

Senate File 342 - Enrolled

Senate File 342

AN ACT

RELATING TO PUBLIC RECORDS AND COMMUNICATIONS IN PROFESSIONAL CONFIDENCE; UNIFORM COMMERCIAL CODE FILINGS; QUALIFIED IMMUNITY; PEACE OFFICER HEALTH PLANS AND WORKERS' COMPENSATION; CERTAIN LAW ENFORCEMENT MATTERS; CRIMINAL LAWS INVOLVING PUBLIC DISORDER, ASSAULTS, AND HARASSMENT; CIVIL LIABILITY FOR CERTAIN VEHICLE OPERATORS; WINDOW TINTING; ACTS ON CERTAIN HIGHWAYS; AND CIVIL SERVICE COMMISSION EXAMINATIONS; PROVIDING PENALTIES, AND INCLUDING EFFECTIVE DATE AND RETROACTIVE APPLICABILITY PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

PUBLIC RECORDS — COMMUNICATIONS IN PROFESSIONAL CONFIDENCE

Section 1. Section 9E.1, Code 2021, is amended to read as follows:

9E.1 Purpose.

The general assembly finds that individuals attempting to escape from actual or threatened domestic abuse, domestic abuse assault, sexual abuse, assault, stalking, or human trafficking frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of [this chapter](#) is to enable state and local agencies to respond to requests for data without disclosing the location of a victim of domestic abuse, domestic abuse assault, sexual abuse, assault, stalking, or human trafficking; to enable interagency cooperation with the secretary of state in providing address confidentiality for victims of domestic abuse, domestic abuse assault, sexual abuse, assault, stalking, or human trafficking; and to enable program participants to use an address designated by the secretary of state as a substitute mailing address for the purposes specified in [this chapter](#). In addition, the purpose of [this chapter](#) is to prevent such victims from being physically located through a public records search.

Sec. 2. Section 9E.2, subsection 6, paragraph a, Code 2021, is amended to read as follows:

a. "Eligible person" means a person who is all a resident of this state, an adult, a minor, or an incapacitated person as defined in section 633.701, and is one of the following:

- ~~(1) A resident of this state.~~
- ~~(2) An adult, a minor, or an incapacitated person as defined in [section 633.701](#).~~
- (3) A victim of domestic abuse, domestic abuse assault, sexual abuse, assault, stalking, or human trafficking as evidenced by the filing of a petition pursuant to [section 236.3](#) or a criminal complaint or information pursuant to [section 708.1](#), [708.2A](#), [708.11](#), or [710A.2](#), or any violation contained in [chapter 709](#).

(2) A currently active or retired state or local judicial officer, as defined in section 4.1, a federal judge, or a spouse or child of such a person.

(3) A currently active or retired state or local prosecuting attorney, as defined in section 801.4, or a spouse or child of such a person.

(4) A currently active or retired peace officer, as defined in section 801.4, civilian employee of a law enforcement agency, or a spouse or child of such a person.

Sec. 3. Section 9E.3, subsection 1, paragraph b, subparagraph (1), subparagraph division (a), Code 2021, is amended to read as follows:

(a) The eligible person listed on the application is a victim of domestic abuse, domestic abuse assault, sexual abuse, assault, stalking, or human trafficking.

Sec. 4. Section 9E.3, subsection 1, paragraph e, Code 2021, is amended to read as follows:

e. The residential address of the eligible person, disclosure of which could lead to an increased risk of domestic abuse, domestic abuse assault, sexual abuse, assault, stalking, or human trafficking.

Sec. 5. Section 9E.7, Code 2021, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. Upon request by a program participant, the assessor or the assessor's staff shall redact the requestor's name contained in electronic documents that are displayed for public access through an internet site. The assessor shall implement and maintain a process to facilitate these requests. A fee shall not be charged for the administration of this paragraph.

Sec. 6. Section 22.10, subsection 3, paragraph b, subparagraph (2), Code 2021, is amended to read as follows:

(2) Had good reason to believe and in good faith believed facts which, if true, would have indicated compliance with the requirements of this chapter. It shall constitute such good reason and good faith belief and a court shall not assess any damages, costs, or fees under this subsection if the person incorrectly balanced the right of the public to receive public records against the rights and obligations of the government body to maintain confidential records as provided in section 22.7 under any judicially created balancing test, unless the person is unable to articulate any reasonable basis for such balancing.

Sec. 7. Section 331.604, subsection 3, Code 2021, is amended by adding the following new paragraph:

NEW PARAGRAPH. *f.* (1) Upon request by a peace officer, as defined in section 801.4, civilian employee of a law enforcement agency, or state or federal judicial officer or state or federal prosecutor, the county assessor or the county assessor's staff, or the county recorder or the county recorder's staff, shall redact the requestor's name contained in electronic documents that are displayed for public access through an internet site.

(2) Upon request by a former peace officer, as defined in section 801.4, or a former civilian employee of a law enforcement agency, the county assessor or the county assessor's staff, or the county recorder or the county recorder's staff, may redact, upon the presentation of evidence that a compelling safety interest is served by doing so, the requestor's name contained in electronic documents that are displayed for public access through an internet site.

(3) This paragraph does not apply to a requestor holding or seeking public office.

(4) The county assessor and the county recorder shall implement and maintain a process to facilitate requests pursuant to this paragraph.

(5) A fee shall not be charged for the administration of this paragraph.

Sec. 8. Section 622.10, subsection 9, paragraphs a and b, Code 2021, are amended to read as follows:

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.

DIVISION II

UNIFORM COMMERCIAL CODE — FRAUDULENT FILINGS

Sec. 9. Section 554.9510, subsection 1, Code 2021, is amended to read as follows:

1. *Filed record effective if authorized.* A filed record is effective only to the extent that it was filed by a person that may file it under [section 554.9509](#) or by the filing office under section 554.9513A.

Sec. 10. NEW SECTION. **554.9513A Termination of wrongfully filed financing statement — reinstatement.**

1. *Trusted filer.* “*Trusted filer*” means a person that does any of the following:

a. Regularly causes records to be communicated to the filing office for filing and has provided the filing office with current contact information and information sufficient to establish the person’s identity.

b. Satisfies either of the following conditions:

(1) The filing office has issued the person credentials for access to online filing services.

(2) The person has established a prepaid or direct debit account for payment of filing fees, regardless of whether the account is used in a particular transaction.

2. *Affidavit of wrongful filing.* A person identified as debtor in a filed financing statement may deliver to the filing office a notarized, sworn affidavit that identifies the financing statement by file number, indicates the affiant’s mailing address, and states that the affiant believes that the filed record identifying the affiant as debtor was not authorized to be filed and was caused to be communicated to the filing office with the intent to harass or defraud the affiant. The filing office may reject an affidavit that is incomplete or that it believes was delivered to it with the intent to harass or defraud the secured party. The office of the secretary of state shall adopt a form of affidavit for use under this section.

3. *Termination statement by filing office.* Subject to subsection 11, if an affidavit is delivered to the filing office under subsection 2, the filing office shall promptly file a termination statement with respect to the financing statement identified in the affidavit. The termination statement must identify by its file number the initial financing statement to which it relates and must indicate that it was filed pursuant to this section. A termination statement filed under this subsection is not effective until ninety days after it is filed.

4. *No fee charged or refunded.* The filing office shall not charge a fee for the filing of an affidavit under subsection 2 or a termination statement under subsection 3. The filing office shall not return any fee paid for filing the financing statement identified in the affidavit, whether or not the financing statement is reinstated under subsection 7.

5. *Notice of termination statement.* On the same day that a filing office files a termination statement under subsection 3, the filing office shall send to the secured party of record for the financing statement to which the termination statement relates a notice stating that the termination statement has been filed and will become effective ninety days after filing. The notice shall be sent by certified mail, return receipt requested, to the address provided for the secured party of record in the financing statement with a copy sent by electronic mail to the electronic mail address provided by the secured party of record, if any.

6. *Administrative review — action for reinstatement.* A secured party that believes in good faith that the filed record identified in an affidavit delivered to the filing office under subsection 2 was authorized to be filed and was not caused to be communicated to the filing office with the intent to harass or defraud the affiant may:

a. Before the termination statement takes effect, request that the filing office conduct an expedited review of the filed record and any documentation provided by the secured party. The filing office may as a result of this review remove from the record the termination statement filed by it under subsection 3 before the termination statement takes effect and

conduct an administrative review under subsection 11.

b. File an action against the filing office seeking reinstatement of the financing statement to which the filed record relates at any time before the expiration of six months after the date on which the termination statement filed under subsection 3 becomes effective. If the affiant is not named as a defendant in the action, the secured party shall send a copy of the petition to the affiant at the address indicated in the affidavit. The exclusive venue for the action shall be in the district court for the county where the filing office in which the financing statement was filed is located. The action shall be considered by the court on an expedited basis.

7. Filing office to file notice of action for reinstatement. Within ten days after being served with process in an action under subsection 6, the filing office shall file a notice indicating that the action has been commenced. The notice must indicate the file number of the initial financing statement to which the notice relates.

8. Action for reinstatement successful. If, in an action under subsection 6, the court determines that the financing statement was authorized to be filed and was not caused to be communicated to the filing office with the intent to harass or defraud the affiant, the court shall order that the financing statement be reinstated. If an order of reinstatement is issued by the court, the filing office shall promptly file a record that identifies by its file number the initial financing statement to which the record relates and indicates that the financing statement has been reinstated.

9. Effect of reinstatement. Upon the filing of a record reinstating a financing statement under subsection 8, the effectiveness of the financing statement is reinstated and the financing statement shall be considered never to have been terminated under this section except as against a purchaser of the collateral that gives value in reasonable reliance upon the termination. A continuation statement filed as provided in section 554.9515, subsection 4, after the effective date of a termination statement filed under subsection 3 or 11 becomes effective if the financing statement is reinstated.

10. Liability for wrongful filing. If, in an action under

subsection 6, the court determines that the filed record identified in an affidavit delivered to the filing office under subsection 2 was caused to be communicated to the filing office with the intent to harass or defraud the affiant, the filing office and the affiant may recover from the secured party that filed the action the costs and expenses, including reasonable attorney fees and the reasonable allocated costs of internal counsel, that the filing office and the affiant incurred in the action. This recovery is in addition to any recovery to which the affiant is entitled under section 554.9625.

11. *Procedure for record filed by trusted filer.* If an affidavit delivered to a filing office under subsection 2 relates to a filed record communicated to the filing office by a trusted filer, the filing office shall promptly send to the secured party of record a notice stating that the affidavit has been delivered to the filing office and that the filing office is conducting an administrative review to determine whether the record was caused to be communicated with the intent to harass or defraud the affiant. The notice shall be sent by certified mail, return receipt requested, to the address provided for the secured party in the financing statement with a copy sent by electronic mail to the electronic mail address provided by the secured party of record, if any, and a copy shall be sent in the same manner to the affiant. The administrative review shall be conducted on an expedited basis and the filing office may require the affiant and the secured party of record to provide any additional information that the filing office deems appropriate. If the filing office concludes that the record was caused to be communicated with the intent to harass or defraud the affiant, the filing office shall promptly file a termination statement under subsection 2 that will be effective immediately and send to the secured party of record the notice required by subsection 5. The secured party may thereafter file an action for reinstatement under subsection 6 and the provisions of subsections 7 through 10 are applicable.

Sec. 11. NEW SECTION. 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.

DIVISION III

QUALIFIED IMMUNITY

Sec. 12. NEW SECTION. 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.

Sec. 13. NEW SECTION. 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.

Sec. 14. NEW SECTION. 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.

Sec. 15. NEW SECTION. 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.

Sec. 16. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION IV

PEACE OFFICER, PUBLIC SAFETY, AND EMERGENCY PERSONNEL BILL OF RIGHTS

Sec. 17. Section 80F.1, subsection 1, paragraph a, Code 2021, is amended to read as follows:

a. "*Complaint*" means a formal written allegation signed by the complainant or a signed written statement by an officer receiving an oral complaint stating the complainant's allegation.

Sec. 18. Section 80F.1, subsections 3, 5, 8, 9, 13, and 18, Code 2021, are amended to read as follows:

3. A formal administrative investigation of an officer shall be commenced and completed in a reasonable period of time ~~and an.~~ An officer shall be immediately notified in writing of the results of the investigation when the investigation is completed.

5. An officer who is the subject of a complaint, shall at a minimum, be provided a written summary of the complaint prior to an interview. If a collective bargaining agreement applies, the complaint or written summary shall be provided pursuant to the procedures established under the collective bargaining agreement. If the complaint alleges domestic abuse, sexual abuse, workplace harassment, or sexual harassment, an officer shall not receive more than a written summary of the complaint.

8. a. The officer shall have the right to have the assistance of legal counsel present, at the officer's expense, during the interview of the officer and during hearings or other disciplinary or administrative proceedings relating to the complaint. In addition, the officer shall have the right, at the officer's expense, to have a union representative present during the interview or, if not a member of a union, the officer shall have the right to have a designee present.

b. The officer's legal counsel, union representative, or

employee representative shall not be compelled to disclose in any judicial proceeding, nor be subject to any investigation or punitive action for refusing to disclose, any information received from an officer under investigation or from an agent of the officer, so long as the officer or agent of the officer is an uninvolved party and not considered a witness to any incident. The officer's legal counsel may coordinate and communicate in confidence with the officer's designated union representative or employee representative, and such communications are not subject to discovery in any proceeding.

9. If a formal administrative investigation results in the removal, discharge, or suspension, or other disciplinary action against an officer, copies of any witness statements and the complete investigative agency's report shall be timely provided to the officer upon the request of the officer or the officer's legal counsel upon request at the completion of the investigation.

13. An officer shall have the right to ~~pursue civil remedies under the law~~ bring a cause of action against a citizen any person, group of persons, organization, or corporation for damages arising from the filing of a false complaint against the officer or any other violation of this chapter including but not limited to actual damages, court costs, and reasonable attorney fees.

18. A municipality, county, or state agency employing an officer shall not publicly release the officer's official photograph without the written permission of the officer or without a request to release pursuant to [chapter 22](#). An officer's personal information including but not limited to the officer's home address, personal telephone number, personal electronic mail address, date of birth, social security number, and driver's license number shall be confidential and shall be redacted from any record prior to the record's release to the public by the employing agency. Nothing in this subsection prohibits the release of an officer's photograph or unredacted personal information to the officer's legal counsel, union representative, or designated employee representative upon the officer's request.

Sec. 19. Section 80F.1, Code 2021, is amended by adding the

following new subsections:

NEW SUBSECTION. 20. The employing agency shall keep an officer's statement, recordings, or transcripts of any interviews or disciplinary proceedings, and any complaints made against an officer confidential unless otherwise provided by law or with the officer's written consent. Nothing in this section prohibits the release of an officer's statement, recordings, or transcripts of any interviews or disciplinary proceedings, and any complaints made against an officer to the officer or the officer's legal counsel upon the officer's request.

NEW SUBSECTION. 21. An agency employing full-time or part-time officers shall provide training to any officer or supervisor who performs or supervises an investigation under this section, and shall maintain documentation of any training related to this section. The Iowa law enforcement academy shall adopt minimum training standards not inconsistent with this subsection, including training standards concerning interviewing an officer subject to a complaint.

NEW SUBSECTION. 22. Upon written request, the employing agency shall provide to the requesting officer or the officer's legal counsel a copy of the officer's personnel file and training records regardless of whether the officer is subject to a formal administrative investigation at the time of the request.

DIVISION V

OFFICER DISCIPLINARY ACTIONS

Sec. 20. Section 80F.1, Code 2021, is amended by adding the following new subsection:

NEW SUBSECTION. 23. *a.* An officer shall not be discharged, disciplined, or threatened with discharge or discipline by a state, county, or municipal law enforcement agency solely due to a prosecuting attorney making a determination or disclosure that exculpatory evidence exists concerning the officer.

b. This subsection does not prohibit a law enforcement agency from dismissing, suspending, demoting, or taking other disciplinary actions against an officer based on the underlying actions that resulted in the exculpatory evidence being withheld. If a collective bargaining agreement applies, the

actions taken by the law enforcement agency shall conform to the rules and procedures adopted by the collective bargaining agreement.

c. This subsection is repealed July 1, 2022.

Sec. 21. BRADY-GIGLIO LIST INTERIM COMMITTEE.

1. The legislative council is requested to establish a Brady-Giglio list interim committee for the 2021 interim. The purpose of the committee shall be to do all of the following:

a. Study the disclosure of information contained in officer personnel files as such information relates to a Brady-Giglio list.

b. Study the efficiency of implementing a statewide system for a Brady-Giglio list, identifying impartial entities to conduct investigations pertaining to an officer's acts or omissions to act, and recommending the appropriate procedures, due process protections, appeal rights, and criteria for the placement and removal of an officer's name on and from a Brady-Giglio list.

c. Study any other issues that the committee determines relevant to its objective. The committee may solicit the advice or testimony of any organization or individual with information or expertise relevant to the purpose of the committee.

2. The committee shall consist of three members of the senate appointed by the majority leader of the senate, two members of the senate appointed by the minority leader of the senate, three members of the house of representatives appointed by the speaker of the house of representatives, and two members of the house of representatives appointed by the minority leader of the house of representatives. Additional committee members shall include the commissioner of the department of public safety or the commissioner's designee, a district court judge appointed by the supreme court, two representatives from the Iowa sheriffs and deputies association, and one representative from each of the following: the Iowa county attorneys association, the Iowa police chiefs association, the Iowa state police association, the Iowa peace officers association, the Iowa fraternal order of police, the Iowa professional fire fighters, the Iowa state troopers

association, and the Iowa state patrol supervisors association. The Iowa sheriffs and deputies association members shall include an officer in a supervisory position and an officer who does not hold rank.

3. The committee shall elect a chairperson from the members appointed.

4. The committee shall issue a report, including findings and recommendations, to the governor and the general assembly no later than December 16, 2021.

5. For the purposes of this section, "Brady-Giglio list" means a list of officers maintained by the county attorney's office, including officers who may not have disclosed all impeachment information and officers who may have violated the pretrial discovery rule requiring officers to turn over all evidence that might be used to exonerate a defendant.

DIVISION VI

PEACE OFFICERS — HEALTH PLAN

Sec. 22. NEW SECTION. **80.6A Peace officers — health insurance.**

1. *a.* Notwithstanding any provision to the contrary, peace officers employed within the department that are not covered under a collective bargaining agreement who were at any time eligible to be enrolled in the group health insurance plan that is negotiated under chapter 20 between the state and the state police officers council labor union and who elect to participate in a group health insurance plan provided by the state, shall only be permitted to participate in the group health insurance plan that is negotiated under chapter 20 between the state and the state police officers council labor union for peace officers subject to the requirements of this subsection. In addition, a peace officer who was covered under a collective bargaining agreement and who becomes a manager or supervisor and is no longer covered by the agreement shall not lose group health insurance benefits as provided by the agreement.

b. Notwithstanding any provision to the contrary, beginning January 1, 2021, a peace officer or surviving spouse who is participating in a group health insurance plan shall have the option, upon retirement or approval for death benefits for an

eligible surviving spouse, to participate in the group health insurance plan that is negotiated under chapter 20 between the state and the state police officers council labor union pursuant to section 509A.13 subject to the requirements of this section.

2. The department shall be authorized to retain any savings to the department for peace officers participating in the group health insurance plan pursuant to subsection 1 from moneys appropriated to the department.

Sec. 23. NEW SECTION. 456A.13A Full-time officers — health insurance.

1. *a.* Notwithstanding any provision to the contrary, full-time officers as defined in section 456A.13 that are not covered under a collective bargaining agreement who were at any time eligible to be enrolled in the group health insurance plan that is negotiated under chapter 20 between the state and the state police officers council labor union and who elect to participate in a group health insurance plan provided by the state, shall only be permitted to participate in the group health insurance plan that is negotiated under chapter 20 between the state and the state police officers council labor union for full-time officers subject to the requirements of this subsection. In addition, a full-time officer who was covered under a collective bargaining agreement and who becomes a manager or supervisor and is no longer covered by the agreement shall not lose group health insurance benefits as provided by the agreement.

b. Notwithstanding any provision to the contrary, a full-time officer participating in the group health insurance plan pursuant to paragraph "a" shall have the option, upon retirement, to continue participation in the group health insurance plan pursuant to section 509A.13 subject to the requirements of this section. However, a full-time officer who was not covered under a collective bargaining agreement and not participating in the group health insurance plan as provided by this section at the time of retirement shall not be allowed to participate in the group health insurance plan negotiated under chapter 20 between the state and the state police officers council upon retirement.

2. The department shall calculate the savings to the department for full-time officers employed in the law enforcement bureau of the department who are participating in the group health insurance plan pursuant to subsection 1. The department shall transfer to the state fish and game protection fund created in section 456A.17 from moneys appropriated to the department an amount equal to the savings calculated by the department. In addition, the department shall be authorized to retain any savings to the department for full-time officers who are not employed in the law enforcement bureau of the department participating in the group health insurance plan pursuant to subsection 1 from moneys appropriated to the department.

Sec. 24. GROUP HEALTH INSURANCE PLAN REPORTING — STATE POLICE OFFICERS COUNCIL. Prior to July 1 of each calendar year, if group health insurance is offered to employees who are not covered by a collective bargaining agreement, the provider of the group health insurance plan negotiated under chapter 20 between the state and the state police officers council labor union shall submit a report to the state police officers council and the departments of public safety and natural resources necessary for purposes of complying with the requirements of sections 80.6A and 456A.13A. The report shall include usage statistics that separately account for employees in the group health insurance plan covered by a collective bargaining agreement negotiated by the state police officers council and those employees that are not covered by a collective bargaining agreement and shall include any information that led to any premium rate increase or decrease for the following calendar year.

Sec. 25. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 26. RETROACTIVE APPLICABILITY. The following applies retroactively to January 1, 2021:

The portion of the section of this division of this Act enacting section 80.6A, subsection 1, paragraph "b".

DIVISION VII

WORKERS' COMPENSATION DISABILITY MEDICAL BENEFITS

Sec. 27. Section 97A.6, subsection 11, Code 2021, is amended

to read as follows:

11. *Pensions offset by compensation benefits.*

a. Any amounts which may be paid or payable by the state under the provisions of any workers' compensation or similar law to a member or to the dependents of a member on account of any disability or death, shall be offset against and payable in lieu of any benefits payable out of the retirement fund provided by the state under the provisions of [this chapter](#) on account of the same disability or death. In case the present value of the total commuted benefits under said workers' compensation or similar law is less than the present value of the benefits otherwise payable from the retirement fund provided by the state under [this chapter](#), then the present value of the commuted payments shall be deducted from the pension payable and such benefits as may be provided by the system so reduced shall be payable under the provisions of this chapter.

b. Notwithstanding paragraph "a", any workers' compensation benefits received by a member for past medical expenses or future medical expenses shall not be offset against and not considered payable in lieu of any retirement allowance payable pursuant to this section on account of the same disability.

c. Notwithstanding paragraph "a", any workers' compensation benefits received by a member for reimbursement of vacation time used, sick time used, or for any unpaid time off from work shall not be offset against and not considered payable in lieu of any retirement allowance payable pursuant to this section on account of the same disability.

Sec. 28. Section 97B.50A, subsection 5, Code 2021, is amended to read as follows:

5. *Offset to allowance.*

a. Notwithstanding any provisions to the contrary in state law, or any applicable contract or policy, any amounts which may be paid or payable by the employer under any workers' compensation, unemployment compensation, employer-paid disability plan, program, or policy, or other law to a member, and any disability payments the member receives pursuant to the federal Social Security Act, 42 U.S.C. §423 et seq., shall be offset against and payable in lieu of any retirement

allowance payable pursuant to [this section](#) on account of the same disability.

b. Notwithstanding paragraph "a", any workers' compensation benefits received by a member for past medical expenses or future medical expenses shall not be offset against and not considered payable in lieu of any retirement allowance payable pursuant to this section on account of the same disability.

c. Notwithstanding paragraph "a", any workers' compensation benefits received by a member for reimbursement of vacation time used, sick time used, or for any unpaid time off from work shall not be offset against and not considered payable in lieu of any retirement allowance payable pursuant to this section on account of the same disability.

Sec. 29. Section 97B.50A, Code 2021, is amended by adding the following new subsection:

NEW SUBSECTION. 8A. *Medical benefits.* An employer shall furnish reasonable surgical, medical, dental, osteopathic, chiropractic, podiatric, physical rehabilitation, nursing, ambulance, and hospital services and supplies for a member who is injured in the performance of the member's duties and is receiving an in-service disability retirement allowance under subsection 2 or has waived an in-service disability retirement allowance under subsection 4, regardless of when the injury occurred or when the member's in-service disability allowance commenced.

DIVISION VIII

ENFORCEMENT OF LAWS — PEACE OFFICERS CARRYING FIREARMS

Sec. 30. NEW SECTION. 27B.1 **Definitions.**

1. "*Local entity*" means the governing body of a city or county. "*Local entity*" includes an officer or employee of a local entity or a division, department, or other body that is part of a local entity, including but not limited to a sheriff, police department, city attorney, or county attorney.

2. "*Policy*" includes a rule, procedure, regulation, order, ordinance, motion, resolution, or amendment, whether formal and written or informal and unwritten.

Sec. 31. NEW SECTION. 27B.2 **Restriction on enforcement of state, local, and municipal law prohibited.**

A local entity or law enforcement department shall not

adopt or enforce a policy or take any other action under which the local entity or law enforcement department prohibits or discourages the enforcement of state, local, or municipal laws.

Sec. 32. NEW SECTION. **27B.3 Discrimination prohibited.**

A local entity or a person employed by or otherwise under the direction or control of a local entity shall not consider race, skin color, language spoken, or national origin while enforcing state, local, and municipal laws except to the extent permitted by the Constitution of the United States or the Constitution of the State of Iowa.

Sec. 33. NEW SECTION. **27B.4 Complaints — notification — civil action.**

1. Any person may file a complaint with the attorney general alleging that a local entity has violated or is violating this chapter if the person offers evidence to support such an allegation. The person shall include with the complaint any evidence the person has in support of the complaint.

2. A local entity for which the attorney general has received a complaint pursuant to [this section](#) shall comply with any document requests, including a request for supporting documents, from the attorney general relating to the complaint.

3. A complaint filed pursuant to [subsection 1](#) shall not be valid unless the attorney general determines that a violation of [this chapter](#) by a local entity was intentional.

4. If the attorney general determines that a complaint filed pursuant to [this section](#) against a local entity is valid, the attorney general, not later than ten days after the date of such a determination, shall provide written notification to the local entity by certified mail, with return receipt requested, stating all of the following:

a. A complaint pursuant to [this section](#) has been filed and the grounds for the complaint.

b. The attorney general has determined that the complaint is valid.

c. The attorney general is authorized to file a civil action in district court pursuant to [subsection 6](#) to enjoin a violation of [this chapter](#) no later than forty days after the date on which the notification is received if the local entity does not come into compliance with the requirements of this

chapter.

d. The local entity and any entity that is under the jurisdiction of the local entity will be denied state funds pursuant to [section 27B.5](#) for the state fiscal year following the year in which a final judicial determination in a civil action brought under [this section](#) is made.

5. No later than thirty days after the date on which a local entity receives written notification under [subsection 4](#), the local entity shall provide the attorney general with all of the following:

a. Copies of all of the local entity's written policies relating to the complaint.

b. A description of all actions the local entity has taken or will take to correct any violations of [this chapter](#).

c. If applicable, any evidence that would refute the allegations made in the complaint.

6. No later than forty days after the date on which the notification pursuant to [subsection 4](#) is received, the attorney general shall file a civil action in district court to enjoin any ongoing violation of [this chapter](#) by a local entity.

Sec. 34. NEW SECTION. **27B.5 Denial of state funds.**

1. Notwithstanding any other provision of law to the contrary, a local entity, including any entity under the jurisdiction of the local entity, shall be ineligible to receive any state funds if the local entity intentionally violates [this chapter](#).

2. State funds shall be denied to a local entity pursuant to [subsection 1](#) by all state agencies for each state fiscal year that begins after the date on which a final judicial determination that the local entity has intentionally violated this chapter is made in a civil action brought pursuant to [section 27B.4](#), [subsection 6](#). State funds shall continue to be denied until eligibility to receive state funds is reinstated under [section 27B.6](#). However, any state funds for the provision of wearable body protective gear used for law enforcement purposes shall not be denied under [this section](#).

3. The department of management shall adopt rules pursuant to [chapter 17A](#) to implement [this section](#) and [section 27B.6](#) uniformly across state agencies from which state funds are

distributed to local entities.

Sec. 35. NEW SECTION. 27B.6 Reinstatement of eligibility to receive state funds.

1. Except as provided by [subsection 5](#), no earlier than ninety days after the date of a final judicial determination that a local entity has intentionally violated the provisions of [this chapter](#), the local entity may petition the district court that heard the civil action brought pursuant to section 27B.4, subsection 6, to seek a declaratory judgment that the local entity is in full compliance with [this chapter](#).

2. A local entity that petitions the court as described by subsection 1 shall comply with any document requests, including a request for supporting documents, from the attorney general relating to the action.

3. If the court issues a declaratory judgment declaring that the local entity is in full compliance with [this chapter](#), the local entity's eligibility to receive state funds is reinstated beginning on the first day of the month following the date on which the declaratory judgment is issued.

4. A local entity shall not petition the court as described in [subsection 1](#) more than twice in one twelve-month period.

5. A local entity may petition the court as described in subsection 1 before the date provided in [subsection 1](#) if the person who was the director or other chief officer of the local entity at the time of the violation of [this chapter](#) is subsequently removed from or otherwise leaves office.

6. A party shall not be entitled to recover any attorney fees in a civil action described by [subsection 1](#).

Sec. 36. NEW SECTION. 27B.7 Attorney general database.

The attorney general shall develop and maintain a searchable database listing each local entity for which a final judicial determination described in [section 27B.5, subsection 2](#), has been made. The attorney general shall post the database on the attorney general's internet site.

Sec. 37. NEW SECTION. 724.4D 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.

Sec. 38. EFFECTIVE DATE. This division of this Act, being

deemed of immediate importance, takes effect upon enactment.

DIVISION IX

ASSAULTS INVOLVING LASERS — ASSAULT — HARASSMENT

Sec. 39. Section 708.1, subsection 2, Code 2021, is amended by adding the following new paragraph:

NEW PARAGRAPH. *d.* (1) Intentionally points a laser emitting a visible light beam at another person with the intent to cause pain or injury to another. For purposes of this paragraph, "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.

Sec. 40. Section 708.3A, subsections 1, 2, 3, and 4, Code 2021, are amended to read as follows:

1. A person who commits an assault, as defined in section 708.1, against a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, 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 staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, 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 staff, member or employee of

the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, civilian employee of a law enforcement agency, civilian employee of a fire department, or fire fighter, is guilty of a class "D" felony.

2. A person who commits an assault, as defined in section 708.1, against a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, 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 staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, 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 "D" felony.

3. A person who commits an assault, as defined in section 708.1, against a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, 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 staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, 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 an aggravated misdemeanor.

4. Any other assault, as defined in [section 708.1](#), committed against a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the

department of revenue, 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 staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, civilian employee of a law enforcement agency, civilian employee of a fire department, or fire fighter, is a serious misdemeanor.

Sec. 41. Section 708.7, subsection 2, paragraph a, Code 2021, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) Harassment that occurs against another person who is lawfully in a place of public accommodation as defined in section 216.2.

Sec. 42. Section 716.4, subsection 1, Code 2021, is amended to read as follows:

1. Criminal mischief is criminal mischief in the second degree if ~~the~~ 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.

Sec. 43. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION X

PUBLIC DISORDER

Sec. 44. Section 723.1, Code 2021, is amended to read as follows:

723.1 Riot.

A riot is three or more persons assembled together in a violent and disturbing manner, ~~to the disturbance of others,~~ 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 ~~an aggravated misdemeanor~~ a class "D" felony.

Sec. 45. Section 723.2, Code 2021, is amended to read as follows:

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 joined a lawful assembly but willingly remains after the assembly becomes unlawful, knowing or having reasonable grounds to believe that it is such, commits ~~a simple~~ an aggravated misdemeanor.

Sec. 46. Section 723.4, Code 2021, is amended by striking the section and inserting in lieu thereof the following:

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.

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.

Sec. 47. NEW SECTION. 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.

Sec. 48. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION XI

ELUDING LAW ENFORCEMENT — ACTS ON CERTAIN HIGHWAYS — CIVIL LIABILITY

Sec. 49. Section 321.279, Code 2021, is amended to read as follows:

321.279 Eluding or attempting to elude pursuing law enforcement vehicle.

1. *a.* The driver of a motor vehicle commits a serious misdemeanor if the driver willfully fails to bring the motor vehicle to a stop or otherwise eludes or attempts to elude a marked or unmarked official law enforcement vehicle driven by a ~~uniformed~~ peace officer after being given a visual and audible signal to stop. The signal given by the peace officer shall be by flashing red light, or by flashing red and blue lights, and siren. For purposes of [this section](#), "peace officer" means those officers designated under [section 801.4, subsection 11](#), paragraphs "a", "b", "c", "f", "g", and "h".

b. The driver of a motor vehicle who commits a second or subsequent violation under [this subsection](#) is, upon conviction, guilty of an aggravated misdemeanor.

2. *a.* The driver of a motor vehicle commits an aggravated misdemeanor if the driver willfully fails to bring the motor vehicle to a stop or otherwise eludes or attempts to elude a marked or unmarked official law enforcement vehicle that is driven by a ~~uniformed~~ peace officer after being given a visual and audible signal as provided in [this section](#) and in doing so exceeds the speed limit by twenty-five miles per hour or more.

b. The driver of a motor vehicle who commits a violation under [this subsection](#) and who has previously committed a violation under [this subsection](#) or [subsection 3](#) is, upon conviction, guilty of a class "D" felony.

3. *a.* The driver of a motor vehicle commits a class "D" felony if the driver willfully fails to bring the motor vehicle to a stop or otherwise eludes or attempts to elude a marked or unmarked official law enforcement vehicle that is driven by a ~~uniformed~~ peace officer after being given a visual and audible signal as provided in [this section](#), and in doing so exceeds the speed limit by twenty-five miles per hour or more, and if any of the following occurs:

- (1) The driver is participating in a public offense, as defined in [section 702.13](#), that is a felony.
- (2) The driver is in violation of [section 321J.2](#).
- (3) The driver is in violation of [section 124.401](#).
- (4) The offense results in bodily injury to a person other than the driver.

b. The driver of a motor vehicle who commits a second or subsequent violation under [this subsection](#) is, upon conviction, guilty of a class "C" felony.

Sec. 50. Section 321.366, subsection 1, Code 2021, is amended by adding the following new paragraph:

NEW PARAGRAPH. *g.* Operate a bicycle, skateboard, or other pedestrian conveyance or be a pedestrian anywhere on a fully controlled-access facility. For purposes of this paragraph, "*pedestrian conveyance*" means any human-powered device by which a pedestrian may move other than by walking or by which a walking person may move another pedestrian, including but not limited to strollers and wheelchairs.

Sec. 51. NEW SECTION. **321.366A Immunity from civil liability for certain vehicle operators.**

1. The driver of a vehicle who is exercising due care and who injures another person who is participating in a protest, demonstration, riot, or unlawful assembly or who is engaging in disorderly conduct and is blocking traffic in a public street or highway shall be immune from civil liability for the injury caused by the driver of the vehicle.

2. The driver of a vehicle who injures another person who is participating in a protest, demonstration, riot, or unlawful assembly or who is engaging in disorderly conduct and is blocking traffic in a public street or highway shall not be immune from civil liability if the actions leading to the

injury caused by the driver of a vehicle constitute reckless or willful misconduct.

3. Subsection 1 shall not apply if the injured person participating in a protest or demonstration was doing so with a valid permit allowing persons to protest or demonstrate on the public street or highway where the injury occurred.

Sec. 52. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION XII

WINDOW TINTING

Sec. 53. Section 321.438, subsection 2, Code 2021, is amended to read as follows:

2. A person shall not operate on the highway a motor vehicle equipped with a front windshield, a side window to the immediate right or left of the driver, or a ~~side-wing~~ sidewing forward of and to the left or right of the driver which is excessively dark or reflective so that it is difficult for a person outside the motor vehicle to see into the motor vehicle through the windshield, window, or sidewing.

a. The department shall adopt rules establishing a minimum measurable standard of transparency which shall apply to violations of [this subsection](#).

b. This subsection does not apply to a person who operates a motor vehicle owned or leased by a federal, state, or local law enforcement agency if the operation is part of the person's official duties.

DIVISION XIII

SHERIFF SALARIES

Sec. 54. Section 331.907, subsection 1, Code 2021, is amended to read as follows:

1. The annual compensation of the auditor, treasurer, recorder, sheriff, county attorney, and supervisors shall be determined as provided in [this section](#). The county compensation board annually shall review the compensation paid to comparable officers in other counties of this state, other states, private enterprise, and the federal government. In setting the salary of the county sheriff, the county compensation board shall ~~consider-setting~~ set the sheriff's salary so that it is comparable to salaries paid

to professional law enforcement administrators and command officers of the state patrol, the division of criminal investigation of the department of public safety, and city police agencies in this state chiefs employed by cities of similar population to the population of the county. The county compensation board shall prepare a compensation schedule for the elective county officers for the succeeding fiscal year. A recommended compensation schedule requires a majority vote of the membership of the county compensation board.

DIVISION XIV

CIVIL SERVICE COMMISSION EXAMINATIONS

Sec. 55. Section 400.8, subsection 2, Code 2021, is amended to read as follows:

2. The commission shall establish the guidelines for conducting the examinations under [subsection 1](#) of [this section](#). ~~It may prepare and administer the examinations or may~~ The commission shall hire persons with expertise to do so if the commission approves the examinations prepare and administer the examinations approved by the commission. It may also hire persons with expertise to consult in the preparation of such examinations if the persons so hired are employed to aid personnel of the commission in assuring that a fair examination is conducted. A fair examination shall explore the competence of the applicant in the particular field of examination.

Sec. 56. Section 400.9, subsection 2, Code 2021, is amended to read as follows:

2. The commission shall establish guidelines for conducting the examinations under [subsection 1](#). ~~It may prepare and administer the examinations or may~~ The commission shall hire persons with expertise to do so if the commission approves the examinations and if the examinations apply to prepare and administer the examinations approved by the commission for the position in the city for which the applicant is taking the examination. It may also hire persons with expertise to consult in the preparation of such examinations if the persons so hired are employed to aid personnel of the commission in assuring that a fair examination is conducted. A fair examination shall explore the competence of the applicant in the particular field of examination. The names of persons

approved to administer any examination under [this section](#) shall be posted in the city hall at least twenty-four hours prior to the examination.

JAKE CHAPMAN
President of the Senate

PAT GRASSLEY
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 342, Eighty-ninth General Assembly.

W. CHARLES SMITHSON
Secretary of the Senate

Approved _____, 2021

KIM REYNOLDS
Governor