuneration, renders reasonable aid or assistance to another against whom a crime is being committed or, if rendered at the scene of the crime, to another against whom a crime has been committed, is not liable for any civil damages for acts or omissions resulting from the aid or assistance, and is eligible to file a claim for reimbursement as a victim under this chapter.
98 Acts, ch 1090, §3, 84
Emergency assistance in accident, see §613.17

915.4 through 915.9 Reserved.

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SUBCHAPTER II

REGISTRATION, NOTIFICATION, AND RIGHTS IN CRIMINAL PROCEEDINGS

Referred to in §321.261

915.10 Definitions.

As used in this subchapter, unless the context otherwise requires:

1. *"Notification"* means mailing by regular mail or providing for hand delivery of appropriate information or papers. However, this notification procedure does not prohibit an office, agency, or department from also providing appropriate information to a registered victim by telephone, electronic mail, or other means.

2. *"Registered"* means having provided the county attorney with the victim's written request for registration and current mailing address and telephone number. *"Registered"* also means having provided the county attorney notice in writing that the victim has filed a request for registration with the automated victim notification system established pursuant to section 915.10A.

3. *"Victim"* means a person who has suffered physical, emotional, or financial harm as the result of a public offense or a delinquent act, other than a simple misdemeanor, committed in this state. *"Victim"* also includes the immediate family members of a victim who died or was rendered incompetent as a result of the offense or who was under eighteen years of age at the time of the offense.

4. *"Victim impact statement"* means a written or oral presentation to the court by the victim or the victim's representative that indicates the physical, emotional, financial, or other effects of the offense upon the victim.

5. *"Violent crime"* means a forcible felony, as defined in section 702.11, and includes any other felony or aggravated misdemeanor which involved the actual or threatened infliction of physical or emotional injury on one or more persons.

98 Acts, ch 1090, §5, 84; 99 Acts, ch 114, §47; 2005 Acts, ch 158, §46; 2007 Acts, ch 27, §3
Referred to in §901.4B, 902.1, 915.24, 915.100

915.10A Automated victim notification system.

1. An automated victim notification system is established within the crime victim assistance division of the department of justice to assist public officials in informing crime victims, the victim's family, or other interested persons as provided in this subchapter and where otherwise specifically provided. The system shall disseminate the information to registered users through telephonic, electronic, or other means of access.

2. An office, agency, or department may satisfy a notification obligation to registered victims required by this subchapter through participation in the system to the extent information is available for dissemination through the system. Nothing in this section shall relieve a notification obligation under this subchapter due to the unavailability of information for dissemination through the system.

3. Notwithstanding section 232.147, information concerning juveniles charged with a felony offense shall be released to the extent necessary to comply with this section.

2005 Acts, ch 158, §47; 2007 Acts, ch 27, §4
Referred to in §13.31, 915.10, 915.11, 915.12, 915.29, 915.45, 915.94

915.11 Notifications by law enforcement.

1. A local police department or county sheriff's department shall advise a victim of the right to register with the county attorney, and shall provide a request-for-registration form to each victim. A local police department or county sheriff's department shall provide a telephone number and internet site to each victim to register with the automated victim notification system established pursuant to section 915.10A.

2. *a.* If a victim of a reported sexual abuse requests the results of an analysis of the evidence collected from the victim's forensic medical examination pursuant to section 709.10 and such analysis was completed, a local police department or county sheriff's department shall inform the victim of the results, including whether the analysis produced a DNA profile

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as defined in section 81.1 or a DNA match, either to the named alleged perpetrator of the sexual abuse or to a suspect already in the DNA database.

b. Prior to the disposal of a kit by a law enforcement agency, the law enforcement agency shall notify the reported victim of the intended date of disposal of the kit, the reason for disposal of the kit, and the options that remain available for retention and analysis of the kit, if any. For purposes of this paragraph, *"kit"* means the same as defined in section 915.53.

98 Acts, ch 1090, §6, 84; 2005 Acts, ch 158, §48; 2007 Acts, ch 27, §5; 2013 Acts, ch 90, §257; 2021 Acts, ch 107, §3

Referred to in §331.653

915.12 Registration.

1. A victim may register by filing a written request-for-registration form with the county attorney. The county attorney shall notify the victims in writing and advise them of their registration and rights under this subchapter. The county attorney shall provide a registered victim list to the offices, agencies, and departments required to provide information under this subchapter for notification purposes.

2. A victim, the victim's family, or other interested person may register with the automated victim notification system established pursuant to section 915.10A by filing a request for registration through written, telephonic, or electronic means.

3. Notwithstanding chapter 22 or any other contrary provision of law, the registration of a victim, victim's family, or other interested person shall be strictly maintained in a separate confidential file or other confidential medium, and shall be available only to the offices, agencies, and departments required to provide information under this subchapter.

98 Acts, ch 1090, §7, 84; 2005 Acts, ch 158, §49; 2007 Acts, ch 27, §6; 2013 Acts, ch 30, §232

Referred to in §331.756(71), 709.22

915.13 Notification by county attorney.

1. The county attorney shall notify a victim registered with the county attorney's office of the following:

a. The scheduled date, time, and place of trial, and the cancellation or postponement of a court proceeding that was expected to require the victim's attendance, in any criminal case relating to the crime for which the person is a registered victim.

b. The possibility of assistance through the crime victim compensation program, and the procedures for applying for that assistance.

c. The right to restitution for pecuniary losses suffered as a result of crime, and the process for seeking such relief.

d. The victim's right to make a victim impact statement, in any of the following formats:

(1) Written victim impact statement, delivered in court in the presence of the defendant. Notification shall include the procedures for filing such a statement.

(2) Oral victim impact statement, delivered in court in the presence of the defendant. The victim shall also be notified of the time and place for such statement.

(3) Video victim impact statement, delivered in court in the presence of the defendant. Notification shall include the procedures for making and filing the video recording.

(4) Audio victim impact statement, delivered in court in the presence of the defendant. Notification shall include the procedures for making and filing the audio recording.

e. The date on which the offender is released on bail or appeal, pursuant to section 811.5.

f. Except where the prosecuting attorney determines that disclosure of such information would unreasonably interfere with the investigation, at the request of the registered victim, notice of the status of the investigation shall be provided by law enforcement authorities investigating the case, until the alleged assailant is apprehended or the investigation is closed.

g. The right to be informed of any plea agreements related to the crime for which the person is a registered victim.

2. The county attorney and the juvenile court shall coordinate efforts so as to prevent duplication of notification under this section and section 915.24.

98 Acts, ch 1090, §8, 84; 2002 Acts, ch 1039, §1; 2003 Acts, ch 156, §20; 2004 Acts, ch 1150, §3

Referred to in §331.756(71), 902.1, 915.24

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915.14 Notification by clerk of the district court.

The clerk of the district court shall notify a registered victim of all dispositional orders of the case in which the victim was involved and may advise the victim of any other orders regarding custody or confinement.

98 Acts, ch 1090, §9, 84; 2003 Acts, ch 156, §21; 2004 Acts, ch 1150, §4

915.15 Notification by department of justice.

The department of justice shall notify a registered victim of the filing of an appeal, the expected date of decision on the appeal as the information becomes available to the department, all dispositional orders in the appeal, and the outcome of the appeal of a case in which the victim was involved.

98 Acts, ch 1090, §10, 84

915.16 Notification by local correctional institutions.

The county sheriff or other person in charge of the local jail or detention facility shall notify a registered victim of the following:

1. The offender's release from custody on bail and the terms or conditions of the release.
2. The offender's final release from local custody.
3. The offender's escape from custody.
4. The offender's transfer from local custody to custody in another locality.

98 Acts, ch 1090, §11, 84

Referred to in §331.653

915.17 Notification by department of corrections.

1. The department of corrections shall notify a registered victim, regarding an offender convicted of a violent crime and committed to the custody of the director of the department of corrections, of the following:

a. The date on which the offender is expected to be released from custody on work release, and whether the offender is expected to return to the community where the registered victim resides.

b. The date on which the offender is expected to be temporarily released from custody on furlough, and whether the offender is expected to return to the community where the registered victim resides.

c. The offender's escape from custody.

d. The recommendation by the department of the offender for parole consideration.

e. The date on which the offender is expected to be released from an institution pursuant to a plan of parole or upon discharge of sentence.

f. The transfer of custody of the offender to another state or federal jurisdiction.

g. The procedures for contacting the department to determine the offender's current institution of residence.

h. Information which may be obtained upon request pertaining to or the procedures for obtaining information upon request pertaining to the offender's current employer.

2. The director of the department of corrections, or the director's designee, having probable cause to believe that a person has escaped from a state correctional institution or a person convicted of a forcible felony who is released on work release has absconded from a work release facility shall:

a. Make a complaint before a judge or magistrate. If it is determined from the complaint or accompanying affidavits that there is probable cause to believe that the person has escaped from a state correctional institution or that the forcible felon has absconded from a work release facility, the judge or magistrate shall issue a warrant for the arrest of the person.

b. Issue an announcement regarding the fact of the escape of the person or the abscondence of the forcible felon to the law enforcement authorities in, and to the news media covering, communities in a twenty-five mile radius of the point of escape or abscondence.

98 Acts, ch 1090, §12, 84

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915.17A Notification by judicial district department of correctional services.

A judicial district department of correctional services shall notify a registered victim, regarding a sex offender convicted of a sex offense against a minor who is under the supervision of a judicial district department of correctional services, of the following:

1. The beginning date for use of an electronic tracking and monitoring system to supervise the sex offender and the type of electronic tracking and monitoring system used.

2. The date of any modification to the use of an electronic tracking and monitoring system and the nature of the change.

2009 Acts, ch 119, §63

915.18 Notification by board of parole.

1. The board of parole shall notify a registered victim regarding an offender who has committed a violent crime as follows:

a. Not less than twenty days prior to conducting a hearing at which the board will interview an offender, the board shall notify the victim of the interview and inform the victim that the victim may submit the victim's opinion concerning the release of the offender in writing prior to the hearing or may appear personally or by counsel at the hearing to express an opinion concerning the offender's release.

b. Whether or not the victim appears at the hearing or expresses an opinion concerning the offender's release on parole, the board shall notify the victim of the board's decision regarding release of the offender.

2. Offenders who are being considered for release on parole may be informed of a victim's registration with the county attorney and the substance of any opinion submitted by the victim regarding the release of the offender.

3. If the board of parole makes a recommendation to the governor for a reprieve, pardon, or commutation of sentence of an offender, as provided in section 914.3, the board shall forward with the recommendation information identifying a registered victim for the purposes of notification by the governor as required in section 915.19.

98 Acts, ch 1090, §13, 84

915.19 Notification by the governor.

1. Prior to the governor granting a reprieve, pardon, or commutation to an offender convicted of a violent crime, the governor shall notify a registered victim that the victim's offender has applied for a reprieve, pardon, or commutation. The governor shall notify a registered victim regarding the application not less than forty-five days prior to issuing a decision on the application. The governor shall inform the victim that the victim may submit a written opinion concerning the application.

2. The county attorney may notify an offender being considered for a reprieve, pardon, or commutation of sentence of a victim's registration with the county attorney and the substance of any opinion submitted by the victim concerning the reprieve, pardon, or commutation of sentence.

98 Acts, ch 1090, §14, 84

Referred to in §915.18

915.20 Presence of victim counselors.

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

a. *"Proceedings related to the offense"* means any activities engaged in or proceedings commenced by a law enforcement agency, judicial district department of correctional services, or a court pertaining to the commission of a public offense against the victim, in which the victim is present, as well as examinations of the victim in an emergency medical facility due to injuries from the public offense which do not require surgical procedures. *"Proceedings related to the offense"* includes, but is not limited to, law enforcement investigations, pretrial court hearings, trial and sentencing proceedings, and proceedings relating to the preparation of a presentence investigation report in which the victim is present.

b. *"Victim counselor"* means a victim counselor as defined in section 915.20A.

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2. A victim counselor who is present as a result of a request by a victim shall not be denied access to any proceedings related to the offense.

3. This section does not affect the inherent power of the court to regulate the conduct of discovery pursuant to the Iowa rules of criminal or civil procedure or to preside over and control the conduct of criminal or civil hearings or trials.

98 Acts, ch 1090, §15, 84

915.20A Victim counselor privilege.

1. As used in this section:

a. *"Confidential communication"* means information shared between a crime victim and a victim counselor within the counseling relationship, and includes all information received by the counselor and any advice, report, or working paper given to or prepared by the counselor in the course of the counseling relationship with the victim. *"Confidential information"* is confidential information that, so far as the victim is aware, is not disclosed to a third party with the exception of a person present in the consultation for the purpose of furthering the interest of the victim, a person to whom disclosure is reasonably necessary for the transmission of the information, or a person with whom disclosure is necessary for accomplishment of the purpose for which the counselor is consulted by the victim, or as may be required by this section.

b. *"Crime victim center"* means any office, institution, agency, or crisis center offering assistance to victims of crime and their families through crisis intervention, accompaniment during medical and legal proceedings, and follow-up counseling.

c. *"Victim"* means a person who consults a victim counselor for the purpose of securing advice, counseling, or assistance concerning a mental, physical, or emotional condition caused by a violent crime committed against the person. *"Victim"* includes a person subjected to human trafficking.

d. *"Victim counselor"* means a person who is engaged in a crime victim center, is certified as a counselor by the crime victim center, and is under the control of a direct services supervisor of a crime victim center, whose primary purpose is the rendering of advice, counseling, and assistance to the victims of crime. To qualify as a victim counselor under this section, the person must also have completed at least twenty hours of training provided by the center in which the person is engaged or by an organization under contract with the department to provide training, which training shall include but not be limited to the dynamics of victimization, substantive laws relating to violent crime, human trafficking, sexual assault, and domestic violence, crisis intervention techniques, communication skills, working with diverse populations, an overview of the state criminal justice system, information regarding pertinent hospital procedures, and information regarding state and community resources for victims of crime.

2. A victim counselor shall not be compelled to produce confidential communications or confidential information or be examined or required to give evidence in any civil or criminal proceeding as to any confidential communication or confidential information made by a victim to the counselor, nor shall a clerk, secretary, stenographer, or any other employee who types or otherwise prepares or manages the confidential reports or working papers of a victim counselor be required to produce evidence of any such confidential communication or confidential information, except under any of the following circumstances:

a. The victim waives this privilege in writing.

b. Disclosure of the information is compelled by a court pursuant to subsection 7. Under no circumstances shall the location of a crime victim center or the identity of the victim counselor be disclosed in any civil or criminal proceeding.

3. If a victim is deceased or has been declared to be incompetent, this privilege specified in subsection 2 may be waived by the guardian of the victim or by the personal representative of the victim's estate.

4. A minor may waive the privilege under this section unless, in the opinion of the court, the minor is incapable of knowingly and intelligently waiving the privilege, in which case the parent or guardian of the minor may waive the privilege on the minor's behalf if the parent or guardian is not the defendant and does not have such a relationship with the defendant

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that the parent or guardian has an interest in the outcome of the proceeding being favorable to the defendant.

5. The privilege under this section does not apply in matters of proof concerning the chain of custody of evidence, or in matters of proof concerning the physical appearance of the victim at the time of the injury or the counselor's first contact with the victim after the injury.

6. The failure of a counselor to testify due to this section shall not give rise to an inference unfavorable to the cause of the state or the cause of the defendant.

7. Upon the motion of a party, accompanied by a written offer of proof, a court may compel disclosure of certain information if the court determines that all of the following conditions are met:

a. The information sought is relevant and material evidence of the facts and circumstances involved in an alleged criminal act which is the subject of a criminal proceeding.

b. The probative value of the information outweighs the harmful effect, if any, of disclosure on the victim, the counseling relationship, and the treatment services.

c. The information cannot be obtained by reasonable means from any other source.

8. In ruling on a motion under subsection 7, the court, or a different judge, if the motion was filed in a criminal proceeding to be tried to the court, shall adhere to the following procedure:

a. The court may require the counselor from whom disclosure is sought or the victim claiming the privilege, or both, to disclose the information in chambers out of the presence and hearing of all persons except the victim and any other persons the victim is willing to have present.

b. If the court determines that the information is privileged and not subject to compelled disclosure, the information shall not be disclosed by any person without the consent of the victim.

c. If the court determines that certain information may be subject to disclosure, as provided in subsection 7, the court shall so inform the party seeking the information and shall order a subsequent hearing out of the presence of the jury, if any, at which the parties shall be allowed to examine the counselor regarding the information which the court has determined may be subject to disclosure. The court may accept other evidence at that time.

d. At the conclusion of a hearing under paragraph "*c*", the court shall determine which information, if any, shall be disclosed and may enter an order describing the evidence which may be introduced by the moving party and prescribing the line of questioning which may be permitted. The moving party may then offer evidence pursuant to the court order. However, no victim counselor is subject to exclusion under rule of evidence 5.615.

9. This section does not relate to the admission of evidence of the victim's past sexual behavior which is strictly subject to rule of evidence 5.412.

98 Acts, ch 1090, §16, 84; 2008 Acts, ch 1032, §92; 2024 Acts, ch 1175, §3; 2026 Acts, ch 1079, §1, 2

Referred to in §22.7(2), 235D.1, 709.22, 915.20, 915.40, 915.46, 915.86
Subsection 1, paragraphs a and d amended
Subsections 2 and 5 amended

915.21 Victim impact statement.

1. A victim may present a victim impact statement to the court using one or more of the following methods:

a. A victim may file a signed victim impact statement with the county attorney, and a filed impact statement shall be included in the presentence investigation report. If a presentence investigation report is not ordered by the court, a filed victim impact statement shall be provided to the court prior to sentencing. Unless requested otherwise by the victim, the victim impact statement shall be presented at the sentencing hearing in the presence of the defendant, and at any hearing regarding reconsideration of sentence. The victim impact statement may be presented by the victim or the victim's attorney or designated representative.

b. A victim may orally present a victim impact statement at the sentencing hearing, in the presence of the defendant, and at any hearing regarding reconsideration of sentence.

c. A victim may make a video recording of a statement or, if available, may make a

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statement from a remote location through a video monitor at the sentencing hearing, in the presence of the defendant, and at any hearing regarding reconsideration of sentence.

d. A victim may make an audio recording of the statement or appear by audio via a speakerphone to make a statement, to be delivered in court in the presence of the defendant, and at any hearing regarding reconsideration of sentence.

e. If the victim is unable to make an oral or written statement because of the victim's age, or mental, emotional, or physical incapacity, the victim's attorney or a designated representative shall have the opportunity to make a statement on behalf of the victim.

2. A victim impact statement shall include the identification of the victim of the offense, and may include the following:

a. Itemization of any economic loss suffered by the victim as a result of the offense. For purposes of this paragraph, a pecuniary damages statement prepared by a county attorney pursuant to section 910.3 may serve as the itemization of economic loss.

b. Identification of any physical injury suffered by the victim as a result of the offense with detail as to its seriousness and permanence.

c. Description of any change in the victim's personal welfare or familial relationships as a result of the offense.

d. Description of any request for psychological services initiated by the victim or the victim's family as a result of the offense.

e. Any other information related to the impact of the offense upon the victim.

3. A victim shall not be placed under oath and subjected to cross-examination at the sentencing hearing.

4. Nothing in this section shall be construed to affect the inherent power of the court to regulate the conduct of persons present in the courtroom.

98 Acts, ch 1090, §17, 84; 2002 Acts, ch 1039, §2 – 4
Referred to in §235A.15, 235B.6, 901.4B

915.22 Civil injunction to restrain harassment or intimidation of victims or witnesses.

1. Upon application, the court shall issue a temporary restraining order prohibiting the harassment or intimidation of a victim or witness in a criminal case if the court finds, from specific facts shown by affidavit or by verified complaint, that there are reasonable grounds to believe that harassment or intimidation of an identified victim or witness in a criminal case exists or that the order is necessary to prevent and restrain an offense under this subchapter.

a. A temporary restraining order may be issued under this subsection without written or oral notice to the adverse party or the party's attorney in a civil action under this section or in a criminal case if the court finds, upon written certification of facts, that the notice should not be required and that there is a reasonable probability that the party will prevail on the merits. The temporary restraining order shall set forth the reasons for the issuance of the order, be specific in terms, and describe in reasonable detail the act or acts being restrained.

b. A temporary restraining order issued without notice under this section shall be endorsed with the date and hour of issuance and be filed immediately in the office of the clerk of the district court issuing the order.

c. A temporary restraining order issued under this section shall expire at such time as the court directs, not to exceed ten days from issuance. The court, for good cause shown before expiration of the order, may extend the expiration date of the order for up to ten days, or for a longer period agreed to by the adverse party.

d. When a temporary restraining order is issued without notice, the motion for a protective order shall be set down for hearing at the earliest possible time and takes precedence over all matters except older matters of the same character. If the party does not proceed with the application for a protective order when the motion is heard, the court shall dissolve the temporary restraining order.

e. If, after two days' notice to the party or after a shorter notice as the court prescribes, the adverse party appears and moves to dissolve or modify the temporary restraining order, the court shall proceed to hear and determine the motion as expeditiously as possible.

2. Upon motion of the party, the court shall issue a protective order prohibiting the harassment or intimidation of a victim or witness in a criminal case if the court, after a

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hearing, finds by a preponderance of the evidence that harassment or intimidation of an identified victim or witness in a criminal case exists or that the order is necessary to prevent and restrain an offense under this chapter.

a. At the hearing, any adverse party named in the complaint has the right to present evidence and cross-examine witnesses.

b. A protective order shall set forth the reasons for the issuance of the order, be specific in terms, and describe in reasonable detail the act or acts being restrained.

c. The court shall set the duration of the protective order for the period it determines is necessary to prevent the harassment or intimidation of the victim or witness, but the duration shall not be set for a period in excess of one year from the date of the issuance of the order. The party, at any time within ninety days before the expiration of the order, may apply for a new protective order under this section.

3. Violation of a restraining or protective order issued under this section constitutes contempt of court and may be punished by contempt proceedings.

4. An application may be made pursuant to this section in a criminal case, and if made, a district associate judge or magistrate having jurisdiction of the highest offense charged in the criminal case or a district judge shall have jurisdiction to enter an order under this section.

5. The clerk of the district court shall provide notice and copies of restraining orders issued pursuant to this section in a criminal case involving an alleged violation of section 708.2A to the applicable law enforcement agencies and the twenty-four-hour dispatcher for the law enforcement agencies, in the manner provided for protective orders under section 236.5 or 236A.7. The clerk shall provide notice and copies of modifications or vacations of these orders in the same manner.

6. The clerk of the district court shall provide notice and copies of restraining orders issued pursuant to this section in a criminal case involving an alleged violation of section 708.2D to the applicable law enforcement agencies and the twenty-four-hour dispatch for the law enforcement agencies, in the manner provided for protective orders under section 235F.6. The clerk shall provide notice and copies of modifications or vacations of these orders in the same manner.

98 Acts, ch 1090, §18, 84; 2017 Acts, ch 121, §33; 2022 Acts, ch 1132, §17
Referred to in §229A.15A, 664A.1, 709.22

915.23 Employment discrimination against witnesses prohibited.

1. An employer shall not discharge an employee, or take or fail to take action regarding an employee's promotion or proposed promotion, or take action to reduce an employee's wages or benefits for actual time worked, due to the service of an employee as a witness in a criminal proceeding or as a plaintiff, defendant, or witness in a civil proceeding pursuant to chapter 235F or 236.

2. An employer who violates this section commits a simple misdemeanor.

3. An employee whose employer violates this section shall also be entitled to recover damages from the employer. Damages recoverable under this section include, but are not limited to, actual damages, court costs, and reasonable attorney fees.

4. The employee may also petition the court for imposition of a cease and desist order against the person's employer and for reinstatement to the person's previous position of employment.

98 Acts, ch 1090, §19, 84; 99 Acts, ch 96, §52; 2008 Acts, ch 1087, §1; 2014 Acts, ch 1107, §27

SUBCHAPTER III

VICTIMS OF JUVENILES

915.24 Notification of victim of juvenile by juvenile court officer.

1. If a complaint is filed alleging that a child has committed a delinquent act, the alleged victim, as defined in section 915.10, has and a juvenile court officer shall notify the alleged victim of the following rights:

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a. To be notified of the names and addresses of the child and of the child's custodial parent or guardian.

b. To be notified of the specific charge or charges filed in a petition resulting from the complaint and regarding any dispositional orders or informal adjustments.

c. To be informed of the person's rights to restitution.

d. To be notified of the person's right to offer a written victim impact statement and to orally present the victim impact statement.

e. To be informed of the availability of assistance through the crime victim compensation program.

2. The juvenile court and the county attorney shall coordinate efforts so as to prevent duplication of notification under this section and section 915.13.

98 Acts, ch 1090, §21, 84; 99 Acts, ch 96, §53
Referred to in §232.147, 915.13, 915.25

915.25 Right to review complaint against juvenile.

1. A complaint filed with the court or its designee pursuant to chapter 232 which alleges that a child who is at least ten years of age has committed a delinquent act, which if committed by an adult would be a forcible felony, is a public record and shall not be confidential under section 232.147. The court, the court's designee, or law enforcement officials may release the complaint, including the identity of the child named in the complaint.

2. All other complaints filed with the court or the court's designee pursuant to chapter 232 that allege a child has committed a delinquent act are confidential under section 232.147 and are not public records, subject to entry of a public records order pursuant to section 232.149B. However, if the child named in a complaint is at large, state and local law enforcement officials are authorized to release the complaint, including the identity of the child named in the complaint, if deemed necessary for the protection of the public or the safety of the child.

3. Notwithstanding the provisions of sections 232.147, 232.149, and 232.149A, an intake or juvenile court officer shall disclose to the alleged victim of a delinquent act, upon the request of the victim, the complaint, the name and address of the child who allegedly committed the delinquent act, and the disposition of the complaint. If the alleged delinquent act would be a serious misdemeanor, aggravated misdemeanor, or felony offense if committed by an adult, the intake or juvenile court officer shall provide notification to the victim of the delinquent act as required by section 915.24.

98 Acts, ch 1090, §22, 84; 2016 Acts, ch 1002, §16, 17; 2016 Acts, ch 1138, §17
Referred to in §232.147, 232.149A, 232.150

915.26 Victim impact statement by victim of juvenile.

1. If a complaint is filed under section 232.28, alleging a child has committed a delinquent act, the alleged victim may file a signed victim impact statement with the juvenile court.

2. The victim impact statement shall be considered by the court and the juvenile court officer handling the complaint in any proceeding or informal adjustment associated with the complaint.

3. Unless the matter is disposed of at the preliminary inquiry conducted by the intake officer under section 232.28, the victim may also be allowed to orally present the victim impact statement.

98 Acts, ch 1090, §23, 84

915.27 Sexual assault by juvenile.

A victim of a sexual assault by a juvenile adjudicated to have committed the assault is entitled to the rights listed in sections 915.40 through 915.44.

98 Acts, ch 1090, §24, 84

915.28 Restitution for delinquent acts of juvenile.

1. If a judge of a juvenile court finds that a juvenile has committed a delinquent act and requires the juvenile to compensate the victim of that act for losses due to the delinquent act of the juvenile, the juvenile shall make such restitution according to a schedule established

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by the judge from funds earned by the juvenile pursuant to employment engaged in by the juvenile at the time of disposition.

2. If a juvenile enters into an informal adjustment agreement pursuant to section 232.29 to make such restitution, the juvenile shall make such restitution according to a schedule which shall be a part of the informal adjustment agreement.

3. The restitution shall be made under the direction of a juvenile court officer working under the direction of the juvenile court.

a. In those counties where the county maintains an office to provide juvenile victim restitution services, the juvenile court officer may use that office's services.

b. If the juvenile is not employed, the juvenile's juvenile court officer shall make a reasonable effort to find private or other public employment for the juvenile.

c. If the juvenile offender does not have employment at the time of disposition and private or other public employment is not obtained in spite of the efforts of the juvenile's juvenile court officer, the judge may direct the juvenile offender to perform work pursuant to section 232.52, subsection 2, paragraph *"a"*, and arrange for compensation of the juvenile in the manner provided for under chapter 232A.

4. Upon final discharge from the jurisdiction of juvenile court due to the juvenile reaching the age of eighteen years, any restitution order consisting of monetary payment to the victim due to a delinquent act shall constitute a judgment and lien against all property of the person liable for the amount the person was obligated to pay under the order of the juvenile court, and may be recorded and enforced as provided in sections 910.7A, 910.8, and 910.10.

98 Acts, ch 1090, §25, 84; 2006 Acts, ch 1164, §6
Referred to in §232.147, 232.150

915.29 Notification of victim of juvenile by department of health and human services.

1. The department of health and human services shall notify a registered victim regarding a juvenile adjudicated delinquent for a violent crime, committed to the custody of the department of health and human services, and placed at the state training school, of the following:

a. The date on which the juvenile is expected to be temporarily released from the custody of the department of health and human services, and whether the juvenile is expected to return to the community where the registered victim resides.

b. The juvenile's escape from custody.

c. The recommendation by the department to consider the juvenile for release or placement.

d. The date on which the juvenile is expected to be released from a facility pursuant to a plan of placement.

2. The notification required pursuant to this section may occur through the automated victim notification system referred to in section 915.10A to the extent such information is available for dissemination through the system.

98 Acts, ch 1090, §26, 84; 2005 Acts, ch 158, §50; 2013 Acts, ch 30, §233; 2018 Acts, ch 1165, §116; 2023 Acts, ch 19, §1343

915.30 through 915.34 Reserved.

SUBCHAPTER IV

PROTECTIONS FOR CHILDREN AND OTHER SPECIAL VICTIMS

915.35 Child victim services.

1. As used in this section, *"victim"* means a minor under the age of eighteen who has been sexually abused or subjected to any other unlawful sexual conduct under chapter 709, 710A, or 726 or who has been the subject of a forcible felony.

2. A professional licensed or certified by the state to provide immediate or short-term

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medical services or mental health services to a victim may provide the services without the prior consent or knowledge of the victim's parents or guardians.

3. Such a professional shall notify the victim if the professional is required to report an incidence of child abuse involving the victim pursuant to section 232.69.

4. *a.* A child protection assistance team involving the county attorney, law enforcement personnel, and personnel of the department of health and human services shall be established for each county by the county attorney. However, by mutual agreement, two or more county attorneys may establish a single child protection assistance team to cover a multicounty area. A child protection assistance team, to the greatest extent possible, may be consulted in cases involving a forcible felony against a child who is less than age fourteen in which the suspected offender is the person responsible for the care of a child, as defined in section 232.68. A child protection assistance team may also be utilized in cases involving a violation of chapter 709 or 726 or other crime committed upon a victim as defined in subsection 1.

b. A child protection assistance team may also consult with or include juvenile court officers, medical and mental health professionals, physicians or other hospital-based health professionals, court appointed special advocates, guardians ad litem, and members of a multidisciplinary team created by the department of health and human services for child abuse assessments. A child protection assistance team may work cooperatively with the early childhood Iowa area board established under chapter 256I. The child protection assistance team shall work with the department of health and human services in accordance with section 232.71B, subsection 3, in developing the protocols for prioritizing the actions taken in response to child abuse assessments and for law enforcement agencies working jointly with the department at the local level in processes for child abuse assessments. The department of justice may provide training and other assistance to support the activities of a child protection assistance team.

98 Acts, ch 1090, §28, 84; 2003 Acts, ch 107, §4; 2009 Acts, ch 19, §2; 2010 Acts, ch 1031, §307; 2013 Acts, ch 115, §16, 19; 2023 Acts, ch 19, §1344

Referred to in §232.71B, 235A.15, 331.756(72), 331.909, 915.84, 915.93
Definition of forcible felony, §702.11

915.36 Protection of child victim's privacy.

1. Prior to an arrest or the filing of an information or indictment, whichever occurs first, against a person charged with a violation of chapter 709, section 726.2, or section 728.12, committed with or on a child, as defined in section 232.2, the identity of the child or any information reasonably likely to disclose the identity of the child shall not be released to the public by any public employee except as authorized by the court having jurisdiction.

2. In order to protect the welfare of the child, the name of the child and identifying biographical information shall not appear on the information or indictment or any other public record including any civil filings arising from the criminal violation. Instead, a nondescriptive designation shall appear on all public records. The nonpublic records containing the child's name and identifying biographical information shall be kept by the court. This subsection does not apply to the release of information to a defendant or defendant's counsel; however, the use or release of this information by the defendant or defendant's counsel for purposes other than the preparation of defense constitutes contempt.

3. A person who willfully violates this section or who willfully neglects or refuses to obey a court order made pursuant to this section commits contempt.

4. A release of information in violation of this section does not bar prosecution or provide grounds for dismissal of charges.

5. This section also applies to an alleged victim of a violation of chapter 709, section 726.2, or section 728.12, who has attained the age of eighteen but who was a child, as defined in section 232.2, at the time the violation occurred.

98 Acts, ch 1090, §29, 84; 2020 Acts, ch 1094, §1, 2; 2021 Acts, ch 80, §378

915.36A Minor prosecuting witness — pretrial contact.

1. A prosecuting witness who is a minor shall have the right to have the interview or deposition taken outside of the presence of the defendant. The interview or deposition may

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be televised by closed-circuit equipment to a room where the defendant can view the interview or deposition or in a manner that ensures that the defendant shall not have contact with the minor. The defendant shall be allowed to communicate with the defendant's counsel in the room where the minor is being interviewed or deposed by an appropriate electronic method.

2. The supreme court shall amend the rules of criminal procedure to comply with this section including but not limited to the elimination of a requirement that a defendant be physically present at the deposition of a minor.

2021 Acts, ch 128, §1; 2023 Acts, ch 98, §3

915.37 Guardian ad litem for prosecuting child witnesses.

1. *a.* A prosecuting witness who is a child or who has a mental disability in a case involving a violation of chapter 709 or 710A, or section 726.2, 726.3, 726.6, or 728.12, is entitled to have the witness's interests represented by a guardian ad litem at all stages of the proceedings arising from such violation. The guardian ad litem shall be a practicing attorney and shall be designated by the court after due consideration is given to the desires and needs of the prosecuting witness and the compatibility of the prosecuting witness and the prosecuting witness's interests with the prospective guardian ad litem. If a guardian ad litem is currently appointed, or has previously been appointed, for the prosecuting witness in a proceeding under section 598.12, a proceeding under chapter 232, a proceeding in which the juvenile court has waived jurisdiction under section 232.45, or any other proceeding substantially related to a matter arising under this section, the court shall give appointment priority to the same guardian ad litem under this section. When a guardian ad litem is appointed for a prosecuting witness with a mental disability, the court shall give appointment priority to an attorney who has background and training specific to persons with mental disabilities. The guardian ad litem shall receive notice of and may attend all depositions, hearings, and trial proceedings to support the prosecuting witness and advocate for the protection of the prosecuting witness but shall not be allowed to separately introduce evidence or to directly examine or cross-examine witnesses. However, the guardian ad litem shall file reports to the court as required by the court.

b. For purposes of this subsection:

(1) *"Child"* means a person under eighteen years of age.

(2) *"Mental disability"* means one or more intellectual, developmental, or psychiatric disabilities that result in significant impairment to a person's ability to comprehend, communicate, or learn.

2. References in this section to a guardian ad litem shall be interpreted to include references to a court appointed special advocate as defined in section 232.2.

98 Acts, ch 1090, §30, 84; 2009 Acts, ch 19, §3; 2021 Acts, ch 61, §2; 2023 Acts, ch 19, §1345; 2024 Acts, ch 1175, §4; 2025 Acts, ch 30, §103

915.38 Televised, videotaped, and recorded evidence — limited court testimony — minors and others.

1. *a.* Upon its own motion or upon motion of any party, a court may protect a minor, as defined in section 599.1, from trauma caused by testifying in the physical presence of the defendant where it would impair the minor's ability to communicate, by ordering that the testimony of the minor be taken in a room other than the courtroom and be televised by closed-circuit equipment for viewing in the courtroom. However, such an order shall be entered only upon a specific finding by the court that such measures are necessary to protect the minor from trauma. Only the judge, prosecuting attorney, defendant's attorney, persons necessary to operate the equipment, and any person whose presence, in the opinion of the court, would contribute to the welfare and well-being of the minor may be present in the room with the minor during the minor's testimony. The judge shall inform the minor that the defendant will not be present in the room in which the minor will be testifying but that the defendant will be viewing the minor's testimony through closed-circuit television.

b. During the minor's testimony the defendant shall remain in the courtroom and shall be allowed to communicate with the defendant's counsel in the room where the minor is testifying by an appropriate electronic method.

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c. In addition, upon a finding of necessity, the court may allow the testimony of a victim or witness with a mental illness, an intellectual disability, or other developmental disability to be taken as provided in this subsection, regardless of the age of the victim or witness.

2. The court may, upon its own motion or upon motion of a party, order that the testimony of a minor, as defined in section 599.1, be taken by recorded deposition for use at trial, pursuant to rule of criminal procedure 2.13(2)(b). In addition to requiring that such testimony be recorded by stenographic means, the court may on motion and hearing, and upon a finding that the minor is unavailable as provided in rule of evidence 5.804(a), order the videotaping of the minor's testimony for viewing in the courtroom by the court. The videotaping shall comply with the provisions of rule of criminal procedure 2.13(2)(b), and shall be admissible as evidence in the trial. In addition, upon a finding of necessity, the court may allow the testimony of a victim or witness with a mental illness, an intellectual disability, or other developmental disability to be taken as provided in this subsection, regardless of the age of the victim or witness.

3. The court may upon motion of a party admit into evidence the recorded statements of a child, as defined in section 702.5, describing sexual contact performed with or on the child, not otherwise admissible in evidence by statute or court rule if the court determines that the recorded statements substantially comport with the requirements for admission under rule of evidence 5.807.

4. A court may, upon its own motion or upon the motion of a party, order the court testimony of a child to be limited in duration in accordance with the developmental maturity of the child. The court may consider or hear expert testimony in order to determine the appropriate limitation on the duration of a child's testimony. However, the court shall, upon motion, limit the duration of a child's uninterrupted testimony to one hour, at which time the court shall allow the child to rest before continuing to testify.

98 Acts, ch 1090, §31, 84; 2012 Acts, ch 1019, §143; 2013 Acts, ch 30, §234; 2022 Acts, ch 1021, §178

915.39 Reserved.

SUBCHAPTER V

VICTIMS OF SEXUAL ASSAULT

915.40 Definitions.

As used in this subchapter, unless the context otherwise requires:

1. *"AIDS"* means acquired immune deficiency syndrome as defined by the centers for disease control of the United States department of health and human services.

2. *"Alleged offender"* means a person who has been charged with the commission of a sexual assault or a juvenile who has been charged in juvenile court with being a delinquent as the result of actions that would constitute a sexual assault.

3. *"Authorized representative"* means an individual authorized by the victim to request an HIV-related test of a convicted or alleged offender who is any of the following:

a. The parent, guardian, or custodian of the victim if the victim is a minor.

b. The physician of the victim.

c. The victim counselor or person requested by the victim to provide counseling regarding the HIV-related test and results.

d. The victim's spouse.

e. The victim's legal counsel.

4. *"Convicted offender"* means a person convicted of a sexual assault or a juvenile who has been adjudicated delinquent for an act of sexual assault.

5. *"Department"* means the department of health and human services.

6. *"Division"* means the crime victims assistance division of the office of the attorney general.

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7. *"HIV"* means the human immunodeficiency virus identified as the causative agent of AIDS.

8. *"HIV-related test"* means a test for the antibody or antigen to HIV.

9. *"Petitioner"* means a person who is the victim of a sexual assault which resulted in alleged significant exposure or the parent, guardian, or custodian of a victim if the victim is a minor, for whom the county attorney files a petition with the district court to require the convicted offender to undergo an HIV-related test.

10. *"Sexual assault"* means sexual abuse as defined in section 709.1, or any other sexual offense by which a victim has allegedly had sufficient contact with a convicted or an alleged offender to be deemed a significant exposure.

11. *"Significant exposure"* means contact of the victim's ruptured or broken skin or mucous membranes with the blood or bodily fluids, other than tears, saliva, or perspiration of the convicted or alleged offender. *"Significant exposure"* is presumed to have occurred when there is a showing that there was penetration of the convicted or alleged offender's penis into the victim's vagina or anus, contact between the mouth and genitalia, or contact between the genitalia of the convicted or alleged offender and the genitalia or anus of the victim.

12. *"Victim"* means a petitioner or a person who is the victim of a sexual assault which resulted in significant exposure, or the parent, guardian, or custodian of such a victim if the victim is a minor, for whom the victim or the peace officer files an application for a search warrant to require the alleged offender to undergo an HIV-related test. *"Victim"* includes an alleged victim.

13. *"Victim counselor"* means a person who is engaged in a crime victim center as defined in section 915.20A, who is certified as a counselor by the crime victim center, and who has completed at least twenty hours of training provided by the Iowa coalition against sexual assault or a similar agency.

98 Acts, ch 1087, §3, 4; 98 Acts, ch 1090, §33, 84; 98 Acts, ch 1128, §2; 99 Acts, ch 181, §19; 2023 Acts, ch 19, §1346

Referred to in §135.11, 141A.9, 709.22, 915.27, 915.42

915.41 Medical examination costs.

1. The cost of a medical examination of a victim for the purpose of gathering evidence and the cost of treatment of a victim for the purpose of preventing venereal disease shall be paid from the fund established in section 915.94.

2. If a sexual abuse evidence collection kit is collected pursuant to section 709.10, payment for the health care provider's fee and the medical or clinical laboratory fee, if any, shall not be made until the department of justice verifies that the status of the sexual abuse evidence collection kit has been updated by the health care provider utilizing the kit tracking system established pursuant to section 915.53.

98 Acts, ch 1090, §34, 84; 99 Acts, ch 114, §48; 2021 Acts, ch 107, §4

Referred to in §13.31, 135.11, 915.27, 915.94

915.42 Right to HIV-testing of convicted or alleged assailant.

1. Unless a petitioner chooses to be represented by private counsel, the county attorney shall represent the victim's interest in all proceedings under this subchapter.

2. If a person is convicted of sexual assault or adjudicated delinquent for an act of sexual assault, the county attorney, if requested by the petitioner, shall petition the court for an order requiring the convicted offender to submit to an HIV-related test, provided that all of the following conditions are met:

a. The sexual assault for which the offender was convicted or adjudicated delinquent included sufficient contact between the victim and the convicted offender to be deemed a significant exposure pursuant to section 915.40.

b. The authorized representative of the petitioner, the county attorney, or the court sought to obtain written informed consent from the convicted offender to the testing.

c. Written informed consent was not provided by the convicted offender.

3. If a person is an alleged offender, the county attorney, if requested by the victim, shall

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make application to the court for the issuance of a search warrant, in accordance with chapter 808, for the purpose of requiring the alleged offender to submit to an HIV-related test, if all of the following conditions are met:

a. The application states that the victim believes that the sexual assault for which the alleged offender is charged included sufficient contact between the victim and the alleged offender to be deemed a significant exposure pursuant to section 915.40 and states the factual basis for the belief that a significant exposure exists.

b. The authorized representative of the victim, the county attorney, or the court sought to obtain written informed consent to the testing from the alleged offender.

c. Written informed consent was not provided by the alleged offender.

4. Upon receipt of the petition or application filed under subsection 2 or 3, the court shall:

a. Prior to the scheduling of a hearing, refer the victim for counseling by a victim counselor or a person requested by the victim to provide counseling regarding the nature, reliability, and significance of the HIV-related test and of the serologic status of the convicted or alleged offender.

b. Schedule a hearing to be held as soon as is practicable.

c. Cause written notice to be served on the convicted or alleged offender who is the subject of the proceeding, in accordance with the rules of civil procedure relating to the service of original notice, or if the convicted or alleged offender is represented by legal counsel, provide written notice to the convicted or alleged offender and the convicted or alleged offender's legal counsel.

d. Provide for the appointment of legal counsel for a convicted or alleged offender if the convicted or alleged offender desires but is financially unable to employ counsel.

e. Furnish legal counsel with copies of the petition or application, written informed consent, if obtained, and copies of all other documents related to the petition or application, including, but not limited to, the charges and orders.

5. *a.* A hearing under this section shall be conducted in an informal manner consistent with orderly procedure and in accordance with the Iowa rules of evidence. The hearing shall be limited in scope to the review of questions of fact only as to the issue of whether the sexual assault for which the offender was convicted or adjudicated delinquent or for which the alleged offender was charged provided sufficient contact between the victim and the convicted or alleged offender to be deemed a significant exposure, and to questions of law.

b. In determining whether the contact should be deemed a significant exposure for a convicted offender, the court shall base the determination on the testimony presented during the proceedings on the sexual assault charge, the minutes of the testimony or other evidence included in the court record, or if a plea of guilty was entered, based upon the complaint or upon testimony provided during the hearing. In determining whether the contact should be deemed a significant exposure for an alleged offender, the court shall base the determination on the application and the factual basis provided in the application for the belief of the applicant that a significant exposure exists.

c. The victim may testify at the hearing but shall not be compelled to testify. The court shall not consider the refusal of a victim to testify at the hearing as material to the court's decision regarding issuance of an order or search warrant requiring testing.

d. The hearing shall be in camera unless the convicted or alleged offender and the petitioner or victim agree to a hearing in open court and the court approves. The report of the hearing proceedings shall be sealed and no report of the proceedings shall be released to the public, except with the permission of all parties and the approval of the court.

e. Stenographic notes or electronic or mechanical recordings shall be taken of all court hearings unless waived by the parties.

6. Following the hearing, the court shall require a convicted or alleged offender to undergo an HIV-related test only if the petitioner or victim proves all of the following by a preponderance of the evidence:

a. The sexual assault constituted a significant exposure.

b. An authorized representative of the petitioner or victim, the county attorney, or the court sought to obtain written informed consent from the convicted or alleged offender.

c. Written informed consent was not provided by the convicted or alleged offender.

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7. A convicted offender who is required to undergo an HIV-related test may appeal to the court for review of questions of law only, but may appeal questions of fact if the findings of fact are clearly erroneous.

98 Acts, ch 1087, §5; 98 Acts, ch 1090, §35, 84; 98 Acts, ch 1128, §2; 99 Acts, ch 114, §49, 50; 99 Acts, ch 181, §20

Referred to in §135.11, 141A.9, 915.27, 915.43

915.43 Testing, reporting, and counseling — penalties.

1. The physician or other practitioner who orders the test of a convicted or alleged offender for HIV under this subchapter shall disclose the results of the test to the convicted or alleged offender, and to the victim counselor or a person requested by the victim to provide counseling regarding the HIV-related test and results who shall disclose the results to the petitioner.

2. All testing under this chapter shall be accompanied by counseling as required under section 141A.7.

3. Subsequent testing arising out of the same incident of exposure shall be conducted in accordance with the procedural and confidentiality requirements of this subchapter.

4. Results of a test performed under this subchapter, except as provided in subsection 13, shall be disclosed only to the physician or other practitioner who orders the test of the convicted or alleged offender; the convicted or alleged offender; the victim; the victim counselor or person requested by the victim to provide counseling regarding the HIV-related test and results; the physician of the victim if requested by the victim; the parent, guardian, or custodian of the victim, if the victim is a minor; and the county attorney who filed the petition for HIV-related testing under this chapter. Results of a test performed under this subchapter shall not be disclosed to any other person without the written informed consent of the convicted or alleged offender. A person to whom the results of a test have been disclosed under this subchapter is subject to the confidentiality provisions of section 141A.9, and shall not disclose the results to another person except as authorized by section 141A.9, subsection 2, paragraph *"i"*.

5. If testing is ordered under this subchapter, the court shall also order periodic testing of the convicted offender during the period of incarceration, probation, or parole or of the alleged offender during a period of six months following the initial test if the physician or other practitioner who ordered the initial test of the convicted or alleged offender certifies that, based upon prevailing scientific opinion regarding the maximum period during which the results of an HIV-related test may be negative for a person after being HIV-infected, additional testing is necessary to determine whether the convicted or alleged offender was HIV-infected at the time the sexual assault or alleged sexual assault was perpetrated. The results of the test conducted pursuant to this subsection shall be released only to the physician or other practitioner who orders the test of the convicted or alleged offender, the convicted or alleged offender, the victim counselor or person requested by the victim to provide the counseling regarding the HIV-related test and results who shall disclose the results to the petitioner, the physician of the victim, if requested by the victim, and the county attorney who filed the petition for HIV-related testing under section 915.42.

6. The court shall not consider the disclosure of an alleged offender's serostatus to an alleged victim, prior to conviction, as a basis for a reduced plea or reduced sentence.

7. The fact that an HIV-related test was performed under this subchapter and the results of the test shall not be included in the convicted offender's medical or criminal record unless otherwise included in department of corrections records.

8. The fact that an HIV-related test was performed under this subchapter and the results of the test shall not be used as a basis for further prosecution of a convicted offender in relation to the incident which is the subject of the testing, to enhance punishments, or to influence sentencing.

9. If the serologic status of a convicted offender, which is conveyed to the victim, is based upon an HIV-related test other than a test which is authorized as a result of the procedures established in this subchapter, legal protections which attach to such testing shall be the same

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as those which attach to an initial test under this subchapter, and the rights to a predisclosure hearing and to appeal provided under section 915.42 shall apply.

10. HIV-related testing required under this subchapter shall be conducted by the state hygienic laboratory.

11. Notwithstanding the provisions of this subchapter requiring initial testing, if a petition is filed with the court under section 915.42 requesting an order for testing and the order is granted, and if a test has previously been performed on the convicted or alleged offender while under the control of the department of corrections, the test results shall be provided in lieu of the performance of an initial test of the convicted or alleged offender, in accordance with this subchapter.

12. In addition to the counseling received by a victim, referral to appropriate health care and support services shall be provided.

13. In addition to persons to whom disclosure of the results of a convicted or alleged offender's HIV-related test results is authorized under this subchapter, the victim may also disclose the results to the victim's spouse, persons with whom the victim has engaged in vaginal, anal, or oral intercourse subsequent to the sexual assault, or members of the victim's family within the third degree of consanguinity.

14. A person to whom disclosure of a convicted or alleged offender's HIV-related test results is authorized under this subchapter shall not disclose the results to any other person for whom disclosure is not authorized under this subchapter. A person who intentionally or recklessly makes an unauthorized disclosure in violation of this subsection is subject to a civil penalty of one thousand dollars. The attorney general or the attorney general's designee may maintain a civil action to enforce this subchapter. Proceedings maintained under this subsection shall provide for the anonymity of the test subject and all documentation shall be maintained in a confidential manner.

98 Acts, ch 1087, §6; 98 Acts, ch 1090, §36, 84; 98 Acts, ch 1128, §2; 99 Acts, ch 114, §51; 99 Acts, ch 181, §21; 2007 Acts, ch 70, §11; 2014 Acts, ch 1119, §8, 11

Referred to in §135.11, 141A.9, 915.27

915.44 Polygraph examinations of victims or witnesses — limitations.

1. A criminal or juvenile justice agency shall not require a person claiming to be a victim of sexual assault or claiming to be a witness regarding the sexual assault of another person to submit to a polygraph or similar examination as a precondition to the agency conducting an investigation into the matter.

2. An agency wishing to perform a polygraph examination of a person claiming to be a victim or witness of sexual assault shall inform the person of the following:

a. That taking the polygraph examination is voluntary.

b. That the results of the examination are not admissible in court.

c. That the person's decision to submit or refuse a polygraph examination will not be the sole basis for a decision by the agency not to investigate the matter.

3. An agency which declines to investigate an alleged case of sexual assault following a decision by a person claiming to be a victim not to submit to a polygraph examination shall provide to that person, in writing, the reasons why the agency did not pursue the investigation at the request of the person.

98 Acts, ch 1090, §37, 84

Referred to in §915.27

915.45 Notice to victims of discharge of persons committed.

1. In addition to any other information required to be released under chapter 229A, prior to the discharge of a person committed under chapter 229A, the director of health and human services shall give written notice of the person's discharge to any living victim of the person's activities or crime whose address is known to the director or, if the victim is deceased, to the victim's family, if the family's address is known. Failure to notify shall not be a reason for postponement of discharge. Nothing in this section shall create a cause of action against the state or an employee of the state acting within the scope of the employee's employment as a result of the failure to notify pursuant to this action.

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2. The notification required pursuant to this section may occur through the automated victim notification system referred to in section 915.10A to the extent such information is available for dissemination through the system.

98 Acts, ch 1171, §13; 2005 Acts, ch 158, §51; 2023 Acts, ch 19, §1347

915.46 Sexual assault forensic examiner program.

1. As used in this section:

a. "Federally qualified health center" means a facility as defined in 42 U.S.C. §1396d(1)(2)(B) that provides primary care or sexual health services.

b. "Medical forensic services" include but are not limited to taking a medical history, performing photographic documentation, performing a physical examination, assessing a patient for evidence collection, collection of evidence using a sexual abuse evidence collection kit, assessing a patient for drug-facilitated or alcohol-facilitated sexual assault, providing an evaluation of and care for sexually transmitted infection and HIV, pregnancy risk evaluation and care, and discharge and follow-up health care planning.

c. "Pediatric treatment facility" means a treatment facility that provides treatment relating to the development, care, and diseases of infants, children, and adolescents and that meets the accreditation requirements described in subsection 3.

d. "Sexual assault examiner" means a medical practitioner who is trained to provide services that include but are not limited to the following:

(1) Taking a medical history.
(2) Performing photographic documentation.
(3) Performing a physical examination.
(4) Assessing a patient for evidence collection.
(5) Collecting evidence using a sexual abuse evidence collection kit.
(6) Assessing a patient for drug-facilitated or alcohol-facilitated sexual assault.
(7) Providing an evaluation of care for sexually transmitted infection and HIV, pregnancy risk evaluation, and care.
(8) Providing discharge follow-up health care planning.

e. "Sexual assault nurse examiner" means a registered nurse, an advanced registered nurse practitioner, or an advanced practice registered nurse, licensed pursuant to chapter 152 or 152E who has completed a sexual assault forensic examiner program that meets the sexual assault nurse examiner education guidelines approved by the department of justice.

f. "Sexual assault survivor" means a person who seeks medical forensic services in relation to injuries or trauma resulting from a sexual assault.

g. "Treatment facility" means a hospital, clinic, or pediatric treatment facility that provides medical forensic services to sexual assault survivors who seek medical forensic services for a sexual assault within seven days of a sexual assault, or who have disclosed a past sexual assault by a specific person.

2. A sexual assault forensic examiner program is established within the department of justice. The sexual assault forensic examiner program shall maintain a list of sexual assault examiners and sexual assault nurse examiners who have completed didactic and clinical training approved by the department of justice and consistent with the sexual assault forensic examiner education guidelines approved by the department of justice.

3. In order to qualify as a treatment facility under this section, a pediatric treatment facility shall meet the accreditation standards for children's advocacy centers adopted by the national children's alliance including any of the following medical provider eligibility or training requirements:

a. Child abuse pediatric sub-board eligibility or certification.

b. A minimum of sixteen hours of formal didactic training in the medical evaluation of child sexual abuse for a physician without board certification or board eligibility in child abuse pediatrics, an advanced practice registered nurse, or a physician associate.

c. A minimum of forty hours of coursework specific to the medical evaluation of child sexual abuse followed by a competency-based clinical preceptorship.

d. A pediatric treatment facility shall not exclude the presence of or interfere with the activities of a victim counselor as defined in section 915.20A.

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4. *a.* By July 1, 2022, the sexual assault forensic examiner program shall develop and make available to treatment facilities two hours of online sexual assault training for sexual assault examiners and sexual assault nurse examiners. Notwithstanding any other law regarding ongoing licensure requirements, such training shall apply toward the continuing medical education and continuing nursing education credits for physicians, physician associates, registered nurses, advanced registered nurse practitioners, and advanced practice registered nurses.

b. The sexual assault forensic examiner program shall provide didactic and clinical training opportunities consistent with the sexual assault forensic examiner education guidelines approved by the department of justice, in collaboration with the department of health and human services and the Iowa coalition against sexual assault, in sufficient numbers and geographical locations across the state to assist treatment facilities with training sexual assault examiners and sexual assault nurse examiners.

c. Sexual assault training provided under this subsection may be provided in person or online and shall include but is not limited to information concerning all of the following:

(1) The provision of medical forensic services.

(2) The use of a sexual abuse evidence collection kit.

(3) Sexual assault epidemiology, the neurobiology of trauma, drug-facilitated sexual assault, child sexual abuse, and Iowa sexual assault-related laws.

(4) The treatment facility's sexual assault-related policies and procedures.

5. The sexual assault forensic examiner program, in collaboration with qualified medical providers, the department of health and human services, and the Iowa coalition against sexual assault, shall create uniform materials that all treatment facilities and federally qualified health centers are required to provide to patients and non-offending parents or legal guardians, if applicable, regarding medical forensic examination procedures, laws regarding consent relating to medical forensic services, and the benefits and risks of evidence collection, including recommended time frames for evidence collection pursuant to evidence-based research. These materials shall be made available on the department of justice's internet site to all treatment facilities and federally qualified health centers.

6. The sexual assault forensic examiner program, in collaboration with qualified medical providers, the department of health and human services, and the Iowa coalition against sexual assault, shall create and update statewide sexual assault examiner and sexual assault nurse examiner protocols, shall provide technical assistance upon request to health care professionals, and shall provide expertise on best practices to health care professionals relating to sexual assault forensic examinations.

7. *Advisory committee.*

a. The department of justice shall establish an advisory committee to support the sexual assault forensic examiner program implemented in accordance with this section. The duties of the committee shall include but are not limited to the following:

(1) Advising the department of justice regarding the training programs developed for the sexual assault forensic examiner program.

(2) Reviewing the implementation and effectiveness of the sexual assault forensic examiner program.

(3) Recommending to the department of justice changes in legislation and administrative rules concerning the sexual assault forensic examiner program.

b. Members of the advisory committee shall include staff members of the department of justice managing the sexual assault forensic examiner program; representatives from the department of health and human services as determined by the director to be appropriate, the Iowa coalition against sexual assault, the board of nursing, and other constituencies as determined by the department of justice with an interest in sexual assault forensic examinations; and the hospital medical staff person involved with emergency services pursuant to section 915.82.

2021 Acts, ch 108, §2; 2023 Acts, ch 19, §1348 – 1350; 2026 Acts, ch 1008, §3; 2026 Acts, ch 1079, §16 – 18

Referred to in §13.31, 915.47, 915.94
Code editor directive applied
Subsection 1, paragraph e amended

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Subsection 2 amended
Subsection 4, paragraph b amended

915.47 Sexual assault forensic examination center grant program — fund.

1. The terms defined in section 915.46 shall have the same meaning when used in this section.

2. A sexual assault forensic examination center grant program is established in the department of justice. Contingent upon funding, the attorney general shall contract with an eligible nonprofit organization to operate and maintain sexual assault forensic examination centers in this state.

3. A nonprofit organization must comply with all of the following to be eligible for a contract under this section:

a. Be a nonprofit organization incorporated in this state pursuant to chapter 504 that is not owned, controlled, or affiliated with any hospital, health system, or inpatient medical facility.

b. Employ or otherwise retain services from sexual assault nurse examiners.

c. Maintain, or be in the process of establishing, one or more treatment facilities in this state that are primarily dedicated to providing a diverse range of services to sexual assault survivors, including but not limited to medical forensic services.

d. Provide services for sexual assault survivors, including providing sexual assault care and related trainings, as the overall primary purpose of the organization.

4. The contracting nonprofit organization shall do all of the following:

a. Provide services, including medical forensic services, to sexual assault survivors including adults, persons with disabilities, rural Iowans, and other underserved populations.

b. Offer or facilitate trainings to law enforcement officers, prosecuting attorneys, health care professionals, and members of the public regarding sexual assault services and sexual assault prevention.

c. Provide a cooperative team approach regarding sexual assault services, deliver accessible services to sexual assault survivors, and establish an approach that emphasizes the best interests of the sexual assault survivor and that provides investigation, assessment, and rehabilitative services.

d. Involve or consult with persons from various professional disciplines who have training and expertise in addressing special types of sexual assault as necessary to address serious cases of sexual assault such as those involving intimate partner violence, dating violence, domestic violence, incest, human trafficking, and drug-facilitated sexual assault. These persons may include but are not limited to physicians and other health care professionals, law enforcement, mental health professionals, social workers, child protection workers, attorneys, juvenile court officers, public health workers, educators, and advocates.

e. Submit an annual report to the attorney general and the general assembly no later than January 15 of each calendar year describing, in aggregated and anonymized form, the types of services offered, total number of unduplicated clients served, demographic breakdown of clients served including age, gender, and county of residence, number of individuals by county trained, referrals made to other agencies or services, description of service gaps identified during the reporting period, and barriers to service access identified.

5. The requirements in subsection 4 are not intended to restrict or otherwise limit the contracting nonprofit organization from seeking funding or reimbursement from other sources.

6. A sexual assault forensic examination center grant program trust fund is created in the state treasury under the control of the department of justice. The department of justice may accept gifts, grants, bequests, and other private contributions, as well as state or federal moneys, for deposit in the fund. All moneys deposited in the trust fund are appropriated and made available to the department of justice to be used for the purposes meeting the requirements of this section and to provide grants to sexual assault forensic examination centers in this state. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

2026 Acts, ch 1128, §1
Referred to in §602.8108
NEW section

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915.48 and 915.49 Reserved.

SUBCHAPTER VI

VICTIMS OF DOMESTIC ABUSE, SEXUAL ABUSE, ELDER ABUSE, AND HUMAN TRAFFICKING

915.50 General rights of domestic abuse and sexual abuse victims.

In addition to other victim rights provided in this chapter, victims of domestic abuse and sexual abuse shall have the following rights:

1. The right to file a pro se petition for relief from domestic abuse and sexual abuse in the district court, pursuant to sections 236.3 through 236.10 and sections 236A.3 through 236A.11.

2. The right, pursuant to sections 236.12 and 236A.13, for law enforcement to remain on the scene, to assist the victim in leaving the scene, to assist the victim in obtaining transportation to medical care, and to provide the person with a written statement of victim rights and information about domestic abuse and sexual abuse shelters, support services, and crisis lines.

3. The right to receive a no-contact order upon a finding of probable cause, pursuant to section 664A.3.

98 Acts, ch 1090, §39, 84; 99 Acts, ch 114, §52; 2006 Acts, ch 1101, §20; 2015 Acts, ch 30, §196; 2017 Acts, ch 121, §34, 35

915.50A General rights of elder abuse victims.

In addition to other victim rights provided in this chapter, victims of elder abuse shall have the following rights:

1. The right to file a pro se petition for relief from elder abuse in the district court, pursuant to chapter 235F.

2. The right to receive a no-contact order upon a finding of probable cause, pursuant to section 664A.3.

2014 Acts, ch 1107, §28; 2015 Acts, ch 30, §197

915.51 General rights of human trafficking victims.

Victims of human trafficking, as defined in section 710A.1, shall have the same rights as other victims of a crime, including the right to receive victim compensation pursuant to section 915.84, regardless of their immigration status.

2006 Acts, ch 1074, §7

915.52 Protective order victim notification system.

1. An automated protective order victim notification system is established within the crime victim assistance division of the department of justice to assist public officials in informing registered victims of domestic abuse and sexual abuse pursuant to chapters 236 and 236A, the families of victims, and other interested persons of the date and time of service of a protective order upon respondents who are the subjects of protective orders and of the expiration dates of the protective orders. The system shall also have the capability to notify victims of the expiration of the protective orders thirty days prior to their expiration dates.

2. The automated protective order victim notification system shall disseminate the information to registered users through telephonic, electronic, or other means of access.

3. A law enforcement agency or any other public or private agency responsible for serving civil protective orders shall enter the date and time of the service of a protective order into the Iowa court information system or other secure electronic database intended only for law enforcement use within twenty-four hours of service of the protective order upon a respondent in a domestic abuse or sexual abuse case pursuant to chapter 236 or 236A. A law enforcement agency or any other public or private agency responsible for serving civil protective orders which has made a good-faith effort to serve a protective order

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upon a respondent and which is unable to comply with the requirements of this subsection shall notify the appropriate clerk of the district court, who shall, if possible, enter such information into the automated protective order victim notification system.

4. The standard forms prescribed by the department of justice to be used by victims of domestic abuse and sexual abuse pursuant to chapters 236 and 236A shall include a space to allow victims to register for service of process and expiration notifications pursuant to this section.

5. An office, agency, or department may satisfy a notification obligation to registered victims required by this subchapter through participation in the kit tracking system established pursuant to section 915.53 to the extent information is available for dissemination through the kit tracking system. This subsection shall not relieve a notification obligation under this subchapter due to the unavailability of information for dissemination through the kit tracking system.

6. For the purposes of this section, *"registered"* means having provided the county attorney with the victim's written request for registration and current mailing address and telephone number. *"Registered"* also means having provided the county attorney notice in writing that the victim has filed a request for registration with the automated protective order victim notification system established in this section.

2017 Acts, ch 121, §36; 2021 Acts, ch 107, §5; 2021 Acts, ch 174, §30
Referred to in §915.53

915.53 Automated tracking system — sexual abuse evidence collection kits.

1. As used in this section:

a. "Forensic medical examination" means the same as defined in section 709.10.

b. "Kit" means the same as defined in section 709.10.

c. "Kit tracking system" means the automated sexual abuse evidence collection kit tracking system established pursuant to this section.

d. "Laboratory" means the same as defined in section 709.10.

2. The department of justice shall establish an automated sexual abuse evidence collection kit tracking system within the crime victim assistance division of the department of justice to assist public officials in tracking and reporting the location and status of sexual abuse evidence collection kits.

3. The kit tracking system shall have the ability to do all of the following:

a. Track the location of a kit, including the initial dissemination of a kit to a health care provider by the manufacturer or distributor of the kit, the collection of evidence collected by a health care provider from a victim's forensic medical examination, the receipt and storage of the kit by a law enforcement agency, the receipt and analysis of the kit by a laboratory, the storage of the kit after analysis, and the disposal of the kit.

b. Allow a health care provider performing a forensic medical examination, a law enforcement agency, a county attorney, a laboratory, and other entities with custody of a sexual abuse evidence collection kit to update and track the status and location of a kit.

c. Allow a victim of sexual abuse to anonymously track the status and location of a kit or to receive notifications regarding the status of a kit.

d. Utilize an internet platform allowing for continuous access to the kit tracking system.

4. A law enforcement agency shall participate in the kit tracking system according to the implementation schedule established by the department of justice.

5. A health care provider performing a forensic medical examination shall participate in the kit tracking system according to the implementation schedule established by the department of justice. A health care provider shall inform the victim of the number assigned to the kit.

6. The kit tracking system shall not contain any personally identifying information about a victim of a reported sexual abuse.

7. An office, agency, or department may satisfy a notification obligation to a victim as required by section 915.52 through participation in the kit tracking system to the extent information is available for dissemination through the kit tracking system. This subsection

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shall not relieve a notification obligation under this subchapter due to the unavailability of information for dissemination through the kit tracking system.

8. Information contained in the kit tracking system shall not be subject to discovery in a criminal case resulting from a reported sexual abuse for which a kit has been collected and information about the kit is maintained in the kit tracking system.

2021 Acts, ch 107, §6; 2021 Acts, ch 174, §31
Referred to in §13.31, 709.10, 915.11, 915.41, 915.52

915.54 through 915.79 Reserved.

SUBCHAPTER VII

VICTIM COMPENSATION

915.80 Definitions.

As used in this subchapter, unless the context otherwise requires:

1. *"Compensation"* means moneys awarded by the department as authorized in this subchapter.

2. *"Crime"* means conduct that occurs or is attempted in this state, poses a substantial threat of personal injury or death, and is punishable as a felony or misdemeanor, or would be so punishable but for the fact that the person engaging in the conduct lacked the capacity to commit the crime under the laws of this state. *"Crime"* does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle, motorcycle, motorized bicycle, train, boat, or aircraft except for violations of section 321.261, 321.277, 321J.2, 462A.7, 462A.12, 462A.14, or 707.6A, or when the intention is to cause personal injury or death. A license revocation under section 321J.9 or 321J.12 shall be considered by the department as evidence of a violation of section 321J.2 for the purposes of this subchapter. A license suspension or revocation under section 462A.14, 462A.14B, or 462A.23 shall be considered by the department as evidence of a violation of section 462A.14 for the purposes of this subchapter.

3. *"Department"* means the department of justice.

4. *"Dependent"* means a person wholly or partially dependent upon a victim for care or support and includes a child of the victim born after the victim's death.

5. *"Emergency relocation"* means a relocation that takes place within thirty days of the date of a crime or the discovery of a crime, or within thirty days after a crime could reasonably be reported. *"Emergency relocation"* also includes a relocation that takes place within the thirty days before or after an offender related to the crime is released from incarceration.

6. *"Housing assistance"* means living expenses associated with owning or renting housing, including essential utilities, intended to maintain or reestablish the living arrangement, health, and safety of a victim impacted by a crime.

7. *"Secondary victim"* means the victim's spouse, children, parents, siblings, foster parents, custodians, and any person who resides in the victim's household at the time of the crime or at the time of the discovery of the crime. *"Secondary victim"* does not include persons who are the survivors of a victim who dies as a result of a crime.

8. *"Survivor of a deceased victim"* means a survivor who, at the time of the crime, is a spouse, former spouse, child, foster child, parent, legal guardian, foster parent, stepparent, sibling, or foster sibling of a victim, or a person cohabiting with, or otherwise related by blood or affinity to, a victim, if the victim dies as a result of a crime, a good faith effort to prevent the commission of a crime, or a good faith effort to apprehend a person suspected of committing a crime.

9. *"Victim"* means a person who suffers personal injury or death as a result of any of the following:

a. A crime.

b. The good faith effort of a person attempting to prevent a crime.

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c. The good faith effort of a person to apprehend a person suspected of committing a crime.

98 Acts, ch 1090, §41, 84; 2007 Acts, ch 27, §7; 2015 Acts, ch 135, §20, 42, 43; 2018 Acts, ch 1107, §1; 2020 Acts, ch 1062, §94; 2021 Acts, ch 107, §7; 2026 Acts, ch 1079, §19
Referred to in §622.69
For future text of subsection 2A, effective July 1, 2027, see 2026 Acts, ch 1079, §14, 15
Subsection 7 amended

915.81 Award of compensation.

The department shall award compensation authorized by this subchapter if the department is satisfied that the requirements for compensation have been met.

98 Acts, ch 1090, §42, 84
Referred to in §622.69

915.82 Crime victim assistance board.

1. *a.* A crime victim assistance board is established, and shall consist of the following members to be appointed pursuant to rules adopted by the department:

(1) A county attorney or assistant county attorney.
(2) Two persons engaged full-time in law enforcement.
(3) A public defender or an attorney practicing primarily in criminal defense.
(4) A hospital medical staff person involved with emergency services.
(5) Two public members who have received victim services.
(6) A victim service provider.
(7) A person licensed pursuant to chapter 154B or 154C.
(8) A person representing the elderly.

b. Board members shall be reimbursed for expenses actually and necessarily incurred in the discharge of their duties.

2. The department shall adopt rules pursuant to chapter 17A relating to program policies and procedures.

3. A victim aggrieved by the denial or disposition of the victim's claim may appeal to the district court within thirty days of receipt of the board's decision.

98 Acts, ch 1090, §43, 84; 2013 Acts, ch 30, §173; 2024 Acts, ch 1170, §365
Referred to in §622.69, 915.46

915.83 Duties of department.

The department shall:

1. Adopt rules pursuant to chapter 17A relating to the administration of the crime victim compensation program, including the filing of claims pursuant to the program, and the hearing and disposition of the claims.

2. Hear claims, determine the results relating to claims, and reinvestigate and reopen cases as necessary.

3. Publicize through the department, county sheriff departments, municipal police departments, county attorney offices, and other public or private agencies, the existence of the crime victim compensation program, including the procedures for obtaining compensation under the program.

4. Request from the department of health and human services, the department of workforce development, the division of workers' compensation of the department of inspections, appeals, and licensing, the department of public safety, the county sheriff departments, the municipal police departments, the county attorneys, or other public authorities or agencies reasonable assistance or data necessary to administer the crime victim compensation program.

5. Require medical examinations of victims as needed. The victim shall be responsible for the cost of the medical examination if compensation is made. The department shall be responsible for the cost of the medical examination from funds appropriated to the department for the crime victim compensation program if compensation is not made to the victim unless the cost of the examination is payable as a benefit under an insurance policy or subscriber contract covering the victim or the cost is payable by a health maintenance organization.

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6. Receive moneys collected pursuant to section 904.702 for the purpose of compliance with Pub. L. No. 98-473.

98 Acts, ch 1061, §10; 98 Acts, ch 1090, §44, 84; 98 Acts, ch 1128, §2; 2023 Acts, ch 19, §1351, 2041

Referred to in §622.69

915.84 Application for compensation.

1. To claim compensation under the crime victim compensation program, a person shall apply in writing on a form prescribed by the department and file the application with the department within two years after the date of the crime, the discovery of the crime, or the date of death of the victim. The department may waive the time limitation if good cause is shown.

2. The department may waive, for good cause shown, the requirement that an emergency relocation must take place within thirty days of the date or discovery of a crime or within thirty days before or after the offender is released from incarceration.

3. A person is not eligible for compensation unless the crime was reported to the local police department or county sheriff department within seventy-two hours of its occurrence. If the crime cannot reasonably be reported within that time period, the crime shall have been reported within seventy-two hours of the time a report can reasonably be made. The department may waive this requirement if good cause is shown.

4. Notwithstanding subsection 3, a victim under the age of eighteen or dependent adult as defined in section 235B.2 who has been sexually abused or subjected to any other unlawful sexual conduct under chapter 709 or 726 or who has been the subject of a forcible felony is not required to report the crime to the local police department or county sheriff department to be eligible for compensation if the crime was allegedly committed upon a child by a person responsible for the care of a child, as defined in section 232.68, subsection 8, or upon a dependent adult by a caretaker as defined in section 235B.2, and was reported to an employee of the department of health and human services and the employee verifies the report to the department.

5. When immediate or short-term medical services or mental health services are provided to a victim under section 915.35, the department of health and human services shall file the claim for compensation as provided in subsection 4 for the victim.

6. When immediate or short-term medical services to a victim are provided pursuant to section 915.35 by a professional licensed or certified by the state to provide such services, the professional shall file the claim for compensation, unless the department of health and human services is required to file the claim under this section. The requirement to report the crime to the local police department or county sheriff department under subsection 3 does not apply to this subsection.

7. The victim shall cooperate with reasonable requests by the appropriate law enforcement agencies in the investigation or prosecution of the crime.

98 Acts, ch 1090, §45, 84; 99 Acts, ch 10, §1; 2015 Acts, ch 135, §21, 42, 43; 2023 Acts, ch 19, §1352

Referred to in §235A.15, 235B.6, 622.69, 915.51, 915.93

915.85 Compensation payable.

The department may order the payment of compensation:

1. To or for the benefit of the person filing the claim.

2. To a person responsible for the maintenance of the victim who has suffered pecuniary loss or incurred expenses as a result of personal injury to the victim.

3. To or for the benefit of one or more dependents of the victim, in the case of death of the victim. If two or more dependents are entitled to compensation, the compensation may be apportioned by the department as the department determines to be fair and equitable among the dependents.

4. To a victim of an act committed outside this state who is a resident of this state, if the act would be compensable had it occurred within this state and the act occurred in a state that does not have an eligible crime victim compensation program, as defined in the federal

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Victims of Crime Act of 1984, Pub. L. No. 98-473, section 1403(b), as amended and codified in 42 U.S.C. §10602(b).

5. To or for the benefit of a resident of this state who is a victim of an act of terrorism as defined in 18 U.S.C. §2331, which occurred outside of the United States.

98 Acts, ch 1090, §46, 84
Referred to in §622.69

915.86 Computation of compensation.

The department shall award compensation, as appropriate, for any of the following economic losses incurred as a direct result of an injury to or death of the victim:

1. Reasonable charges incurred for medical care not to exceed twenty-five thousand dollars. Reasonable charges incurred for mental health care not to exceed five thousand dollars which includes services provided by a psychologist licensed under chapter 154B, a person holding at least a master's degree in social work or counseling and guidance, or a victim counselor as defined in section 915.20A.

a. The department shall establish the rates at which it will pay charges for medical care.

b. If the department awards compensation, in full, at the established rate for medical care, and the medical provider accepts the payment, the medical provider shall hold harmless the victim for any amount not collected that is more than the rate established by the department.

2. Loss of income from work the victim would have performed and for which the victim would have received remuneration if the victim had not been injured, not to exceed six thousand dollars.

3. Loss of income from work that the victim's parent or caretaker would have performed and for which the victim's parent or caretaker would have received remuneration for up to three days after the crime or the discovery of the crime to allow the victim's parent or caretaker to assist the victim and when the victim's parent or caretaker accompanies the victim to medical and counseling services, not to exceed one thousand dollars per parent or caretaker.

4. Loss of income from work that the victim, the victim's parent or caretaker, or the survivor of a deceased victim would have performed and for which that person would have received remuneration, where the loss of income is a direct result of cooperation with the investigation and prosecution of the crime or attendance at criminal justice proceedings including the trial and sentencing in the case, or due to the planning of or attendance at a funeral, memorial, or burial service, not to exceed one thousand dollars per person.

5. Reasonable replacement value of clothing that is held for evidentiary purposes not to exceed two hundred dollars.

6. Reasonable funeral and burial expenses not to exceed seven thousand five hundred dollars.

7. Loss of support for dependents resulting from death or a period of disability of the victim of sixty days or more not to exceed four thousand dollars per dependent.

8. In the event of a victim's death, reasonable charges incurred for counseling a survivor of a deceased victim if the counseling services are provided by a psychologist licensed under chapter 154B, a victim counselor as defined in section 915.20A, subsection 1, or an individual holding at least a master's degree in social work or counseling and guidance, and reasonable charges incurred by such persons for medical care counseling provided by a psychiatrist licensed under chapter 148. The allowable charges under this subsection shall not exceed five thousand dollars per person.

9. In the event of a victim's death, reasonable charges incurred for health care for a survivor of a deceased victim, not to exceed three thousand dollars per survivor.

10. In the event of a victim's death, loss of income from work that, but for the death of the victim, would have been earned by a survivor of a deceased victim, not to exceed six thousand dollars.

11. Reasonable expenses incurred by the victim, secondary victim, or survivor of a deceased victim for cleaning the scene of a crime, not to exceed one thousand dollars per crime scene.

12. Reasonable charges incurred for mental health care for secondary victims which

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include the services provided by a psychologist licensed under chapter 154B, a person holding at least a master's degree in social work, counseling, or a related field, a victim counselor as defined in section 915.20A, or a psychiatrist licensed under chapter 148. The allowable charges under this subsection shall not exceed two thousand dollars per secondary victim.

13. Reasonable dependent care expenses incurred by the victim, the victim's parent or caretaker, or the survivor of a deceased victim for the care of dependents while attending criminal justice proceedings, medical or counseling services, or funeral, burial, or memorial services, not to exceed one thousand dollars per person.

14. Reasonable crime-related expenses incurred by a victim, the victim's parent or caretaker, or a survivor of a deceased victim to replace inadequate or damaged locks, windows, and other residential security items or install new locks, windows, and other residential security items, not to exceed five hundred dollars per residence.

15. Reasonable expenses incurred by the victim, a secondary victim, the parent or guardian of a victim, or a survivor of a deceased victim for transportation to medical or counseling services, criminal justice proceedings, or a funeral, memorial, or burial service, not to exceed one thousand dollars per person.

16. Reasonable charges incurred by a victim, a secondary victim, a survivor of a deceased victim, or by a victim service program on behalf of a victim, for emergency relocation expenses, not to exceed one thousand dollars per person per lifetime.

17. Reasonable expenses incurred by a victim, or by a victim service program on behalf of a victim, for up to three months of housing assistance, not to exceed two thousand dollars per person per lifetime.

18. *a.* Additional compensation to a victim, secondary victim, or survivor of a deceased victim in an amount not to exceed a total of five thousand dollars per person for charges, expenses, or loss of income incurred that would otherwise be compensable under this section but for the eligibility requirements and compensation limits provided for at the time of initial application for compensation under this section under the following circumstances:

(1) The charges, expenses, or loss of income incurred were not compensable under this section at the time of initial application for compensation under this section.

(2) The victim, secondary victim, or survivor of a deceased victim demonstrates that a denial of additional compensation under this subsection would constitute an undue hardship.

(3) The victim, secondary victim, or survivor of a deceased victim incurs additional charges, expenses, or loss of income upon occurrence of a new event related to the event authorizing compensation under this section that would otherwise be compensable under this section but for the compensation limits provided for the applicable compensation category. For purposes of this subparagraph, "*new event*" includes additional criminal justice proceedings due to a mistrial, retrial, or separate or additional trials resulting from the existence of multiple offenders; a new appellate court decision relating to the event authorizing compensation under this section; a change of venue of a trial; a change in offender custody status; the death of the offender; or the exoneration of the offender.

b. Additional compensation otherwise authorized by this subsection shall not be awarded for an application for compensation under subsection 7, 16, or 17.

98 Acts, ch 1090, §47, 84; 98 Acts, ch 1128, §1, 2; 99 Acts, ch 10, §2; 2000 Acts, ch 1064, §1, 2; 2007 Acts, ch 27, §8, 9; 2009 Acts, ch 178, §29; 2009 Acts, ch 179, §47; 2011 Acts, ch 34, §157; 2015 Acts, ch 135, §22, 42, 43; 2018 Acts, ch 1107, §2, 3; 2019 Acts, ch 59, §233

Referred to in §622.69

915.87 Reductions and disqualifications.

Compensation is subject to reduction and disqualification as follows:

1. Compensation shall be reduced by the amount of any payment received, or to be received, as a result of the injury or death:

a. From or on behalf of a person who committed the crime or who is otherwise responsible for damages resulting from the crime.

b. From an insurance payment or program, including but not limited to workers' compensation or unemployment compensation.

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c. From public funds.

d. As an emergency award under section 915.91.

2. Compensation shall not be made when the bodily injury or death for which a benefit is sought was caused by any of the following:

a. Consent, provocation, or incitement by the victim.

b. The victim assisting, attempting, or committing a criminal act. This paragraph shall not apply to a victim under the age of eighteen involved in commercial sexual activity as defined in section 710A.1.

98 Acts, ch 1090, §48, 84; 2012 Acts, ch 1057, §10
Referred to in §622.69, 915.92

915.88 Compensation when money insufficient.

Notwithstanding this subchapter, a victim otherwise qualified for compensation under the crime victim compensation program is not entitled to the compensation when there is insufficient money from the appropriation for the program to pay the compensation.

98 Acts, ch 1090, §49, 84
Referred to in §622.69

915.89 Erroneous or fraudulent payment — penalty.

1. If a payment or overpayment of compensation is made because of clerical error, mistaken identity, innocent misrepresentation by or on behalf of the recipient, or other circumstances of a similar nature, not induced by fraud by or on behalf of the recipient, the recipient is liable for repayment of the compensation. The department may waive, decrease, or adjust the amount of the repayment of the compensation. However, if the department does not notify the recipient of the erroneous payment or overpayment within one year of the date the compensation was made, the recipient is not liable for the repayment of the compensation.

2. If a payment or overpayment has been induced by fraud by or on behalf of a recipient, the recipient is liable for repayment of the compensation.

98 Acts, ch 1090, §50, 84
Referred to in §622.69

915.90 Release of information.

1. A person in possession or control of investigative or other information pertaining to an alleged crime or a victim filing for compensation shall allow the inspection and reproduction of the information by the department upon the request of the department, to be used only in the administration and enforcement of the crime victim compensation program. Information and records which are confidential under section 22.7 and information or records received from the confidential information or records remain confidential under this section.

2. A person does not incur legal liability by reason of releasing information to the department as required under this section.

98 Acts, ch 1090, §51, 84
Referred to in §235A.15, 622.69

915.91 Emergency payment compensation.

If the department determines that compensation may be made and that undue hardship may result to the person if partial immediate payment is not made, the department may order emergency compensation to be paid to the person, not to exceed five hundred dollars.

98 Acts, ch 1090, §52, 84
Referred to in §622.69, 915.87

915.92 Right of action against perpetrator — subrogation.

A right of legal action by the victim against a person who has committed a crime is not lost as a consequence of a person receiving compensation under the crime victim compensation program. If a person receiving compensation under the program seeks indemnification which would reduce the compensation under section 915.87, subsection 1, the department is subrogated to the recovery to the extent of payments by the department to or on behalf of the person. The department has a right of legal action against a person who has committed

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a crime resulting in payment of compensation by the department to the extent of the compensation payment. However, legal action by the department does not affect the right of a person to seek further relief in other legal actions.

98 Acts, ch 1090, §53, 84
Referred to in §622.69, 910.1

915.93 Rulemaking.

The department shall adopt rules pursuant to chapter 17A to implement the procedures for reparation payments with respect to section 915.35 and section 915.84, subsections 4, 5, and 6.

98 Acts, ch 1090, §54, 84
Referred to in §622.69

915.94 Victim compensation fund.

1. A victim compensation fund is established as a separate fund in the state treasury. Moneys deposited in the fund shall be administered by the department and dedicated to and used for the purposes of section 915.41 and this subchapter. In addition, the department may use moneys from the fund for any of the following purposes:

a. For the department's prosecutor-based victim service coordination, including the duties defined in sections 910.3 and 910.6 and this chapter.

b. To support the sexual assault forensic examiner program established in section 915.46.

c. For the award of funds to programs that provide services and support to victims of domestic abuse as provided in chapter 236, to victims of sexual abuse as provided in chapter 236A, and to victims under section 710A.2.

d. For reimbursement to the Iowa law enforcement academy for domestic abuse and human trafficking training.

e. For the support of an automated victim notification system established in section 915.10A.

2. For each fiscal year, the department may also use up to three hundred thousand dollars from the fund to provide training for victim service providers, to provide training for related professionals concerning victim service programming, and to provide training concerning homicide, domestic assault, sexual assault, stalking, harassment, and human trafficking as required by section 710A.6.

3. Notwithstanding section 8.33, any balance in the fund on June 30 of any fiscal year shall not revert to the general fund of the state.

98 Acts, ch 1090, §55, 84; 2001 Acts, ch 84, §1; 2006 Acts, ch 1074, §8; 2007 Acts, ch 22, §111; 2007 Acts, ch 27, §10; 2015 Acts, ch 138, §139, 161, 162; 2016 Acts, ch 1137, §16; 2017 Acts, ch 121, §37; 2021 Acts, ch 108, §3; 2022 Acts, ch 1021, §179
Referred to in §321.210B, 321J.17, 602.8108, 622.69, 805.8A(14)(f), 809.17, 904.809, 915.41

915.95 Human trafficking victim fund.

A fund is created as a separate fund in the state treasury. Moneys deposited in the fund shall be administered by the department and dedicated to and used for awarding moneys to programs that provide services and support to victims of human trafficking under section 710A.2, including public outreach and awareness programs and service provider training programs, and for reimbursing the Iowa law enforcement academy for domestic abuse and human trafficking training. Notwithstanding section 8.33, any balance in the fund on June 30 of any fiscal year shall not revert to the general fund of the state.

2014 Acts, ch 1097, §15; 2016 Acts, ch 1137, §17
Referred to in §602.8108

915.96 through 915.99 Reserved.

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SUBCHAPTER VIII

VICTIM RESTITUTION

915.100 Victim restitution rights.

1. Victims, as defined in section 910.1, have the right to recover pecuniary damages, as defined in section 910.1.

2. The right to restitution includes the following:

a. In all criminal cases in which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction is rendered, the sentencing court shall order that restitution be made by each offender to victims of the offender's criminal activities.

b. A judge may require a juvenile who has been found to have committed a delinquent act to compensate the victim of that act for losses due to the act.

c. In cases where the act committed by an offender causes the death of another person, in addition to the amount ordered for payment of the victim's pecuniary damages, the court shall also order the offender to pay at least one hundred fifty thousand dollars in restitution to the victim's estate or heirs at law, pursuant to the provisions of section 910.3B.

d. The clerk of court shall forward a copy of the plan of payment or the modified plan of payment to the victim or victims.

e. Victims shall be paid in full pursuant to an order of restitution, before fines, penalties, surcharges, crime victim compensation program reimbursement, public agency reimbursement, court costs, correctional fees, court-appointed attorney fees, expenses of a public defender, or contributions to local anticrime organizations are paid.

f. A judgment of restitution may be enforced by a victim entitled under the order to receive restitution, or by a deceased victim's estate, in the same manner as a civil judgment.

g. A victim in a criminal proceeding who is entitled to restitution under a court order may file a restitution lien.

h. If a convicted felon or the representative of a convicted felon receives or is owed any profit which is realized as a result of the commission of the crime, and the attorney general brings an action to recover such profits, the victim may be entitled to funds held in escrow, pursuant to the provisions of section 910.15.

i. The right to victim restitution for the pecuniary damages incurred by a victim as the result of a crime does not limit or impair the right of the victim to sue and recover damages from the offender in a civil action.

j. In cases where the offender was convicted of sexual exploitation of a minor in violation of section 728.12, subsection 1 or 2, the court shall order restitution under this section in an amount to be determined by the court as follows:

(1) The court shall determine the full amount of the victim's losses that were incurred or are reasonably projected to be incurred by the victim as a result of the sexual exploitation of the victim, but in no case shall such amount be less than three thousand dollars.

(2) After completing the determination required under subparagraph (1), the court shall order pecuniary damages in an amount that reflects the offender's relative role in the causal process that underlies the victim's losses, but in no case shall such amount be less than three thousand dollars.

(3) For purposes of this paragraph, in addition to the definition of victim provided in section 915.10, subsection 3, "*victim*" means the individual harmed as a result of a commission of a crime under section 728.12. The legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, may assume the crime victim's rights under this paragraph, but in no event shall the offender be named as a representative or guardian.

98 Acts, ch 1090, §57, 84; 99 Acts, ch 10, §3; 99 Acts, ch 114, §53; 2003 Acts, 1st Ex, ch 2, §64, 209; 2023 Acts, ch 74, §8

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CHAPTER 916

MILITARY VICTIM ADVOCATES — SEXUAL CRIMES — PRIVILEGED COMMUNICATIONS

916.1 Definitions. 916.2 Military victim advocate privilege.

916.1 Definitions.

As used in this chapter:

1. *"Confidential communication"* means confidential information shared between a victim and a military victim advocate within the advocacy relationship, and includes all information received by the advocate and any advice, report, or working paper given to or prepared by the advocate in the course of the advocacy relationship with the victim. *"Confidential information"* is information which, so far as the victim is aware, is not disclosed to a third party with the exception of a person present in the consultation for the purpose of furthering the interest of the victim, a person to whom disclosure is reasonably necessary for the transmission of the information, or a person with whom disclosure is necessary for accomplishment of the purpose for which the advocate is consulted by the victim.

2. *"Military victim advocate"* or *"advocate"* means a person who is a member of the national guard or a branch of the armed forces of the United States and who has completed a military victim advocate course provided by a branch of the armed forces of the United States or by the United States department of defense.

3. *"Special victims' counsel"* means military personnel who are members of the judge advocate general's corps of the national guard or a branch of the armed forces of the United States, who have completed special victims' counsel training, and who are serving as a special victims' counsel to a victim. For the purposes of this chapter, special victims' counsel shall also be considered military victim advocates.

4. *"Victim"* means a person who consults a military victim advocate for the purpose of securing advice, advocacy, counseling, or assistance concerning a mental, physical, or emotional condition caused by a sexual crime committed against the person.

2015 Acts, ch 28, §1; 2015 Acts, ch 138, §51, 161, 162

916.2 Military victim advocate privilege.

1. A military victim advocate shall not be examined or required to give evidence in any civil or criminal proceeding as to any confidential communication made by a victim to the advocate, nor shall a clerk, secretary, stenographer, or any other employee who types or otherwise prepares or manages the confidential reports or working papers of an advocate be required to produce evidence of any such confidential communication, unless the victim waives this privilege in writing or disclosure of the information is compelled by a court pursuant to subsection 6. However, under no circumstances shall the identity of the advocate be disclosed in any civil or criminal proceeding.

2. If a victim is deceased or has been declared to be incompetent, the privilege specified in subsection 1 may be waived by the guardian of the victim or by the personal representative of the victim's estate.

3. A minor who is a member of the national guard or a branch of the armed forces of the United States may waive the privilege under subsection 1.

4. A privilege under this section does not apply in matters of proof concerning the chain of custody of evidence, in matters of proof concerning the physical appearance of the victim at the time of the injury or the advocate's first contact with the victim after the injury, or if the advocate has reason to believe that the victim has given perjured testimony and the defendant or the state has made an offer of proof that perjury may have been committed.

5. The failure of an advocate to testify due to this section shall not give rise to an inference unfavorable to the cause of the state or the cause of a defendant.

6. Upon the motion of a party, accompanied by a written offer of proof, a court may compel disclosure of certain information if the court determines that all of the following conditions are met:

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a. The information sought is relevant and material evidence of the facts and circumstances involved in an alleged criminal act which is the subject of a criminal proceeding.

b. The probative value of the information outweighs the harmful effect, if any, of disclosure on the victim, the advocacy relationship, and the treatment services.

c. The information cannot be obtained by reasonable means from any other source.

7. In ruling on a motion under subsection 6, the court, if the motion was filed in a criminal proceeding to be tried to the court, or a different judge, shall adhere to the following procedure:

a. The court may require the advocate from whom disclosure is sought or the victim claiming the privilege, or both, to disclose the information in chambers out of the presence and hearing of all persons except the victim and any other persons the victim is willing to have present.

b. If the court determines that the information is privileged and not subject to compelled disclosure, the information shall not be disclosed by any person without the consent of the victim.

c. If the court determines that certain information may be subject to disclosure, as provided in subsection 6, the court shall so inform the party seeking the information and shall order a subsequent hearing out of the presence of the jury, if applicable, at which time the parties shall be allowed to examine the advocate regarding the information that the court has determined may be subject to disclosure. The court may accept other evidence at the hearing.

d. At the conclusion of a hearing under paragraph "*c*", the court shall determine which information, if any, shall be disclosed and may enter an order describing the evidence which may be introduced by the moving party and prescribing the line of questioning which may be permitted. The moving party may then offer evidence pursuant to the court order. A victim advocate is not subject to exclusion under rule of evidence 5.615.

8. This section does not relate to the admission of evidence of the victim's past sexual behavior which is strictly subject to rule of evidence 5.412.

2015 Acts, ch 28, §2; 2016 Acts, ch 1073, §185

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